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federal register

Friday
October 21, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Aircraft
Federal Aviation Administration
Airworthiness Directives
Federal Aviation Administration
Aviation Safety
Federal Aviation Administration
Charter Flights
Civil Aeronautics Board
Credit Unions
National Credit Union Administration
Environmental Protection
Internal Revenue Service
Estate and Gift Taxes
Internal Revenue Service
Fish
Food and Drug Administration
Fisheries
National Oceanic and Atmospheric Administration
Generally Recognized as Safe (GRAS) Food Ingredient
Food and Drug Administration
Government Contracts
Immigration and Naturalization Service

CONTINUED INSIDE

Selected Subjects

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

Hazardous Materials
Environmental Protection Agency

Indians—Business and Finance
Indian Affairs Bureau

Loan Programs—Energy
Rural Electrification Administration

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Mineral Resources
Defense Department

Occupational Safety and Health
Occupational Safety and Health Administration

Oil and Gas Exploration
Land Management Bureau

Organization and Functions (Government Agencies)
Immigration and Naturalization Service

Postal Service
Postal Service

Prisoners
Prisons Bureau

Vegetables
Food and Drug Administration

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

Agricultural Marketing Service
RULES
48793 Lemons grown in Ariz. and Calif.
Milk marketing orders:
48793 Nebraska-Western Iowa
NOTICES
Tobacco inspection and price supports:
48855 Stephenson, David T., III, et al.; hearing on application

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Rural Electrification Administration.

Air Force Department
NOTICES
48860 Agency information collection activities under OMB review
Meetings:
48860 Historical Program Advisory Committee

Alcohol, Tobacco, and Firearms Bureau
RULES
Alcohol; viticultural area designations:
48810 Chalk Hill, Calif.
48820 Grand River Valley, Ohio
48814 Knights Valley, Calif.
48817 Lake Erie, N.Y., Ohio, and Pa.
48812 Russian River Valley, Calif.

Army Department
NOTICES
Meetings:
48860–48861 Science Board (9 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
48881 Music Advisory Panel

Civil Aeronautics Board
PROPOSED RULES
Procedural regulations:
48832 Japanese charter authorizations, awarding procedures
NOTICES
48857 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications (2 documents)
Hearings, etc.:
48858 Bicoastal Air Service, Inc.
48858 British American Air, Inc.
48858 Key Airlines, Inc.
48856 Southern Air Transport, Inc.
48858 Unicorn Air, LTD.

Commerce Department
See also National Oceanic and Atmospheric Administration.
NOTICES
48859 Aerospace Sector Committee Metriciation Plan; proposed metric transition plan; inquiry

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
48855 Honey

Defense Department
See also Air Force Department; Army Department; Navy Department.
RULES
48824 Mineral exploration and extraction on DOD lands

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
48875 Schedules I and II, 1983 aggregate

Employment and Training Administration
NOTICES
Adjustment assistance:
48876 Dana Corp.
Unemployment compensation; extended benefit periods:
48877 Louisiana

Employment Standards Administration
NOTICES
48898 Minimum wages from Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ark., D.C., La, N.J., N. Mex., N. Dak., Okla., Pa., Tex., and Utah)

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
48978 Missouri
Hazardous waste programs; interim authorizations; State programs:
48826 Tennessee; extension of time
Water pollution control; national pollutant discharge elimination system; applications:
48826 Virginia; authority transfer
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
48960 Fossil-fuel-fired steam generators
48932 Synthetic organic chemicals manufacturing industry, volatile organic compounds (VOC) from air oxidation unit processes
Air quality implementation plans; approval and promulgation; various States:
48981, 48982 Missouri (2 documents)
NOTICES
Environmental statements: availability, etc.:
48863 Agency statements; weekly receipts

Meetings:
48866 Science Advisory Board
Toxic and hazardous substances control:
48863 Premanufacture notices receipts
Waste management, solid:
48936 Ocean dumping permit program; application receipts, etc.

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
48798 DeHavilland Aircraft of Canada Ltd.
Airworthiness directives:
48801 Airbus Industrie
48804 AMI Industries, Inc.
48802 Boeing
48803 DeHavilland
48803 Embraer
48805 Control zones and transition areas
PROPOSED RULES
48831 Transition areas (2 documents)
NOTICES
Meetings:
48893 Aeronautics Radio Technical Commission

Federal Communications Commission
NOTICES
48894 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
48894 Meetings; Sunshine Act

Federal Home Loan Mortgage Corporation
NOTICES
48894 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Complaints filed:
48866 Alaska Maritime Agencies, Inc., et al.
48867 Galin Ataei

Federal Reserve System
RULES
Credit banks for purchase or carrying margin stocks (Regulation U):
48797 Comparison chart of old and new regulation U sections
Securities credit by persons other than banks, brokers, or dealers (Regulation G):
48796 Comparison chart of old and new regulation G sections
NOTICES
48867 Agency information collection activities under OMB review
Applications, etc.:
48868 Peoples Security Bancorp, Inc., et al.
48867 SouthTrust Corp., et al.
Bank holding companies; proposed de novo nonbank activities:
48868 One American Corp. et al.
48894 Meetings; Sunshine Act (2 documents)

Fish and Wildlife Service
NOTICES
Marine mammals:
48872 Annual report; availability

Food and Drug Administration
RULES
GRAS or prior-sanctioned ingredients:
48805 Papain
PROPOSED RULES
Food for human consumption:
48836 Canned vegetables; identity standards, amendment
48836 Smoked and smoke-flavored fish; current good manufacturing practice
Radiological health:
48837 Sunlamp products; performance standards; correction
NOTICES
Color additive petitions:
48870 Paragon Optical, Inc.

General Services Administration
RULES
Procurement:
48827 Telecommunications equipment; emergency acquisition of new customer premise equipment; temporary

Health and Human Services Department
See also Food and Drug Administration.
NOTICES
48869 Agency information collection activities under OMB review
Senior Executive Service:
48870 Performance Review Board; membership

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
48794 St. Albans, Vt., district office: designation change to suboffice, etc.
Transportation line contracts:
48796 American Trans Air, Inc.

Indian Affairs Bureau
RULES
Financial activities:
48806 Special deposits
NOTICES
48870 Agency information collection activities under OMB review

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Internal Revenue Service
PROPOSED RULES
Estate and gift taxes:
48837 Copyrighted works of art, contributions; treatment
Excise taxes:
48839 Hazardous waste, petroleum and certain chemicals; environmental taxes collection

Interstate Commerce Commission
NOTICES
48872 Agency information collection activites under OMB review
Motor carriers:
48872 Compensated intercorporate hauling operations; intent to engage in

48873 Finance applications
Petitions filed:
48873 Used pallet, container, and shipping devices exemption; interpretation; final decision

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service; National Institute of Justice; Prisons Bureau.
NOTICES
Pollution control; consent judgments:
48874 Martell, Steve, et al.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Labor Statistics Bureau; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Labor Statistics Bureau
NOTICES
Meetings:
48876 Business Research Advisory Council
48875 Business Research Advisory Council Committees

Land Management Bureau
RULES
Oil and gas operating regulations:
48916 Onshore Federal and Indian oil and gas leases: approval of operations (Order No. 1)
NOTICES
Conveyance of public lands:
48872 Nevada (2 documents)
Leasing of public lands:
48871 Alaska
Sale of public lands:
48870 Idaho
48871 Utah

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
48877 Bethlehem Mines Corp.
48880 Emerald Mines Corp.
48877 Inland Steel Coal Co.
48878 Latrobe Construction Co.
48878 Pearl Coal Co.
48878 Red River Fuels, Inc.
48879 Rolen Coal Co., Inc.
48879 Sewell Coal Co.
48879 Thac West Mining, Inc.

National Credit Union Administration
PROPOSED RULES
48830 Organization and operation; Federal Credit Union services for retired persons; policy statement
NOTICES
48881 Agency information collection activities under OMB review

National Highway Traffic Safety Administration
NOTICES
Meetings:
48893 Human kinematics modeling and vehicle structural responses; workshop

National Institute of Justice
NOTICES
Grants, competitive solicitation:
48875 Performance and productivity measurement, etc.

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
48853 Spiny lobster fisheries, Western Pacific
NOTICES
Meetings:
48859 Civil Operational Remote Sensing Satellite Advisory Committee
48859 Sea Grant Review Panel

Navy Department
NOTICES
48863 Agency information collection activities under OMB review
Environmental statements; availability, etc.:
48862 Michigan Transmitter Facility, ELF Communications System, Marquette and Dickinson Counties, Mich.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
48881 Cleveland Electric Illuminating Co. et al.
48882 Duke Power Co.
48882 Florida Power & Light Co.
48883 Perforating Services, Inc.
48885 Roof Auditing Services
48886 Washington Public Power Supply System
Meetings:
48886 Reactor Safeguards Advisory Committee
Safety analysis and evaluation reports; availability, etc.:
48882 Consumers Power Co.

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
48822 Virginia

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
48880 Lee Investment Co. et al.

Postal Rate Commission
NOTICES
Post office closing; petitions for appeal:
48886 Wendell, N.H.

Postal Service
PROPOSED RULES
48850 Electronic computer originated mail; designation of serving Post Offices for acceptance

Prisons Bureau
RULES
Inmate control, custody, and care, etc.:
48968 D.C. women offenders, designations and transfers; searches of housing units, inmates, and inmate work areas; and definitions revisions
48970 Fines and costs; confinement until paid

48972 Prison overcrowding, relief; interim
NOTICES
Environmental statements; availability, etc.:
48874 Rochester, Minn.; former State Hospital for use as Federal Medical Center
48975 Prison institutions; list modification

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
48830 New loans and advances; general fund criteria; advance notice

Securities and Exchange Commission
NOTICES
48895 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
48887 Lehigh Valley Ventures, Ltd.

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
48887 Articles eligible for duty-free treatment, etc.
48888 Specialty steel import relief, implementation of modifications

Transportation Department
See Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

Separate Parts in This Issue

Part II
48898 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
48916 Department of the Interior, Bureau of Land Management

Part IV
48932 Environmental Protection Agency

Part V
48960 Environmental Protection Agency

Part VI
48968 Department of Justice, Bureau of Prisons

Part VII
48978 Environmental Protection Agency

Part VIII
48986 Environmental Protection Agency

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.

7 CFR
910 48793
1065 48793
Proposed Rules:
1700 48830

8 CFR
100 48794
238 48796

12 CFR
207 48796
221 48797
Proposed Rules:
701 48830

14 CFR
21 48798
39 (5 documents) 48801–48804
71 48805
Proposed Rules:
71 (2 documents) 48831
320 48832

21 CFR
182 48805
184 48805
Proposed Rules:
122 48836
155 48836
1040 48837

25 CFR
114 48806

26 CFR
Proposed Rules:
20 48837
25 48837
52 48839

27 CFR
9 (5 documents) 48810–48820

28 CFR
500 48968
527 48968
552 48968
571 48970
572 48972

29 CFR
1952 48822

32 CFR
235 48824

39 CFR
Proposed Rules:
111 48850

40 CFR
51 48978
52 48978
123 48826
271 48826
Proposed Rules:
52 (2 documents) 48981, 48982
60 (2 documents) 48932, 48960

41 CFR
1–4 48827
101–37 48827

43 CFR
3160 48916

50 CFR
Proposed Rules:
681 48853

Rules and Regulations

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 434]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 190,000 cartons during the period October 23–29, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 23, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 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 lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon 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 currently in effect. The committee met publicly on October 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

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 purposes 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 purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.734 is added as follows:

§ 910.734 Lemon regulation 434.

The quantity of lemons grown in California and Arizona which may be handled during the period October 23, 1983, through October 29, 1983, is established at 190,000 cartons.

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

Dated: October 20, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–28920 Filed 10–20–83; 11:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes for the months of October 1983 through March 1984 the shipping requirements for pool supply plants and the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the Nebraska-Western Iowa order. The revisions are made in response to a request by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages: Issued September 27, 1983; published October 3, 1983 (48 FR 45117).

This action has been reviewed under USDA precedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the 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

precedure in time to give interested parties timely notice that the shipping requirements for pool supply plants and the limits on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for October 1983 would be modified. The initial request for this action was received on September 2, 1983. Public comments on the proposed action were due October 11.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regualtory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the Nebraska-Western Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 45117) concerning a proposed decrease in the shipping requirements for pool supply plants and an increase in the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for the months of October 1983 through March 1984. Interested parties were afforded the opportunity to comment on the proposal by submitting written data, views, and arguments. No comments in opposition to the proposal were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of October 1983 through March 1984 the supply plant shipping percentage of 40 percent as set forth in § 1065.7(b) should be decreased to 30 percent and the diversion limitation percentage as set forth in § 1065.13(d) should be increased from the present 40 percent to 50 percent.

Pursuant to the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4), the supply plant shipping percentage as set forth in § 1065.7(b), and the diversion limitation percentages as set forth in § 1065.13(d) (2) and (3), respectively, may be increased or decreased up to 20 percentage points during any month. Such changes may be made to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that during the period of October 1983 through March 1984 the pool supply plant shipping percentage be reduced 10 points. Also, the cooperative requested that for the same period the percentage of allowable diversions be increased 10 percentage points.

The basis of the cooperative's request is that beginning in October 1983 the pooling provisions in question will not accommodate the efficient pooling of the milk of some of its members who regularly are associated with the market. The cooperative indicates that it is requesting the revision because of the present buildup in the market's milk supplies due to a substantial increase in producer deliveries and a decline in Class I sales. In that regard, the cooperative noted that producer deliveries for the first seven months of 1983 were up 6.7 percent from the already high levels of the same period a year ago while Class I sales were down 1.8 percent. The cooperative believes that the temporary revision of both the supply plant shipping standard and the diversion limits will be necessary for the months of October 1983 through March 1984. Because of the market's present supply situation, the cooperative contends that the temporarily relaxed pool supply plant shipping requirement and diversion limits will be adequate to supply the needs of the Class I market without causing unnecessary and uneconomic shipments to pool plants simply to meet order requirements.

In view of this development in the supply situation, and without the temporary revision, some milk not needed for bottling use would have to be shipped first to distributing and then to nonpool manufacturing plants merely to qualify some supply plants for pooling under the order during the coming winter months. Likewise, milk of some dairy farmers would first have to be received at a pool plant to qualify it for pooling rather than being shipped directly from the farm to nonpool manufacturing plants for surplus use. These requirements would result in costly and inefficient movements of milk.

Under these supply-demand conditions, it is concluded that a reduction in the required shipments of a supply plant by 10 percentage points for October 1983 through March 1984 will prevent uneconomic movements of milk merely for purposes of maintaining pool plant status. Moreover, the relaxation of the diversion limits by 10 percentage points for such months will prevent uneconomic movements of milk through pool plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that thirty days' notice of the effective date is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing in the marketing area for the months of October 1983 through March 1984;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of October 1983 through March 1984.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in §§ 1065.7(b) and 1065.13(d)(2) and (3) of the order are hereby revised for the months of October 1983 through March 1984.

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

Signed at Washington, D.C. on October 18, 1983.

Joel L. Blum,

Acting Director Dairy Division.

[FR Doc. 83-28700 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Service organizational statement to reflect the

recent change in designation of the St. Albans, Vermont office from a district office to a suboffice. This change is made for more efficient management.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: Service management has reviewed the jurisdictional responsibilities, workloads, and types of work under the jurisdiction of the St. Albans office. It has been determined that the responsibilities and variety of work do not justify the continued classification of St. Albans as an independent district office. St. Albans has become a suboffice as part of the Portland, Maine District; the immigration office at Montreal, Quebec, Canada is transferred under the Buffalo District Office to combine all Eastern Region Canadian preinspection operations under one district; and the Pittsburg, New Hampshire port of entry will shift to the Portland District to consolidate all northern border ports of entry for the states of Vermont, New Hampshire and Maine under one district.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required as this rule deals solely with agency management and organization.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant impact on a substantial number of small entities. This rule is not a major rule as defined in section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Organization and functions (Government agencies), Authority delegation (Government agencies), Jurisdictions, Ports of entry (both aircraft and vessels).

Accordingly, Title 8, Chapter I of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. In § 100.4, paragraph (a) is revised to read as follows:

§ 100.4 Field service.

* * * * *

(a) *Regional offices.* The Eastern Regional Office, located in Burlington, Vermont, has jurisdiction over districts 2, 3, 4, 5, 7, 21, 22, 23, 25, and 27 and Border Patrol sectors 1, 2, 3, and 4. The Southern Regional Office, located in Dallas, Texas, has jurisdiction over districts 6, 14, 15, 20, 26, 28, 38, and 40, and Border Patrol sectors 15, 16, 17, 18, 19, 20, and 21. The Northern Regional Office, located in Fort Snelling, Twin Cities, Minnesota, has jurisdiction over districts 8, 9, 10, 11, 12, 19, 24, 29, 30, 31, and 32 and Border Patrol sectors 5, 6, 7, 8, and 9. The Western Regional Office, located in San Pedro, California, has jurisdiction over districts 13, 16, 17, 18, and 39 and Border Patrol sectors 10, 11, 12, 13, and 14.

* * * * *

2. In § 100.4, paragraph (b)(1) is removed and paragraphs (b)(2), (b)(7), and (b)(22) are revised to read as follows:

* * * * *

(b) *District offices.*

* * * * *

1. [Reserved]

2. *Boston, Massachusetts.* The district office in Boston, Massachusetts, has jurisdiction over the States of New Hampshire (except the port of entry at Pittsburg, New Hampshire), Massachusetts, and Rhode Island.

* * * * *

7. *Buffalo, New York.* The district office in Buffalo, New York, has jurisdiction over the State of New York except that part within the jurisdiction of District No. 3; also, over the United States immigration office at Toronto, Ontario, Canada; and office located at Montreal, Quebec, Canada.

* * * * *

22. *Portland, Maine.* The district office in Portland, Maine has jurisdiction over the States of Maine, Vermont, and the port of entry at Pittsburg, New Hampshire.

* * * * *

3. In § 100.4, paragraphs (c)(2) introductory text and districts 2 and 22 and (c)(3) introductory text and district 22 are revised and district 1 of paragraph (c)(2) and district 1 of (c)(3) are removed as follows:

* * * * *

(c) * * *

(2) *Ports of entry for aliens arriving by vessel or by land transportation.* Subject to the limitations prescribed in this subparagraph, the following places are hereby designated as ports of entry for aliens arriving by any means of travel other than aircraft. The designation of such a port of entry may be withdrawn whenever, in the judgment of the Commissioner, such action is warranted. The ports are listed according to location by districts and are designated either Class A, Class B, or Class C. Class A means that the port is a designated port of entry for all aliens. Class B means that the port is a designated port of entry for aliens who at the time of applying for admission are lawfully in possession of valid resident aliens' border-crossing identification cards or are admissible without documents under the documentary waivers contained in Part 212 of this chapter. Class C means that the port is a designated port of entry only for aliens who are arriving in the United States as crewmen as that term is defined in section 101(a)(10) of the Act with respect to vessels.

District No. 1—[Reserved]

DISTRICT NO. 2—BOSTON, MASS.

Class A

Boston, Mass. (the port of Boston includes, among others, the port facilities at Beverly, Braintree, Chelsea, Everett, Hingham, Lynn, Manchester, Marblehead, Milton, Quincy, Revere, Salem, Saugus, and Weymouth, Mass.).
Gloucester, Mass.
* Providence, R.I. (the port of Providence includes, among others, the port facilities at Davisville, Melville, Newport, Portsmouth, Quonset Point, Saunderstown, Tiverton, and Warwick, R.I.; and at Fall River, New Bedford, and Somerset, Mass.)

Class C

Newburyport, Mass.
Plymouth, Mass.
Provincetown, Mass.
Sandwich, Mass.
Woods Hole, Mass.
Portsmouth, N.H.

* * * * *

DISTRICT NO. 22—PORTLAND, MAINE

Class A

* Alburg, Vt.
* Alburg Springs, Vt.
* Bangor, Maine (the port of Bangor includes, among others, the port facilities at Bar Harbor, Belfast, Brewer, Bucksport, Jonesport, Northeast Harbor, Prospect Harbor, Sandypoint, Seal Harbor, Searsport, and South West Harbor, Maine).
* Beebe Plain, Vt.
* Beecher Falls, Vt.
* Bridgewater Maine
* Calais, Maine (includes Ferry Point, and Milltown Bridges).
* Canaan, Vt.
* Coburn Gore, Maine
* Derby Line, Vt.
* Eastport, Maine
* East Richford, Vt.
* Fort Fairfield, Maine
* Fort Kent, Maine
* Hamlin, Maine
* Highgate Springs, Vt.
* Houlton, Maine
* Jackman, Maine
* Limestone, Maine
Lubec, Maine
* Madawaska, Maine
Morses Line, Vt.
* Newport, Vt.
* North Troy, Vt.
* Norton, Vt.
Pittsburg, N.H.
Portland, Maine
* Richford, Vt. (includes the Pinnacle port of entry)
* St. Albans, Vt.
* St. Aurelie, Maine
* Van Buren, Maine
* Vanceboro, Maine
* West Berkshire, Vt.

Class B

Daaquam, Maine
Easton, Maine
Estcourt, Maine
Forest City, Maine
Knoxford Line Road (Mars Hill), Maine.
Monticello, Maine.
Onerit, Maine
Robbinston, Maine
St. Juste, Maine
St. Pamphile, Maine

Class C

Bath, Maine
Boothbay Harbor, Maine
Kittery, Maine
Rockland, Maine
Wiscasset, Maine

* * * * *

(3) *Ports of entry for aliens arriving by aircraft.* In addition to the following international airports which are hereby designated as ports of entry for aliens arriving by aircraft, other places where permission for certain aircraft to land officially has been given and places where emergency or forced landings are made under Part 239 of this chapter shall be regarded as designated for the entry of aliens arriving by such aircraft:

District No. 1—[Reserved]

* * * * *

District No. 22—Portland, Maine

Burlington, Vt., Burlington Municipal Airport
Caribou, Maine, Caribou Municipal Airport
Highgate Springs, Vt., Franklin County Regional Airport
Newport, Vt., Newport State Airport

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103)

Dated: October 17, 1983

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 83-28777 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238

Contracts With Transportation Lines; Addition of American Trans Air, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds American Trans Air, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: September 27, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with American Trans Air, Inc. on September 27, 1983 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "American Trans Air, Inc."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: October 17, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-28884 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 207

Securities Credit by Persons Other Than Banks, Brokers, or Dealers; Comparison Chart of Old and New Regulation G Sections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Regulation G comparison chart.

SUMMARY: On July 27, 1983, the Board approved a completely revised and simplified Regulation G. The new regulation is effective as of August 31, 1983. To facilitate an understanding of the new regulation, this chart provides a cross-reference of section numbers in the old Regulation G to their corresponding section numbers in the new regulation and vice versa. This chart will serve as an aid to persons tracing the regulatory treatment of specific issues addressed in Regulation G.

FOR FURTHER INFORMATION CONTACT: Douglas Blass, Attorney, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2781.

SUPPLEMENTARY INFORMATION: The following comparison chart is being published as an aid to understanding the completely revised Regulation G.

COMPARISON CHART

Comparison of old with new section numbers—

Old	New
207.1:	
(a)	207.3(a)(1) (with modification).
(b)	207.3(a)(2) (with modification).
(c)	207.1(b), 207.2 (e), (h), (l), 207.3(b), 207.7 (a) and (b).
(d)(1)	207.2(i), 207.3(b) and 207.7(a).
(2)	Deleted.
(3)	207.3(c).
(4)	Deleted.
(e)(1)	207.3 (e), (f), and 207.2(e)(2).
(2)	Deleted.
(f)(1)	207.4 (first sentence) (partially deleted).
(2)	Deleted.
(3)	207.4(b).
(g)	207.3(g)(1).
(h)(1)	207.3 (g) and (h).
(2)	207.3(g)(4) and 207.2(e)(1)
(i)	207.3(h) and 207.7(b).
(j)(1)	207.3(i)(1).
(i)	207.3(i)(1)(i).
(ii)	Deleted.
(2)	207.3(i) (partially deleted).
207.2:	
(a)	207.2 (first sentence).
(b)	207.2(g).
(c)(1)	207.2(l).
(2)	207.2(b).
(3)	207.2(l).
(d)(1)	207.2(i)(1).
(2)	207.2(i)(2).
(3)(i)	207.2(i)(3).
(ii)	207.2(i)(3)
(4)	207.2(i)(4).
(5)	207.2(i)(5).
(e)	207.2(j).
(f)(1)	207.2(k).
(2)	207.2(k).
(3)	207.6(c).
(i)	207.6(c)(1).
(ii)	207.6(c)(2).
(4)	207.6(d).
(5)	207.6(e).
(g)(1)	Deleted.
(2)	Deleted.
(h)	207.2(d).
(i)	207.2(f)(1).
(1)	207.2(f)(2)(i).
(2)	207.2(f)(2)(ii).
(3)	207.2(f)(2)(iii) and (i)(2)(iv).
(j)	Deleted.
(k)	Deleted.
207.3:	
(a)	207.3 (o), (p).
(b)	Deleted.
207.4:	
(a)	207.5(a).
(1)	Deleted.
(2)	207.5(b) and 207.3(b).
(i)	207.5(b)(2)
(ii)	Deleted.
(iii)	Deleted.
(iv)	Deleted
(3)	Deleted
(b)	207.3(k).
(c)	207.3(j).
(d)	207.3(n).
(e)	207.3(d)
(f)	Deleted.
(g)	207.3(1).
207.5:	
(a)	207.7 (a), (c), and 207.2(c).
(b)	207.7(a).

COMPARISON CHART—Continued

Comparison of old with new section numbers—

Old	New
(c)	Deleted.
(d)	207.6(a).
(1)	207.6(a)(3).
(2)	207.6(a)(1).
(3)	207.6(a)(8).
(4)	207.6(a)(9).
(5)	207.6(a)(5).
(6)	207.6(a)(4).
(7)	207.6(a)(7).
(8)	207.6(a)(2).
(9)	207.6(a)(6).
(e)	207.6(b).
(1)	207.6(b)(3).
(2)	207.6(b)(1).
(3)	207.6(b)(7)
(4)	207.6(b)(4).
(5)	207.6(b)(6).
(6)	207.6(b)(2).
(7)	207.6(b)(5).
(f)	Deleted.

COMPARISON CHART

Comparison of new with old section numbers

New	Old
207.1:	
(a)	Added.
(b)	207.1(c).
207.2:	
First sentence	207.2(a).
(a)	Added.
(b)	207.2(c)(2).
(c)(1)(i)	Added.
(ii)	Added.
(iii)	Added.
(2)	207.1(i).
(d)	207.2(h).
(e)(1)	207.1(h)(2) (Modified).
(2)	207.1(e).
(f)(1)	207.2(i).
(2)(i)	207.2(i)(1).
(ii)	207.2(i)(2).
(iii)	207.2(i)(3).
(iv)	207.2(i)(3).
(g)	207.2(b).
(h)	207.1(c).
(i)(1)	207.2(d)(1), 207.2(e) (1) and (2).
(2)	207.2(d)(2).
(3)	207.2(d)(3) (i) and (ii).
(4)	207.2(d)(4).
(5)	207.2(d)(5).
(j)	207.5 (a) and (b).
(k)	207.2(f) (1) and (2).
(l)	207.1(c), and 207.2(c)(1).
207.3:	
(a)(1)	207.1(a) (Modified).
(2)	207.1(b) (Modified).
(b)	207.1(c).
(c)	Added.
(i)	Added.
(ii)	Added.
(iii)	Added.
(d)	207.4(e).
(e)	207.1(e)(1) (Modified).
(f)(1)	Added.
(2)	Added.
(g)(1)	207.1(g).
(2)	207.1(g).
(3)	Added.
(4)	207.1(h) (1) and (2).
(h)	207.1(i).
(i)(1)	207.1(j)(1).
(i)	207.1(j)(1)(i).
(ii)	207.1(j)(1)(i).
(2)	Added.
(j)	207.4(c) (Modified).
(k)	207.4(b).
(l)	207.4(g).
(m)	Added.
(n)	207.4(d).
(o)	207.3(a).
(p)	207.3(a).
207.4:	
First sentence	207.1(f)(1).
(a)	Added.

COMPARISON CHART—Continued

Comparison of new with old section numbers—

New	Old
(b)	207.1(f)(3).
207.5:	
(a)(1)	207.4(a).
(2)	207.4(a).
(b)(1)	207.4(a)(2) and 207.1(c).
(2)	207.4(a)(2)(i) and 207.1(c).
207.6:	
(a)	207.5(d).
(1)	207.5(d)(2).
(2)	207.5(d)(8).
(3)	207.5(d)(1).
(4)	207.5(d)(6).
(5)	207.5(d)(5).
(6)	207.5(d)(9).
(7)	207.5(d)(7).
(8)	207.5(d)(3).
(9)	207.5(d)(4).
(b)	207.5(e).
(1)	207.5(e)(2).
(2)	207.5(e)(6).
(3)	207.5(e)(1).
(4)	207.5(e)(4).
(5)	207.5(e)(7).
(6)	207.5(e)(5).
(7)	207.5(e)(3).
(c)	207.2(f)(3).
(1)	207.2(f)(3)(i).
(2)	207.2(f)(3)(ii).
(d)	207.2(f)(4).
(e)	207.2(f)(5).
207.7:	
(a)	207.5(a).
(b)	207.1(i).
(c)	207.5(a).

Board of Governors of the Federal Reserve System, October 17, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28687 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 221

Credit by Banks for the Purpose of Purchasing or Carrying Margin Stock; Comparison Chart of Old and New Regulation U Sections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Regulation U comparison chart.

SUMMARY: On July 27, 1983, the Board approved a completely revised and simplified Regulation U. The new regulation is effective as of August 31, 1983. To facilitate an understanding of the new regulation, this chart provides a cross-reference of section numbers in the old Regulation U to their corresponding section numbers in the new regulation and vice versa. This chart will serve as an aid to persons tracing the regulatory treatment of specific issues addressed in Regulation U.

FOR FURTHER INFORMATION CONTACT: Douglas Blass, Attorney, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452-2781.

SUPPLEMENTARY INFORMATION: The following comparison chart is being published as an aid to understanding the completely revised Regulation U.

COMPARISON CHART

Comparison of old with new section numbers—

Old	New
221.1:	
(a)(1)	221.1(b), 221.3(a) and 221.8(b).
(2)	Deleted.
(b)	221.3(f) (partially deleted).
(c)(1)	Deleted.
(2)	Deleted.
(d)	221.3(d)(1).
221.2:	
First sentence	221.5(a) and 221.6 (first sentence).
(a)	221.6 (a) and (b).
(b)	221.6(e).
(c)	221.5(c)(6) (partially deleted).
(d)	221.5(b) and 221.5(c)(8).
(e)	221.5(c)(1).
(f)	221.5(c)(2) and 221.6(f).
(g)	221.5(c)(3) and 221.6(g).
(h)	221.5(c)(4).
(i)	221.6(c).
(j)	221.5(c)(5).
(1)	221.5(c)(5)(i).
(2)	221.5(c)(5)(ii).
(k)	221.5(c)(7).
(l)	221.5(c)(9)(i).
(m)	221.5(c)(9)(ii).
221.3:	
(a)	221.3 (b) and (c) (with modification) and 221.2(f)(2).
(b)(1)	221.2(k).
(2)	221.2(c).
(3)	Deleted.
(c)	221.2(g)(1).
(1)	221.2(g)(2)(i).
(2)	221.2(g)(2)(ii).
(3)	221.2(g)(2) (iii) and (iv).
(d)(1)	221.2(j).
(2)	221.2(j).
(3)	221.7(c).
(i)	221.7(c)(1).
(ii)	221.7(c)(2).
(4)	221.7(d).
(5)	221.7(e).
(e)	221.3(h).
(f)(1)	221.3(i) (1) and (2).
(2)	221.3(i) (1) and (3).
(g)	221.3(g) (with modification).
(h)	221.3(k).
(i)	221.3(j).
(j)	Deleted.
(k)	221.2 (first sentence) and 221.2(b)(2)(iv).
(l)	Deleted.
(m)	221.3(a)(1).
(n)(1)	221.3 (g) and (h).
(2)	Deleted.
(3)	221.3(d)(4) and 221.2(f)(1).
(4)	221.3(j), 221.6(h), 221.5(c)(8) and 221.2(f)(2).
(o)	221.5(c)(10) and 221.2(f)(1).
(p)	Deleted.
(1)	Deleted.
(2)	Deleted.
(3)	Deleted.
(q)	Deleted (see regulation G, 12 CFR 207).
(r)	221.2(h), 221.3(a) and 221.8(a).
(s)	221.8(b) and 221.2(f)(1).
(t)(1)	221.2(h) and 221.3(a).
(2)	221.3(d)(1) and 221.8(a) (partially deleted).
(3)	221.3(a)(2).
(4)	Deleted.
(u)	221.3(a)(3).
(v)(1)	221.2(h)(1).
(2)	221.2(h)(2).
(3)	221.2(h)(3).
(4)	221.2(h)(4).
(5)	221.2(h)(5).
(w)	221.5(c)(11) and 221.2(f)(1) (partially deleted).
(x)	Deleted.
(y)	221.5(c)(12) and 221.2(f)(1) (partially deleted).

COMPARISON CHART—Continued

Comparison of old with new section numbers—

Old	New
(z)	221.5(c)(13) and 221.2(f)(1) (partially deleted).
221.4:	
(a)	221.8 (a) and (c).
(b)	221.8(a).
(c)	Deleted.
(d)	221.7(a).
(1)	221.7(a)(3).
(2)	221.7(a)(1).
(3)	221.7(a)(8).
(4)	221.7(a)(9).
(5)	221.7(a)(5).
(6)	221.7(a)(4).
(7)	221.7(a)(7).
(8)	221.7(a)(2).
(9)	221.7(a)(6).
(e)	221.7(b).
(1)	221.7(b)(3).
(2)	221.7(b)(1).
(3)	221.7(b)(7).
(4)	221.7(b)(4).
(5)	221.7(b)(6).
(6)	221.7(b)(2).
(7)	221.7(b)(5).
(f)	Deleted.

COMPARISON CHART

Comparison of new with old section numbers

New	Old
221.1:	
(a)	Added.
(b)	221.1(a), 221.3 (f) and (l).
221.2:	
(a)(1)	Added.
(2)	Added.
(3)	Added.
(b)(1)	Added.
(2)(i)	Added.
(ii)	Added.
(iii)	Added.
(iv)	221.3(k).
(c)	221.3(b)(2).
(d)(1)	Added.
(2)	221.1(a) and 221.3(s).
(e)	221.3(a).
(f)(1)	221.3(n)(3) (modified).
(2)	221.3(a).
(g)(1)	221.3(c).
(2)(i)	221.3(c)(1).
(ii)	221.3(c)(2).
(iii)	221.3(c)(3).
(iv)	221.3(c)(3).
(h)(1)	221.3(v)(1).
(2)	221.3(v)(2).
(3)	221.3(v)(3) (i) and (ii).
(4)	221.3(v)(4).
(5)	221.3(v)(5).
(i)	221.4 (a), (b) and 221.3(s).
(j)	221.3(d) (1) and (2).
(k)	221.3(b)(1).
221.3:	
(a)(1)	221.1(a), 221.3(m) and 221.3(s).
(2)	221.3(t) (3) and (4) (modified).
(3)	221.3(u).
(b)	221.3(a).
(c)(i)	Added.
(ii)	Added.
(d)(1)	221.1(d) and 221.3(n)(1).
(2)	221.1(d) and 221.3(n)(1).
(3)	Added.
(4)	221.3(n)(3).
(e)	221.3(n)(1).
(f)(1)	221.1(b).
(i)	221.1(b)(1).
(ii)	221.1(b)(1).
(2)	Added.
(g)	221.3(g).
(h)	221.3(e).
(i)(i)	221.3(n)(2).
(2)	221.3(f)(1).
(3)	221.3(f)(2).
(j)	221.3(i) and 221.3(n)(4).
(k)	221.3(h).
221.4:	
(a)	Added.
(b)	Added.
221.5:	
(a)	221.2 (first sentence).
(b)	221.2(e) (modified).

COMPARISON CHART—Continued

Comparison of new with old section numbers—

New	Old
(c)(1)	221.2(e).
(2)	221.2(f).
(3)	221.2(g).
(4)	221.2(h).
(5)	221.2(j).
(i)	221.2(j)(1).
(ii)	221.2(j)(2).
(6)	221.2(c) (modified).
(7)	221.2(k).
(8)	221.2(d).
(9)(i)	221.2(l).
(ii)	221.2(m).
(10)	221.3(o) (modified).
(11)	221.3(w) (modified).
(12)	221.3(y) (modified).
(13)	221.3(z) (modified).
221.8:	
(a)	221.2(a).
(b)	221.2(a).
(c)	221.2(i).
(d)	Added.
(e)	221.2(b).
(f)	221.2(f).
(g)	221.2(g).
(h)	221.3(n)(4).
221.7:	
(a)	221.4(d).
(1)	221.4(d)(2).
(2)	221.4(d)(8).
(3)	221.4(d)(1).
(4)	221.4(d)(6).
(5)	221.4(d)(5).
(6)	221.4(d)(9).
(7)	221.4(d)(7).
(8)	221.4(d)(3).
(9)	221.4(d)(4).
(b)	221.4(e).
(1)	221.4(e)(2).
(2)	221.4(e)(6).
(3)	221.4(e)(1).
(4)	221.4(e)(4).
(5)	221.4(e)(7).
(6)	221.4(e)(5).
(7)	221.4(e)(3).
(c)	221.4(d)(3).
(1)	221.3(d)(3)(i).
(2)	221.3(d)(3)(ii).
(d)	221.3(d)(4).
(e)	221.3(d)(5).
221.8:	
(a)	221.4 (a) and (b).
(b)	221.3(s) and 221.1(a).
(c)	221.4(a).

Board of Governors of the Federal Reserve System, October 17, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28676 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-7; Special Conditions No. 25-ANM-3]

Special Conditions: De Havilland Aircraft of Canada Ltd., Model DHC-8 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to De Havilland Aircraft of Canada Ltd. for a type certificate for the DHC-8 series airplane. The DHC-8 airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The ATPCS will allow the airplane to take off with less than maximum takeoff thrust approved for the airplane; and, if an engine fails, the system will automatically provide maximum takeoff thrust on the operating engine. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to that provided by the regulations applicable to the De Havilland DHC-8 series airplane because of the novel or unusual features.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Walker, Regulations and Policy Office, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1980, De Havilland Aircraft of Canada Ltd., Downsview, Ontario, M3K 1Y5, Canada, filed an application for a type certificate to include an ATPCS installation for approval under that type certificate covering the DHC-8 series airplane.

The DHC-8 is a high wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 30,500 pounds. The airplane is equipped with two Pratt & Whitney PW-120 turboprop engines, each rated at 2,000 shaft horsepower with 13-foot diameter, 4-bladed, Hamilton-Standard propellers (HS 14SF-1). The airplane has a maximum permissible altitude of 25,000 feet and a passenger capacity of 36 persons.

The design covered under the type certificate is the installation of an ATPCS. Automatic takeoff power control system special conditions issued to date for other airplanes require the ATPCS be designed to permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of power levers. The ATPCS system installed on the engines of the DHC-8 airplane contains an electronic fuel controller (EFC), which provides an automatic fixed speed increment increase in the event of an engine failure during takeoff. In the

event of an engine failure, a signal from the ATPCS is transmitted to the EFC which up-trims the operating engine to the approved takeoff power. In the event of an ATPCS failure with engine failure, the crew would be required to advance the power lever to obtain the maximum power.

The type design of the DHC–8 series airplane with the automatic system installed contains a number of novel or unusual design features for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that generally intended by the established certification basis and to support a finding by the Administrator that no feature or characteristics of the airplane with the automatic system installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff power approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of approved maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

Discussion of Comments

Notice of proposed special conditions No. SC–83–4–NM was published in the **Federal Register** on June 23, 1983 (48 FR 28663). The following comments were received.

One commenter expressed the opinion that the system reliability requirements are too severe and the power setting limits are overly restrictive. As noted in the preamble of the notice of proposed special conditions, the FAA in 1977 initiated development of special conditions for the current turbine-powered transport category airplanes, coordinating the proposals world-wide with all interested groups. This effort was continued until early 1979 when a final version was completed. The same special conditions were subsequently applied to all applicants. The FAA has determined that the special conditions provide the level of safety necessary to satisfy an equivalent safety finding on the issue of trading airplane performance for a calculated ATPCS reliability and to assure a minimum safety standard intended by the applicable regulations. The FAA notes the arguments put forth by this commenter; however, it has been determined that the special conditions, as issued, are necessary for acceptance of a system that automatically increases power or thrust on operating engines when one engine fails during takeoff.

One other comment concerned wording in paragraphs D1 and E2(a) of the proposal about maximum takeoff power versus selected takeoff power as set by the ATPCS. The language in both paragraphs is meant to be the same as the purpose is to obtain the approved maximum power for the day.

Another commenter noted that the applicable amendments to Part 36 of the FAR and Special Federal Aviation Regulations (SFAR) No. 27 which were mentioned in the notice are somewhat different from those established in a meeting with the cognizant Aircraft Certification Office on June 10, 1980. This is true because the latest amendments to Part 36 and SFAR No. 27 on the date of type certification approvals must be complied with, regardless of date of application for a type certificate and/or supplemental type certificate. In this instance, Amendments 36–11 and 36–12 do not affect the applicant's airplane noise requirements. Therefore, this is not considered a burden. However, SFAR No. 27, Amendment 4, and a pending amendment may affect the manufacturer's engine installation.

On commenter questioned the accuracy of the background description of the fuel control operation as outlined in the NPRM. The preamble has been changed to reflect the proper operation of the fuel control and its function relative to the ATPCS.

One commenter pointed out what appears to be an inconsistency in the definition of Critical Time Interval and the associated graph relative to the wording "gross flight path" and § 25.115(b) of the FAR, which refers to "net takeoff flight path." The material was presented in this manner to clarify the application of § 25.115(b) since the effect of this rule is to define the gross and net flight paths. "Actual takeoff flight path" as used in § 25.115(b) is the same as the "gross flight path" defined in the special conditions.

The same commenter stated that use of the word "power" instead of "thrust" penalizes airplane performance. The FAA does not agree with this interpretation since airplane performance and gross takeoff weight allowed are a function of the thrust developed by the propellor and the thrust is affected by the characteristics of the propeller efficiency during takeoff. The takeoff thrust developed and obtained from the propellor when the ATPCS actuates is to be used to determine compliance with applicable regulations and the special conditions.

Type Certification Basis

The proposed type certification basis for the DHC–8 series airplane with the ATPCS installed is Part 25 of the Federal Aviation Regulations (FAR) effective February 1, 1965, as amended by Amendments 25–1 through 25–51; Part 36 of the FAR, including Amendments 36–1 through 36–12; SFAR No. 27 dated December 12, 1973, including Amendments 27–1 through current amendment; and the special conditions for an ATPCS contained herein.

Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.16.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

Special Conditions

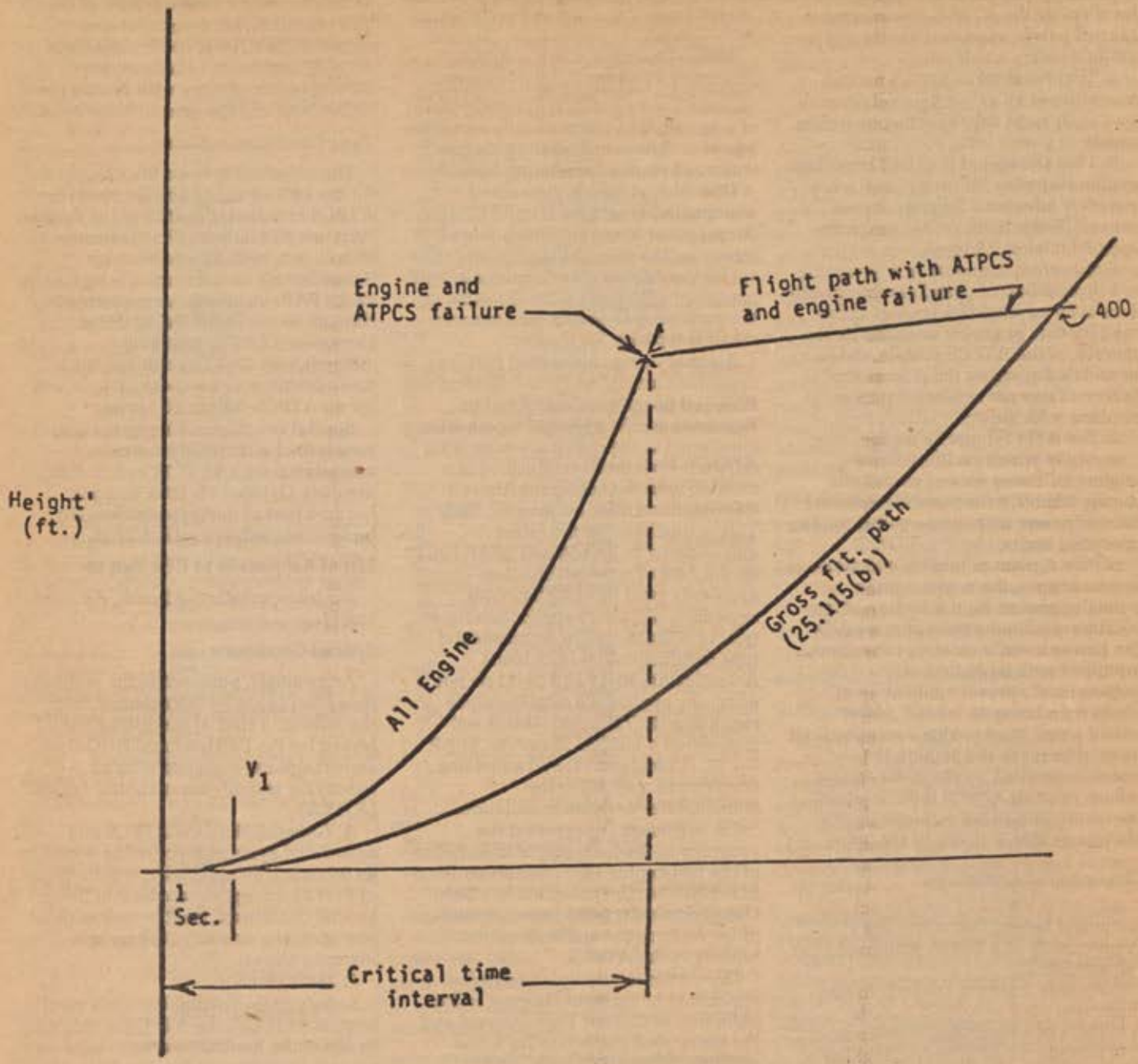
Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the De Havilland DHC–8 series airplane equipped with an automatic takeoff power control system (ATPCS):

A. *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

B. *Definitions.*

1. Automatic Takeoff Power Control System (ATPCS). An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

2. Critical Time Interval. When conducting an ATPCS takeoff, the critical time interval between V1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at no less than 400 feet from the takeoff surface.This definition is shown in the following graph:



3. Takeoff Power. Notwithstanding the definition of "takeoff power" in Part 1 of the Federal Aviation Regulations (FAR), "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant must comply with these performance and reliability requirements:

1. An ATPCS system failure during the critical time interval must be shown to be improbable.

2. The concurrent existence of an ATPCS failure and engine failure during the critical time interval must be shown to be extremely improbable.

3. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

D. *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety (90) percent of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety-related systems and equipment dependent upon engine power or power level position; or

3. That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

E. *Powerplant Controls.*

1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATPCS must be designed to:

a. Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

b. Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure, provided the means is located on or forward of the power levers, is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and meets the requirements of § 25.777, paragraphs (a), (b), and (c);

c. Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. *Powerplant Instruments.* In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do no provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.28 and 11.29(b))

Note.—This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manfacturer who applied to the FAA for approval of these features on the airplane.

Issued in Seattle, Washington, on October 6, 1983.

Frederick M. Issac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28693 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-62-AD; Amdt. 39-4749]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Airbus Industrie Model A300 series airplanes which requires modification of the ground/flight detection circuit that supplies electrical power to the pitot probe heaters. This action is necessary to prevent the failure of pitot probe heaters which could result in a loss of all airspeed indications.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, 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) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC) has declared Airbus Industrie Service Bulletin A300-30-026 as mandatory. One incident has been reported wherein a model A300 airplane experienced a complete loss of the Captain's, First Officer's, and the standby airspeed indicators. This condition lasted for approximately 15 minutes in heavy icing conditions and affected all systems dependent upon airspeed, including pitch trim and autopilot. The problem was determined to have resulted from a failure of the ground/flight detection circuit which provides electrical power to all three pitot probe heaters. In the present configuration, a single failure may result in insufficient electical power to all pitot probe heaters. The service bulletin prescribes a modification to prevent the problem from reoccurring.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the incorporation of a modification to ensure that the pitot probes are properly heated was published in the **Federal Register** on July 27, 1981 (48 FR 38376).

The comment period closed on August 28, 1981, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it stated no objection to the proposal.

In the interim, Airbus Industrie issued a new revision to Service Bulletin A300-30-026. The latest revision of the service bulletin introduces minor changes which do not create an additional burden to the operators. The AD will make reference to the latest revision.

The sole operator of U.S. registered Model A300 airplanes has estimated that the total cost impact of this action will be approximately $32,500. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act are affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the change mentioned above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

Airbus Industrie: Applies to all model A300 series airplanes listed in Airbus Industrie Service Bulletin A300-30-026, certificated in all categories. To prevent loss of all airspeed indications, accomplish the following within the next 1800 flight hours after the effective date of this AD, unless already accomplished:

A. Modify the pitot probe heater in accordance with Airbus Industrie Service Bulletin A300-30-026, Revision 6, dated April 9, 1982.

B. Alternate means of compliance which porvide an equivalent level of safety may be used if approved by the Manager, Seattle 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 for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 28, 1983.

(Sections 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); and 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 October 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28696 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-55-AD; Amdt. 39-4750]

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and rework of the cabin pressure control valve on Boeing 757 and 767 airplanes. During ground testing, two separate types of failures of the valve assembly occurred. This action is necessary because in either case, a similar failure in flight may result in rapid cabin decompression.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The applicable service bulletins may be obtained from: Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2947. 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 adopt an airworthiness directive which requires inspection and rework of the cabin pressure control valve on Boeing 757 and 767 airplanes was published in the **Federal Register** on July 11, 1983 (48 FR 31663). This action is necessary to inspect and rework defective outflow valves, as necessary, to minimize the likelihood of outflow valve failures.

The comment period for the NPRM, which ended August 26, 1983, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. One industry group, representing operators of Boeing 757 and 767 airplanes, suggested that the compliance period for inspection and rework of the outflow valve be extended from 500 hours time in service to a longer time which would allow for possible delays in obtaining kits from the vendor. A check with the outflow valve supplier indicates that an extension would assure that no delay in compliance would result if the airplane operators placed orders promptly. An increase of the compliance period to 750 hours is appropriate and the rule has been changed accordingly.

In an additional comment, it was noted that the stop striker which can fracture is only subjected to impact when the pressurization is under manual control and is driven to the full open position. Discussions with the airplane manufacturer, however, indicate that this condition can occur while under automatic control. Therefore, the inspection is still considered necessary.

After a careful review of all available data, including the comments above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with a change in the compliance period as previously noted. Approximately 33 U.S. registered airplanes will be affected by this AD. It is estimated that 5 manhours per airplane will be required to complete the procedures required by this AD and that average labor cost is $40 per manhour. Based on these figures, the total cost to U.S. operators is estimated at $6,600. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the regulatory Flexibility Act will be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Acordingly, 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:

Boeing: Applies to Boeing Model 767 and 757 series airplanes identified in the Boeing Service Bulletins listed in paragraph A., below. To prevent the loss of pressurization control due to failure of the cabin pressure control, accomplish the following within 750 hours time in service after the effective date of this AD, unless already accomplished:

A. Inspect and rework outflow valve actuators per Boeing Service Bulletins 757-21-9 or 767-21-13 dated May 23, 1983, and March 31, 1983, respectively as applicable, or later FAA approved revisions.

B. Rework the outflow valve assemblies per Boeing Service Bulletins 757-21-9 or 767-21-15, Rev. 1, dated May 23, 1983, and March 31, 1983, respectively, as applicable, or later FAA approved revisions.

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.

All persons affected by this directive who have not already received the service bulletin(s) may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 28, 1983.

(Secs. 313(a), 314(a), and 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); and 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 October 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28694 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-7-AD; Amendment 39-4747]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directives (AD) 82-05-01, Amendments 39-4325 and 39-4455, applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. It changes the repetitive inspection interval of the wing flap actuators from 500 hours and 1500 landings or 12 months time-in-service, whichever occurs first. The manufacturer has established that the existing inspection interval can be extended without compromising safety in the operation of the affected airplanes. The revision makes the AD consistent with the manufacturer's current recommendations.

DATES: Effective Date: October 26, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-27-043, Revision 02, dated July 13, 1983, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP 12.200, Sao Jose dos Campos—S. P., Brasil. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: George Carver, Systems Branch, ACE-130A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: The FAA issued AD 82-05-01, Amendment 39-4325 (47 FR 8155, 8156) applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes which required installation of improved design wing flap actuators on or before September 30, 1982, and imposed continuing special inspection and adjustment procedures on both the improved and replaced actuators. Amendment 39-4455 (47 FR 39135) revised AD 82-05-01 by increasing the 250 hours time-in-service interval for the repetitive inspection to 500 hours time-in-service. Subsequent to the issuance of this amendment, the manufacturer has conducted extensive endurance testing on the improved actuator which substantiates that these inspection intervals could be increased to 1500 landings or 12 months without adversely affecting safety. Accordingly, it issued Revision 02, dated July 13, 1983, to EMBRAER Service Bulletin No. 110-27-043 which updated the time-in-service between recommended inspections for 500 hours to 1500 landings or 12 months, whichever occurs first. Based on the foregoing, the FAA is again revising AD 82-05-01 by changing the repetitive inspection interval specified in paragraph (A) to correspond to the revised Service Bulletin and by referencing said revised Service Bulletin. This revision makes the AD consistent with (1) the existing manufacturer's recommendations on the subject and (2) information available to the FAA subsequent to the issuance of the original AD and revisions. The FAA finds that it will not reduce the levels of safety established by the present AD as revised. Accordingly, since it is in interest of safety and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

List of Subject 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, AD 82-05-01, Amendments 39-4325 (47 FR 8155, 8156) and 39-4455 (47 FR 39135), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

(1) Restate paragraph (A) to read as follows:

"A) Within the next 50 hours time-in-service after March 1, 1982, and thereafter at intervals not to exceed 1500 landings or 12 months time-in-service, whichever occurs first."

(2) Restate subparagraph A)7) to read as follows:

"7. If any of the items inspected in Section 5 and 6 above are not satisfactory, repair or overhaul the actuator in accordance with EEMC, document 27-55-02, or replace, as necessary."

(3) Restate the sentence following paragraph (D) to read as follows:

EMBRAER Service Bulletin No. 110-27-043, Revision 02, dated July 13, 1983, covers the subject matter of this AD."

This amendment becomes effective on October 26, 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); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—As discussed earlier in the preamble, the FAA has determined that this document involves an amendment which updates existing rulemaking action to make it consistent with current available information on the subject without any reduction in the level of safety in the operation of these airplanes. Further, it does not impose any additional burden on any person. Therefore, (1) it is not a major rule under Executive Order 12291, and (2) it is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on October 11, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-28697 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-89-AD; Amdt. 39-4753]

Airworthiness Directives; DeHavilland Aircraft of Canada, Ltd. Model DHC-7 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directivce (AD) applicable to DeHavilland Aircraft of Canada, Ltd. Model DHC-7 airplanes which requires periodic functional checks of the ground spoiler system. It has been found that a possible dormant failure mode exists which would not be detected by normal flight operations. This condition could lead to uncommanded ground spoiler deployment during flight compromising controllability of the airplane.

EFFECTIVE DATE: November 2, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to DeHavilland Aircraft of Canada, Ltd., Garratt Blvd., Downsview, Ontario M3K 1Y5, Canada, 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) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an airworthiness directive mandating compliance with DeHavilland Aircraft of Canada, Ltd. Alert Service Bulletin A7-27-56.

Investigation has shown that the pilot valve of ground spoiler valve No. 2, introduced by modification No. 7/1732, may fail in the open position. A subsequent failure of the selector valve No. 1 in the open position may result in an uncommanded ground spoiler deployment during flight. The service bulletin prescribes periodic functional checks of the ground spoiler system and corrective action, if needed.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires periodic checks of the ground spoiler system and corrective action, if necessary.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

DeHavilland Aircraft of Canada, Ltd.: Applies to DeHavilland model DHC-7 airplanes, certificated in all categories, which are equipped with ground spoiler valves installed in accordance with DeHavilland modification No. 7/1732. To detect failures of the pilot valve of the ground spoiler valve No. 2, accomplish the following, unless previously accomplished:

A. Within 25 flight hours from the effective date of this AD, perform an operational check of the ground spoiler system, and take appropriate corrective action, if necessary, in accordance with the Accomplishment Instructions of DeHavilland Aircraft of Canada, Ltd., Alert Service Bulletin A7-27-56, dated June 28, 1983.

B. Repeat the functional checks of paragraph A. at intervals not to exceed 800 flight hours.

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 November 2, 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.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of E.O. 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 or analysis 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 October 13, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28689 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-34-AD; Amdt. 39-4752]

Airworthiness Directives; AMI Industries, Inc., Seat Model 716 and 865

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires installation of seat frame braces on certain crew seats. This AD is required to preclude seat failure which could result in injuries under forward loading conditions less than those required by TSO-C39.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The applicable service information may be obtained from AMI Industries, Inc., P.O. Box 370, Colorado Springs, Colorado 80901. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Denver Aircraft Certification Office, 10455 East 25th Avenue, Suite 307, Aurora, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Woodford R. Boyce, Manager, Denver Aircraft Certification Office, FAA, Northwest Mountain Region, 10455 East 25th Avenue, Suite 307, Aurora, Colorado 80010; telephone (303) 340-5575.

SUPPLEMENTARY INFORMATION: There has been an occurrence in which the crew seats manufactured by AMI Industries failed during a survivable emergency landing in which occupants were injured. Additionally, TSO tests have been conducted verifying failure of the seat frame assembly at loads below the 9g. forward requirement. Investigation revealed that the seat frame assemblies were inadequately heat treated. This condition, if uncorrected, could contribute to additional occupant injury.

The crew seats initially were acquired by Beech Aircraft Corporation for installation on Model 18 series and Model 65/90 series airplanes, but may be installed in other airplanes.

Since this condition is likely to exist in other seats of the same type design, an AD is being issued that requires installation of the seat frame braces on all applicable AMI crew seat Models 716 and 865 in accordance with AMI Service Bulletin No. 25-10-865-01. Accomplishment of this modification will correct the unsafe condition and retain the TSO authorization.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring reinforcement of the crew seat frames was published in the **Federal Register** on May 9, 1983 (48 FR 20727). The comment period closed on June 24, 1983.

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

The costs associated with this AD are estimated to be $140 for each of 1,000 units in service. The total is estimated at $140,000. For these reasons, the AD is not considered to be a major rule under the critieria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

Therefore, 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

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:

AMI Industries, Inc.: Applies to AMI crew seats Model 716–1, –2, –11, –12, –21 and –22 and Model 865–1 through –9 and –11 typically found on but not limited to Beech Aircraft Corporation Model 18 series and Model 65/90 series airplanes certificated in all categories.

Compliance required within 90 days after the effective date of this AD unless previously accomplished.

To prevent the possible failure of crew seats, reinforce the crew seat frame assembly P/N 865]10005–1 by installation of AMI Industries, Inc. seat frame brace kit P/N 665K90000–1 in accordance with AMI Industries, Inc. Service Bulletion No. 25–10–865–01, dated January 31, 1983.

An alternate means of compliance which provides an equivalent level of safety may be used when approved by the Manager, Denver Aircraft Certification Office, FAA, Northwest Mountain Region.

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 November 28, 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); and 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 October 13, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–28688 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASW–32]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Laredo, TX. The intended effect of the amendment is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Laredo International Airport. This amendment is necessary at Laredo, TX, since a review of the designated airspace revealed that the airspace is inadequate for the protection of aircraft and is improperly described.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

On August 23, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 38246) stating that the Federal Aviation Administration proposed to alter the Laredo, TX, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70–3A dated January 3, 1983, are amended, effective 0901, G.m.t., January 19, 1984, as follows:

Subpart F, § 71.171

Laredo, TX [Revised]

Within a 5-mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.), that airspace within Mexico being excluded. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Subpart G, § 71.181

Laredo, TX [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.); and within 5 miles each side of 003° bearing of the airport, extending from the 8.5-mile radius area to 15 miles north; and within 5 miles each side of the Laredo VORTAC 141° and 328° radials, extending from the 8.5-mile radius area to 10 miles southeast and 20 miles northwest of the VORTAC. That airspace within Mexico is excluded.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

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

Issued in Fort Worth, TX, on October 14, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83–28690 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N–0018]

GRAS Status of Papain

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that papain is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Effective November 21, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1585 effective on November 21, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 21, 1978 (43 FR 31349), FDA published a proposal to affirm that papain is GRAS for use as a direct human food ingredient. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of August 31, 1982 (47 FR 38347), in which FDA proposed not to include the levels of use or food categories that appeared in the proposal and to change the specifications for papain. The agency provided an opportunity for public comment on these proposed changes. In addition, the preamble to the tentative final rule contained a discussion of several new studies that had been submitted for the agency's review.

One comment was received in response to the tentative final rule on papain. A trade association of food enzyme manufacturers generally endorsed the conclusions of the tentative final rule.

Therefore, the agency is adopting this final rule with no changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by the Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1585 [Removed]

1. Part 182 is amended by removing § 182.1585 *Papain.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new §184.1585, to read as follows:

§ 184.1585 Papain.

(a) Papain (CAS Reg. No. 9001-73-4) is a proteolytic enzyme derived from *Carica papaya* L. Crude latex containing the enzyme is collected from slashed unripe papaya. The food-grade product is obtained by repeated filtration of the crude latex or an aqueous solution of latex or by precipitation from an aqueous solution of latex. The resulting enzyme preparation may be used in a liquid or dry form.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 107-110, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: This regulation shall be effective November 21, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28555 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 114

Special Deposits

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule document which will provide procedures required to determine final ownership of funds which are on deposit in account 14X6703 "Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Ownership." These funds are balances as of September 30,

1982, and interest accrued prior to that date, which have been transferred from account 14X8500 "Indian Moneys, Proceeds of Labor" pursuant to the Interior Department's FY 1982 Supplemental Appropriation Act. These rules will set forth procedures for the final determination of ownership of the funds and their eventual distribution to the rightful individual Indians and/or tribes.

EFFECTIVE DATE: This rule document will become effective November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas A. Stangl, Chief, Division of Program Development and Implementation, Bureau of Indian Affairs, Room 4606, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343-2128.

SUPPLEMENTARY INFORMATION: This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

"Indian Moneys, Proceeds of Labor" (IMPL, account 14X8500), are miscellaneous receipts collected by the Bureau of Indian Affairs (BIA) at BIA agencies and schools. Under authority found in 25 U.S.C. 162a, IMPL funds were included as a part of the BIA investment program. Prior to publication of 25 CFR 114 (formerly numbered 25 CFR 103b), interest earned from the investment of "special deposits" was deposited into the IMPL accounts.

Subsequent to publication of 25 CFR Part 114, interest earned on "special deposits" for the period beginning April 1, 1981, has been credited to the particular "special deposit" account on which the interest was earned. These final regulations were developed to prescribe the procedures to be followed to determine ownership of the funds in account 14X8500 "Indian Moneys, Proceeds of Labor" as of September 30, 1982, which represents interest earned on "special deposits" and deposited into the IMPL accounts prior to the period ending March 31, 1981.

The following Acts have been passed leading to these regulations: (1) Pub. L. 97-100, dated December 23, 1981, 95 Stat. 1391 (the Fiscal Year 1982 Interior Department Appropriations Act); and (2) Pub. L. 97-257, dated September 10, 1982, 96 Stat. 83 (the Fiscal Year 1982 Interior Department Supplemental Appropriations Act).

Public Law 97-257 amended Pub. L. 97-100 and directs that: "No funds shall be deposited in such "Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested * * * and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians), the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians * * *." The Act authorizes the utilization of up to 10 percent of the funds transferred for costs of legal or other representation relating to claims for such funds; and up to 2 percent to reimburse the BIA for administrative expenses incurred in determining ownership of the funds. The Act further authorizes the expenditure during the period of October 1, 1985 through September 30, 1987, of the funds remaining in such escrow accounts, "* * * subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained." (The funds may be expended before October 1, 1985 if a Secretarial determination on ownership and appropriate fund transfers have been completed.) The Act finally provides that any unobligated balances in the escrow accounts as of the close of business on September 30, 1987 shall be deposited into miscellaneous receipts of the U.S.Treasury.

These regulations are being published to set forth the procedures governing the determination of ownership and final distribution of funds which were on deposit in account 14X8500 "Indian Moneys, Proceeds of Labor" as of September 30, 1982 (including interest accrued prior to that date) and which have been transferred to account 14X6703 "Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Ownership" at the same locations where they are on deposit. Publication of these procedures as final regulations constitutes part of the consultation with interested tribes and individual Indians required by Pub. L. 97-257.

On March 24, 1983 there was published in the **Federal Register** (48 FR 12392) proposed regulations for *Special Deposits*.

Written comments were received from four tribes and one law firm on behalf of the Indian Tribes it represents. All comments timely received with respect to the proposed rules were carefully considered. Most of the comments received addressed Section 114.5, Distribution of the IMPL Escrow Account.

One tribe commented on paragraph (a)(5), Determination of Potential Beneficiaries of Section 114.5, and expressed opposition to the proposed formula for distributing the funds. Their suggestion was that separate and independent audits of the IMPL Escrow Account be conducted at each individual agency to have an equitable distribution of all income earned from investment of special deposits. Conducting full audits at each agency is not required and would be too costly. Therefore, distributions will be made utilizing the formula provided in § 114.5(a)(5). However, if clear documented records exist at agencies to identify specific amounts, then the agencies may use them providing that the records be made available for public review upon request. Paragraph (a) of § 114.5 has been amended to include a new subparagraph (7) which states this.

Comments from another tribe addressed paragraph (b)(4), *Notification of determination of potential beneficiaries* of § 114.5, and expressed concern that the potential owners would be required to complete acceptance forms prior to receiving any funds. Their particular concern was that notifying potential owners would be a difficult task. They suggested that the Superintendent be given the authority to complete acceptance forms on behalf of allottees who could not be contacted. Having the Superintendent sign the acceptance forms for an absentee potential beneficiary would merely establish another account from which funds could not be distributed. The agencies will continue to utilize every means possible (i.e., media, bulletin boards, newspapers, etc.) to notify potential owners.

Another tribe commented on paragraph (f)(2), Distribution of Residual Funds of § 114.5, and requested that the regulations be revised to state that any residual funds remaining after September 30, 1987, be transferred into the appropriate Tribal Treasury account instead of the United States Treasury. This request cannot be honored as the law specifically states that any

remaining funds will be deposited into the United States Treasury. However, the law does provide authority (specified in the Supplementary Information section) that funds which have not been claimed by potential beneficiaries, may be expended during the period of October 1, 1985, through September 30, 1987, at the locations where such accounts are maintained upon request by the respective governing bodies of the tribes.

Another tribe commented that the funds should be allocated to the same purpose that generated them and should be allocated proportionally to the tribes that generated the funds. The regulations set forth procedures to make a distribution of the present IMPL Escrow Account which will be distributed to the potential beneficiaries on a formula basis. The formula takes into account the relative interest of recipients (tribe or individual) of the principal which earned the interest which was deposited in the IMPL account.

The comments received from a law firm were received after the due date set forth in the proposed regulations. However, the letter was reviewed and acknowledged in paragraph (d)(4), Distribution, of § 114.5. The firm proposed a clarification of the regulations to leave no doubt that it is the tribes and individuals (and not the United States) that may use up to ten percent of their IMPL funds for payment of legal and other related costs. As no change but only a clarification is involved, the words "by the beneficiary" have been inserted in paragraph (d)(4) of § 114.5. The paragraph now reads: "Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for legal or other representation relating to claims for such funds."

The primary author of this rule is Thomas A. Stangl, Bureau of Indian Affairs, telephone number (202) 343-2128.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and certifies that it does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. It is estimated that it involves the disposition of less than $20 million which will be distributed among some 200,000 individual Indians, as well as a number of Indian tribes.

This final rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.*

The Department of Interior has determined that this document 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 25 CFR Part 114

Accounting, Indian—business and finance.

Part 114 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to reas as follows:

PART 114—SPECIAL DEPOSITS

Sec.
114.1 Purpose and scope.
114.2 Definitions.
114.3 Investment of special deposit funds.
114.4 Payment and distribution of interest on special deposit funds.
114.5 Distribution of IMPL Escrow Account.

Authority: 25 U.S.C. 2; 25 U.S.C. 9; Pub. L. 97-100; and Pub. L. 97-257.

§ 114.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the deposit, investment, and distribution of interest on funds held by the Bureau in special deposits; and to provide procedures required for determination of ownership and distribution of funds which are on deposit in account 14X6703 "Indian Moneys Proceeds of Labor Escrow Account—Pending Determination of Ownership".

§ 114.2 Definitions.

(a) "Agency" means any field office of the Bureau officially designated as an Indian agency and which provides direct services at the local level to Indians and Indian tribes, who are recognized by the Bureau as eligible for federal services to Indians because of their status as Indians.

(b) "Agency IMPL Escrow Account" means that portion of the funds in 14X6703 identifiable to that agency.

(c) "Beneficiary" means a potential beneficiary who has signed an acceptance.

(d) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(e) "Claimant" means an individual (or a tribe) who asserts an entitlement to a share of the IMPL Escrow Account but has not been determined as a potential beneficiary.

(f) "IMPL Escrow Account" means account 14X6703, Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Beneficiaries, U.S. Treasury.

(g) "Potential Beneficiary" means an individual or tribe determined eligible to share in the IMPL Escrow Account provided a proper acceptance is received on behalf of the individual or tribe involved.

(h) "Principal account" means each separate payment or deposit of money to the Bureau which is held as a special deposit.

(i) "Special deposit" means any suspense account used for the temporary deposit of funds which cannot be credited to specific accounts or readily distributed, including, but not limited to:

(1) Advance deposits;

(2) Advance deposits on other leases and permits for such Indian lands;

(3) Advance payments and advance deposits required on sales of timber and other natural resources from such Indian lands;

(4) Deposits for rights of way over such Indian lands and anticipated right-of-way damages held until such damages are determined; and

(5) Deposits for grazing fees on such Indian lands.

(j) "Special deposit funds" means those funds held in special deposits.

(k) "Superintendent" means the Bureau official in charge of a Bureau agency.

§ 114.3 Investment of special deposit funds.

It is the policy of the Bureau to invest all special deposit funds which have been paid to the Bureau on behalf of Indians or Indian tribes pending the eventual payment for the sale, lease, or other transfer of tribal or individual Indian property and funds which are deposited solely for the purpose of guaranteeing performance.

§ 114.4 Payment and distribution of interest on special deposit funds.

(a) It is the general policy of the Bureau that interest and earnings from the investment of special deposit funds be credited to the principal accounts upon which the interest was earned.

(b) At the time that a withdrawal is made from a special deposit account, the interest earned by the principal account being withdrawn will be computed and withdrawn from the account as a part of the same transaction. The interest earned by the subject principal amount will be computed into two parts:

(1) The portion of interest credited during the prior interest period which was attributable to this principal, and

(2) The portion of interest which has been earned by this principal amount

but has not yet been credited to the account because the interest period is not complete. This will be computed by using the month-end balances since the last interest period times the last period's factor.

(c) No interest will be distributed to accounts which have less than the minimum average month-end balances as determined by the Division of Accounting Management. Any such interest not distributed would remain in the undistributed interest account at the Bureau level to be included in determining the next six month interest factor.

§ 114.5 Distribution of IMPL Escrow Account.

(a) *Determination of potential beneficiaries.* Each agency will determine the potential beneficiaries and their respective shares of the IMPL Escrow Account at that agency by the following method:

(1) Identify the unobligated balance in the agency IMPL account as of September 30, 1982, and interest accrued for the period ending September 30, 1982, which has subsequently been transferred into account 14X6703 IMPL Escrow Account Pending Determination of Ownership. This amount will be called the agency IMPL Escrow Account balance.

(2)(i) Identify the length of time which has been required to accumulate actual income into the former IMPL account to equal the current agency IMPL escrow account balance.

(ii) To determine the beginning date for ownership computations, subtract the length of time identified in paragraph (a)(2)(i) of this section from April 1, 1981. (Subsequent to April 1, 1981, interest earned on special deposits has been credited directly to each special deposit account rather than to an IMPL account.)

(3) Examine the Individual Indian Money (IIM) accounts to determine the total dollars transferred to each account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(4) Examine tribal treasury account records to determine the total dollars transferred to each tribal trust account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(5) Determine the percentage of the principal transferred from special deposit accounts into each IIM and tribal trust account. This is done by dividing the total amount of principal transferred from special deposit accounts into all accounts at the agency into the total computed for each IIM and tribal trust account pursuant to paragraphs (a)(3) and (a)(4) of this section. The formula is as follows:

$$\frac{\text{Dollars transferred into an account}}{\text{Total dollars transferred by agency into all accounts}} = \text{Percent share for that account}$$

(6) Multiply this percentage by the agency IMPL Escrow Account balance to determine each potential beneficiary's share of that balance. Should this determined share be less than ten dollars ($10.00) no transfer of funds will be made.

(7) The formula identified in paragraph (a)(5) of this section will be used in determining potential shares unless there are clear and available records at the agency level to identify specific amounts. If the records are used by the agencies they must be made available for public review upon request.

(b) *Notification of Determination of Potential Beneficiaries.* Upon completion of the determination of all potential beneficiaries of an agency IMPL Escrow Account, the Superintendent shall publish a general notice which shall contain the following:

(1) Brief history of agency IMPL Escrow account;

(2) Explanation of method of determination of potential beneficiaries;

(3) Information on availability of specific data;

(4) Instruction to potential beneficiaries on completion of acceptance forms, explaining that only those who complete the acceptance forms can receive any funds; and

(5) Establishment of deadline date by which potential beneficiaries must complete the acceptance forms to receive the funds. This deadline will be 180 days from the date of the general notice. This general notice shall be published in the usual and customary manner for making public such documents. If such usual and customary publication does not include posting on the agency bulletin board and publication in at least one local newspaper of general distribution, the posting on the bulletin board and local newspaper publication shall be done in addition to the usual and customary manner of publication.

(c) *Acceptance by potential beneficiary.* Before the funds identified in paragraph (a) of this section as transferable to a potential individual or tribal beneficiary can be deposited into that potential beneficiary's account the following must be completed:

(1) The potential beneficiary must sign an acceptance of the determination by the Secretary which shall constitute a complete release and waiver of any and all claims by the potential beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982.

(2) The acceptance must be signed during the 180 days between the date of the general notice provided for in paragraph (b) of this section and the deadline date established therein.

(3) In the case of a potential tribal beneficiary, the acceptance must be accompanied by a resolution of the appropriate tribal entity approving the acceptance and authorizing the designated tribal representative(s) to sign the acceptance. An acceptance on behalf of an estate account may be signed by the Superintendent if the determination of heirs has not become final and may be signed on behalf of individual inherited shares by each heir if the probate determination has become final. An acceptance on behalf of a minor may be signed by a parent, guardian or a person acting *in loco parentis.* An acceptance on behalf of an adult who has been determined legally incompetent or in need of assistance in managing his/her affairs pursuant to 25 CFR 115.9 may be signed by his/her authorized representative.

(d) *Distribution.* (1) After the expiration of the deadline established in paragraph (b) of this section, funds of individual beneficiaries who have completed the acceptance forms will be transferred from the IMPL Escrow Account into each beneficiary's IIM account. Funds derived from beneficiary estate accounts for which the heirs have been determined will be transferred into the heirs' accounts. Funds derived from beneficiary estate accounts for which the heirs have not been determined will be transferred into the estate account.

(2) Interest accrued for any period after October 1, 1982 will be credited to the beneficiary accounts on the same percentage basis as the original share.

(3) After the expiration of the deadline established in paragraph (b) of this section, funds of a tribal beneficiary and interest earned thereon since October 1, 1982 will be transferred into the appropriate tribal treasury account.

(4) Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for

legal or other representation relating to claims for such funds.

(5) Not more than two percent (2%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the BIA to reimburse the BIA for administrative expenses incurred in determining ownership of the funds.

(e) *Appeals.* (1) Any potential beneficiary or claimant may appeal any decision made or action taken by a Superintendent under this section. Such appeal shall be made in writing and submitted as provided in 25 CFR Part 2.

(2) As provided in Part 2, the appeal must be received within 30 days after receipt of the written notice advising the potential beneficiary of his/her share of the IMPL Escrow account or advising the claimant that no share has been determined for him/her. No appeals will be accepted under this section after September 30, 1985.

(f) *Distribution of residual funds.* (1) After final administrative determination of ownership, including final determination of all appeals, and the completion of all appropriate fund transfers, but not later than October 1, 1985, any funds remaining in an agency IMPL escrow account may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the governing body(s) of the tribe(s) at the location(s) where such agency IMPL escrow account is maintained. This authority to expend the escrow account funds ends September 30, 1987.

(2) The unobligated balances of all IMPL escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the U.S. Treasury.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-28671 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-155; Ref: Notice No. 411]

Chalk Hill Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Sonoma County, California, approximately eight miles north of Santa Rosa, to be known as "Chalk Hill." This final rule results from a petition originally submitted by seven wine/grape industry members in the area for the name "Sonoma Chalk Hill." ATF believes that the establishment of this viticultural area and the subsequent use of the name "Chalk Hill" as an appellation of origin in wine labeling and advertising will allow wineries to designate more precisely the area in which the grapes used in the production of wines were grown and will enable consumers to identify more clearly wines offered at retail.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Specialist, 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 Part 4 of Title 27, Code of Federal Regulations. These regulations provide recognition of definite viticultural areas within the United States and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 6692) which amended Title 27, Code of Federal Regulations, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. In accordance with the procedure prescribed in 27 CFR 4.25a(e)(2) for proposing a viticultural area, a petitioner must submit:

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

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

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

(d) The specific boundaries of the viticultural area, based on features which can be found on U.S.G.S. maps of the largest applicable scale; and,

(e) Copies of the appropriate maps with the boundaries prominently marked.

After evaluation of the petition, ATF published in the **Federal Register** of May 12, 1982, a notice of proposed rulemaking (Notice No. 411, 47 FR 20321) concerning the establishment of this viticultural area and solicited written comments from the public.

Comments

ATF received four written comments in response to the notice of proposed rulemaking. One comment was generally supportive of designating "Chalk Hill" as a viticultural area. Three comments favored extension of the boundary of the proposed viticultural area. One of these three comments, a comment bearing the signatures of eight local wine/grape industry members, six of whom had been signators to the original petition, was submitted as an " amended petition" to include the premises of two bonded wineries as well as additional acreage devoted to grape growing.

Sonoma-Cutrer Vineyards submitted the fourth comment which was a request for extension of the southwestern portion of the boundary to include 300 acres of vineyards. In conjuction with this request, ATF received a letter of agreement signed by seven of the eight signators to the "amended petition."

The commenters were supportive of ATF's proposal to delete the county name "Sonoma" from the originally proposed appellation "Sonoma Chalk Hill." The comment submitted by six of the seven original petitioners stated that the primary purpose for including the name of the county in the viticultural area was to inform consumers that the Chalk Hill area is in Sonoma County. However, the commenters agreed with ATF that this information can be conveyed by placing "Sonoma County" elsewhere on the label.

Name

The area within the boundary of the proposed viticultural area is known locally as "Chalk Hill" and takes its name from the hill of the same name located within the proposed area. Cultivation of grapes in Sonoma County began in 1824. By 1855, grapes were being cultivated at Windsor, the principal town closest to the proposed area. By the mid-1890's there were a half dozen wineries located in the Windsor

area and 43 vineyards. Since 1978, the name "Chalk Hill" has appeared on the labels of wines produced by a winery in the Windsor area.

Boundary

ATF noted in the notice of proposed rulemaking that the originally proposed boundary line, depicted in § 9.52(c)(9) and (10) in the notice, overlapped into the proposed Alexander Valley viticultural area. In addition, the proposed Russian River Valley viticultural area encompasses all of the proposed Chalk Hill area except for that area which overlaps into the Alexander Valley viticultural area. In the notice of proposed rulemaking, ATF had requested specific comment. In light of the fact that no commenter addressed this question, ATF concludes that the overlapping of boundaries does not present an issue. In consideration of the comments received from wine/grape industry members, ATF has amended in this final rule the boundary proposed in the notice of proposed rulemaking to include the additional wineries and grape growing acreage.

The viticultural area comprises approximately 33 square miles and is located in Sonoma County eight miles north of Santa Rosa. There are approximately 1,600 acres of producing vineyards and four bonded wineries within the boundary of the area.

The boundary of the proposed Chalk Hill viticultural area may be found on two U.S.G.S. 7.5 minute series (topographic) maps, the Mark West Springs Quadrangle and the Healdsburg Quadrangle.

The boundary, as approved by ATF, is described in new section 9.52.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2)(iii), a viticultural area should possess geographical features which distinguish its viticultural features from the surrounding areas. ATF has determined that the proposed area is distinguished from the surrounding areas on the bases of climate, soil type, and other geographical features.

The proposed area is distinguished by a micro-climate with a marine influence. Based on the University of California's heat summation scale, temperatures range from Region I, less than 2,500 degree days, to Region II, 2,501 to 3,000 degree days. Most of the area's vineyards lie within a zone comprised of thermal belts which provide protection from damaging spring frosts.

The climate of the proposed area is influenced by the location of Mount St. Helena in relation to the mouth of the Russian River and San Pablo Bay. The atmospheric conditions created by the relationship of these physical features results in a "September" vineyard area. This means that the harvests are usually completed by the end of September even for late-ripening grape varieties which are not normally harvested until October in surrounding areas. The proposed area is warmer than the greater Russian River Valley and cooler than Alexander Valley and Dry Creek Valley.

The average annual rainfall in the proposed area is approximately 36 inches, almost all of which occurs between November 1 and March 31.

The proposed Chalk Hill area is different from the surrounding areas of Alexander Valley, Dry Creek Valley and the Russian River Valley. The vineyards of the Chalk Hill area are planted on lands which are gently rolling to steep and can be described as bench-lands, table-lands and hills. Many vineyards planted on the steeper slopes are contoured and terraced.

The proposed area is distinguished by "white" soil, i.e., volcanic ash. The soils range from sandy to silt loam, clay and quartzite and are high in volcanic ash deposited as a result of the volcanic activity of Mount St. Helena. The vineyards in the area are planted in soils which are deep but lower in fertility than the soils in surrounding areas. This "white" soil contributes to the high quality of the fruit produced by those vineyards.

The elevation of over 90% of the land in the proposed area ranges from 200 feet to about 1,330 feet compared with elevations on the floor of the Russian River Valley of only 100 feet. The predominant vineyard plantings in the area, however, are at elevations ranging from 200 feet to 800 feet.

Miscellaneous

ATF does not wish to give the impression by approving the Chalk Hill viticultural area that it is approving or endorsing the quality of the wine produced in this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. ATF's approval of the area will allow wine producers to claim a distinction on labels and advertisements as to the origin of grapes used in the production of wine. Any commerical advantage gained can only come from consumer acceptance of Chalk Hill 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 wineries. 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

The Bureau has 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 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.

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 notice because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Michael J. Breen, Specialist, 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, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), the Director is amending Title 27, Code of Federal Regulations, Part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended by adding the heading of § 9.52 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.52 Chalk Hill

Par. 2. Subpart C is amended by adding § 9.52 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.52 Chalk Hill.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chalk Hill viticultural area are the U.S.G.S. topographic maps titled:

"Mark West Springs Quadrangle, California", 7.5 minute series, 1958; and,

"Healdsburg Quadrangle, California", 7.5 minute series, 1955 (Photorevised 1980).

(c) *Boundary.* The Chalk Hill viticultural area is located near the town of Windsor in Sonoma County, California. From the beginning point on the south line of Section 2, Township 8 North (T. 8 N.), Range 9 West (R. 9 W.) at the intersection of Arata Lane and Redwood Highway (a.k.a. Old Highway 101), on the "Healdsburg Quadrangle" map, the boundary proceeds—

(1) Southeasterly along Redwood Highway through Section 11, T. 8 N., R. 9 W., to the point of intersection with Windsor River Road;

(2) Then westerly along Windsor River Road on the south boundary of Section 11, T. 8 N., R. 9 W., to the point of intersection with Starr Road;

(3) The southerly along Starr Road to the point of intersection with the south line of Section 14, T. 8 N., R. 9 W.;

(4) Then easterly along the south line of Sections 14 and 13, T. 8 N., R. 9 W. and Section 18, T. 8 N., R. 8 W., to the point of intersection with the Redwood Highway;

(5) Then southeasterly along the Redwood Highway to the intersection with an unnamed road that intersects the Redwood Highway at a right angle from the northeast near the southwest corner of Section 28 near Mark West Creek, T. 8 N., R. 8 W.;

(6) Then northeast approximately 500 feet along the unnamed road to its intersection with the Pacific Gas and Electric power transmission line;

(7) Then northeast approximately 1,000 feet along the power transmission line (parelleling the unnamed road) to the point where the power transmission line turns in a northerly direction;

(8) Then in a northerly direction along the power transmission line to the point of its intersection with the south line of Section 17, T. 8 N., R. 8 W.;

(9) Then east along the south line of Sections 17, 16 and 15, T. 8 N., R. 8 W. to the point of intersection with Mark West Road on the "Mark West Quadrangle Map";

(10) Then northerly for approximately 1.3 miles along Mark West Road (which becomes Porter Creek Road), then northeasterly for approximately 1.7 miles on Porter Creek Road to its intersection with the unnamed medium duty road that parallels Porter Creek in Section 12, T. 8 N., R. 8 W.; then northeasterly on the Franz Valley Road over the Tarwater Grade and continuing along the Franz Valley Road for approximately 3 miles to its intersection with Franz Creek (approximately 2,000 feet west of the range line common to R. 7 W. and R. 8 W. in T. 9 N. and approximately 1,150 feet north of the north line of Section 25, T. 9 N., R. 8 W.);

(11) Then westerly along Franz Creek to its point of intersection with the east line of Section 21, T. 9 N., R. 8 W.;

(12) Then southerly along the east line of section 21 to the southeast corner thereof;

(13) Then westerly along the south line of Section 21 to the point of intersection with longitude line 122 degrees 45 minutes, near Bell Mountain;

(14) Then southwesterly in a straight line on the "Healdsburg Quadrangle" map to the point at the center of a hill identified as "Chalk Hill";

(15) Then west-northwesterly in a straight line to the confluence of Brooks Creek and the Russian River;

(16) Then westerly along the Russian River to the point of intersection with the range line common to R. 8 W. and R. 9 W. in T. 9 N.;

(17) Then southwesterly in a straight line to the point of a hill identified as having an elevation of 737 feet;

(18) Then south-southwesterly in a straight line to the point at the easterly terminus of Reiman Road;

(19) Then southwesterly in a straight line to the point at the intersection of the township line common to T. 8 N. and T. 9 N. in R. 9 W. and the frontage road (a.k.a. Los Amigos Road) for U.S. Highway 101;

(20) Then west approximately 3,000 feet along the township line common to T. 8 N. and T. 9 N. in R. 9 W.;

(21) Then southerly for approximately 2,000 feet in a straight line to the point of intersection with an unnamed stream drainage;

(22) Then east in a straight line to the point of intersection with Eastside Road;

(23) Then northeasterly along Eastside Road to the point of intersection with Redwood Highway;

(24) Then southeasterly along Redwood Highway to the point of beginning.

Signed: September 23, 1983.

Stephen E. Higgins,

Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations)

[FR Doc. 83-28768 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-159; Re: Notice No. 450]

Russian River Valley Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Sonoma County, California, to be known as the "Russian River Valley." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Russian River Valley" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisement will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, 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 regulations in 27 CFR Part 4 allowing the establishment of definite American viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

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

ATF received a petition from "The Appellation Committee" proposing a large area of approximately 150 square miles located in Sonoma County, California, as a viticultural area to be known as "Russian River Valley." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 450, in the **Federal Register** on February 4, 1983 (48 FR 5280), on the establishment of Russian River Valley as a viticultural area. Only one comment was received and it favored the Russian River viticultural area.

Historical and Current Evidence of the Name

In a "History of Sonoma County, California," published in 1880, mention is made of the four "great valleys" comprising Sonoma, Petaluma, Santa Rosa, and the Russian River. The use of the name "Russian River Valley" on wine labels began in 1970 and is now used by four wineries in the viticultural area.

Geographical Features

The Russian River viticultural area includes those areas through which flow the Russian River or some of its tributaries and where there is a significant climate effect from coastal fogs. The specific growing climate is the principal distinctive characteristic of the Russian River Valley viticultural area. The area designated is a cool growing coastal area because of fog intruding up the Russian River and its tributaries during the early morning hours. The results of these coastal fog intrusions give growing temperatures that are normally Region I or cooler. This area therefore is distinguished from the warmer neighboring valleys such as Dry Creek Valley, Alexander Valley and Sonoma Valley.

The petitioner submitted detailed information on how the climate in the Russian River Valley viticultural area is different from surrounding areas. The data was mostly compiled by the Office of the Sonoma County Farm Adviser. The neighboring Alexander Valley is termed "coastal warm" with a range of accumulated heat units between 2800 and 3500 as calculated according to the Winkler and Amerine formula for degree days. The Russian River Valley viticultural area is termed "coastal cool" with a range of 2000 and 2800 accumulated heat units.

Change in the Boundary

F. Korbel and Bros, a winery in Guerneville, California, requested an extension in the Russian River Valley viticultural area boundary to the west of Guerneville to include their 105 acre vineyard inadvertently excluded from the original petition. Korbel stated the geographical features described for the Russian River Valley are the same for their 105 acre vineyard. ATF has accepted this minor extension requested by F. Korbel and Bros. and the boundary description in 27 CFR 9.66 reflects this change.

Miscellaneous

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

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost 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 the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not expected to apply to this final rule because it will not have a significant economic impact 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.

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

Drafting Information

The principal author of this document is Janes A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, and 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 to include the title of § 9.66 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.66 Russian River Valley.

Par. 2. Subpart C is amended by adding § 9.66 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.66 Russian River Valley.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Russian River Valley viticultural area are the 1954 U.S.G.S. 7.5 minute series maps titled:

"Healdsburg Quadrangle, California"
"Guerneville Quadrangle, California"
"Cazadero Quadrangle, California"
"Duncans Mills Quadrangle, California"
"Camp Meeker Quadrangle, California"
"Valley Ford Quadrangle, California"
"Sebastopol Quadrangle, California"
"Santa Rosa Quadrangle, California"
"Mark West Springs Quadrangle, California"
"Jimtown Quadrangle, California"

(c) *Boundaries.* The Russian River Valley viticultural area is located in Sonoma County, California.

(1) *Starting point Healdsburg map*—Healdsburg Avenue Bridge over the Russian River at Healdsburg. Proceed south along Russian River to where Foreman Lane meets the river at mouth of Dry Creek.

(2) Proceed west along Foreman Lane to where it crosses Westside Road and becomes Felta School Road.

(3) Proceed west on Felta School Road to the point where it crosses Felta Creek.

(4) Proceed 18000' up Felta Creek to its headwaters as shown on the *Guerneville, map* as "Springs."

(5) Proceed southwest in a straight line 58 degrees W 27000' to an intersection with Hulbert Creek on the Cazadero map.

(6) Proceed south and southeast along Hulbert Creek to the point where it intersects California Hwy 116 on the Duncan Mills map.

(7) Proceed west along California Hwy 116 to Monte Rio where it intersects the Bohemian Hwy.

(8) Proceed south along the Bohemian Hwy onto the *Camp Meeker map* and then the *Valley Ford map* to the town of Freestone where it intersects the Bodega Road.

(9) Proceed east along the Bodega Road onto the *Sebastopol map* to the city of Sebastopol where it becomes California Hwy 12 then along California Hwy 12 to its intersection with Wright Road.

(10) Proceed north along Wright Road to where it becomes Fulton Road and into the town Fulton to where in intersects River Road.

(11) Proceed east along River Road to its intersection with Mark West Springs Road.

(12) Proceed north east along Mark West Springs Road through the *Santa Rosa map* and onto the *Mark West map* to where it becomes Porter Creek Road and onto its intersection with Franz Valley Road.

(13) Proceed north along Franz Valley Road to the northerly most crossing of Franz Creek.

(14) Proceed west along Franz Creek until it intersects the line separating Section 21 and Section 22.

(15) Proceed south on this line separating Section 21 and 22 to the corner common to Section 21 and 22 and Section 27 and 28.

(16) Proceed west from the common corner of Section 21 and 22 and 27 and 28 and in a straight line to the peak of Chalk Hill on the *Healdsburg map.*

(17) Proceed west from the peak of Chalk Hill in a straight line to the point where Brooks Creek joins the Russian River.

(18) Proceed north west in a straight line 8000' to a peak marked 772' elv. on the *Jimtown map.*

(19) Proceed north west in a straight line from hill top 772' elv. to hill top 596' elv.

(20) Proceed north west in a straight line from hill top 596' elv. to hill top 516' elv.

(21) Proceed north west in a straight line from hill top 516' elv. to hill top 530' elv.

(22) Proceed west in a straight line from hill top 530' elv. to hill top 447' elv.

(23) Proceed west in a straight line from hill top 447' elv. to the point where Alexander Valley Road meets Healdsburg Avenue.

(24) Proceed south along Healdsburg Avenue through the city of Healdsburg on the *Healdsburg map* to the point where it crosses the Russian River at the point of beginning.

Signed: September 23, 1983.

Stephen E. Higgins,

Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28765 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T. D. ATF-158; Ref: Notice No. 454]

Knights Valley Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in northeastern Sonoma County, California, to be known as "Knights Valley." This final rule is the result of a petition submitted by the Knights Valley Wine-Growers Committee, an organization of grape-wine industry members in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes that the establishment of this viticultural area and the subsequent use of the name "Knights Valley" as an appellation of origin will allow wineries to designate precisely the area in which the grapes are grown and will enable consumers to identify more clearly and to differentiate between wines offered commercially.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, 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 Part 4 of Title 27, Code of Federal Regulations. These regulations provide recognition of definite viticultural areas within the United States and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

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

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. In accordance with the procedure prescribed in 27 CFR 4.25a(e)(2) for proposing a viticultural area, a petitioner must submit:

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

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

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

(d) The specific boundaries of the viticultural area, based on features which can be found on U.S.G.S. maps of the largest applicable scale; and,

(e) Copies of the appropriate maps with the boundaries prominently marked.

The Knights Valley Wine-Growers Committee, an organization of grape/wine industry members, filed a petition, signed by 16 persons, to establish a viticultural area in northeastern Sonoma County, California, under the name "Knights Valley." In response to the petition, ATF published in the Federal Register of February 9, 1983, a notice of proposed rulemaking (Notice No. 454, 48 FR 5961) concerning the establishment

of this viticultural area and solicited written comments from the public.

Comments

In response to the notice of proposed rulemaking, Johnson Turnball Vineyards, a bonded winery in Oakville, California, submitted a comment supporting the establishment of the viticultural area as proposed in the notice.

ATF received no other comment and no information from any source indicating opposition to the establishment of the "Knights Valley" viticultural area as proposed in the notice.

Name

The land area encompassed by the boundary of the "Knights Valley" viticultural area consists of a valley known and indentified on maps as Knights Valley.

Boundary

The viticultural area is located entirely within Sonoma County, California, between the Alexander Valley and the Napa Valley. The northernmost section of the boundary line runs slightly to the north of Pine Mountain; the southernmost section of the boundary line borders the petrified forest area immediately to the north of Porter Creek. The Sonoma County line bordering Lake County and Napa County forms the eastern section of the boundary of the viticultural area. The westernmost section of the boundary line abuts the proposed boundaries for the "Alexander Valley" and "Chalk Hill" viticultural areas. The land area encompassed by the boundary of the "Knights Valley" viticultural area consists of a valley known as Knights Valley and an area known as Franz Valley and the hillsides immediately surrounding and to the north of these areas. According to evidence submitted by the petitioners, the area called Franz Valley is not a valley, the name being a misnomer, since no clear separation exists between this area and the Knights Valley. The central valley area is approximately 5.3 miles long and 1.8 miles wide at the widest point. The areas immediately surrounding and to the north of the valley area form the upland areas. The viticultural area encompasses approximately 36,240 acres or 57 square miles.

There are currently over 1,000 acres devoted to viticulture in the proposed viticultural area. This acreage is situated primarily in the valley area with some acreage in the upland areas being developed into producing vineyards. Presently, there are no wineries established in the viticultural area although there were at least five wineries in operation in Knights Valley prior to the era of National Prohibition.

The boundary of the viticultural area may be found on four (4) U.S.G.S. quadrangle maps, 7.5 minute series (topographic), scale 1:24,000—Mount St. Helena, Jimtown, Mark West Springs, and Detert Reservoir. The boundary of the viticultural area is specified in the regulation portion of this document at § 9.76(c).

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2)(iii), a viticultural area should possess geographical features which distinguish its viticultural features from surrounding areas. ATF has determined that the proposed area is distinguished from the surrounding areas on the bases of elevation, soil, climate, and other geographical features.

The proposed viticultural area ranges in elevation from 360 feet to slightly over 4,300 feet. The valley area encompasses ranges in elevation from 360 feet to 600 feet. The upland areas contain fairly rugged peaks that are over 3,500 feet in elevation, e.g., Pine Mountain—3,614 feet, Red Hill—3,527 feet, and Mount St. Helena—4,343 feet. The areas currently used for grape production are consistently higher in elevation than the grape-growing areas in the adjacent Alexander Valley, Chalk Hill, Russian River Valley, and Napa Valley areas. The differences in elevation between this area and the surrounding areas will become significantly more evident when the many hill "islands" and peninsulas in the upper elevations capable of quality grape production are fully developed into producing vineyards.

The soils in the valley and mountainous upland areas of the proposed viticultural area are distinct from each other. This is due to the different parent material from which the soils were formed, i.e., alluvial in the valley and indurated rock in the uplands. The valley soils are derived from parent material of a relatively young geologic age, while the upland soils are derived from older parent material. The upland soils in the areas north and south of the valley area are derived from different types of parent material. The soils in the northen area are derived from "Franciscan Formation" parent material laid down in the Jura-Cretaceous period, while the soils in the southern area are derived from parent material known as "Sonoma Volcanics" laid down in the late Pliocene to early Pleistocene epoch. The contrast in soils derived from these parent materials allows for an easy distinction between the valley area and the northern and southern upland areas.

Adjacent areas are also characterized by soils derived from alluvial material and indurated rock. However, there are differences in the parent materials from which the soils were formed. The Napa Valley area to the southeast is primarily surrounded by uplands with soils derived from "Pleistocene Volcanic" formations whereas the Alexander and Dry Creek areas to the northwest are surrounded by uplands with soils derived from both "Franciscan Formation" and "Dry Creek Conglomerate" parent materials.

The valley soils in the proposed viticultural area are primarily of the Yolo-Cortina-Pleasanton association. The soils in the northern and southern upland areas are primarily of the Yorkville-Suther and Goulding-Toomes-Guenoc associations, respectively. However, the eastern portion of these areas, along the Sonoma County line, is characterized by soils of the Kidd-Forward-Cohasset association. Much of the Dry Creek and Alexander Valley areas are characterized by the same type of soil associations; however, the soils adjacent to the Russian River in the Alexander Valley area are deep, fertile soils not generally represented in the proposed viticultural area. The Sonoma Valley which lies to the south along the eastern Sonoma County line and the Napa Valley viticultural area are also characterized by highly fertile soils. The soils used for grape production in the proposed viticultural area are generally characterized by low fertility; many are rocky and gravelly and others exhibit a low pH.

The climate in the proposed viticultural area is typically Mediterranean, i.e., characterized by warm, dry summers and mild, cool, moist winters. The climate is moderated by the proximity of the viticultural area to the Pacific Ocean, isolation from large valleys and low mountain elevation.

The valley area has an average annual rainfall of 44 inches, temperature of 58–60 degrees F., and a frostfree season of 220–270 days. The upland areas are generally wetter, cooler, and have shorter frostfree seasons than the valley area. Rainfall in the valley area is similar, but slightly higher than the Alexander Valley area. The Sonoma Valley area and portions of the Napa Valley area receive significantly less rainfall.

The proposed viticultural area exemplifies the general temperature trend of Sonoma County, i.e., rising from south to north. Temperatures in the valley area are similar to those in the

lower portion of the Alexander Valley area, but average slightly less due to the higher elevation. The growing season is usually shorter than the growing season in adjacent viticultural areas.

Under the climatic region concept developed by Amerine and Winkler, the proposed viticultural area is classified as Region III, i.e., the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days for each day in the period April–October of any given year, is generally 3,001–3,500 for the proposed viticultural area. The northern portions of the Napa Valley and Alexander Valley areas are also classified as Region III, while the Chalk Hill (Russian River Valley), area is classified as Region II, i.e., 2,500–3,000 degree days.

In the notice of proposed rulemaking, ATF has questioned whether the proposed boundaries are the most appropriate. Since a relatively high percentage of the acreage proposed for the viticultural area is either unsuitable for planting or currently used for purposes other than viticulture, ATF expressed the concern that a boundary based primarily on watershed criteria may be inappropriate for portions of the viticultural area, e.g., the northern upland area. Since no comments were received regarding this issue, ATF has established the boundary line as proposed by the petitioners.

Miscellaneous

ATF does not wish to give the impression by approving the Knights Valley viticultural area that it is approving or endorsing the quality of the wines produced in this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. ATF's approval of the area will allow wine producers to claim a distinction on labels and in advertisements as to the origin of the grapes used in the production of wine. Any commercial advantage gained can only come from consumer acceptance of Knights Valley 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.

Compliance With Executive Order 12291

The Bureau has 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 of 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, 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 implementary 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 Michael J. Breen, Specialist, 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, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director is amending Title 27, Code of Federal Regulations, Part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended by adding the heading of § 9.76 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.76 Knights Valley.

Par. 2. Subpart C is amended by adding § 9.76. As added, § 9.76 reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.76 Knights Valley.

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Knights Valley viticultural area are four U.S.G.S. maps. They are—

(1) "Mount St. Helena Quadrangle, California," 7.5 minute series, 1959 (Photoinspected 1973);

(2) "Jimtown Quadrangle, California," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Mark West Springs Quadrangle, California," 7.5 minute series, 1958; and

(4) "Detert Reservoir Quadrangle, California," 7.5 minute series, 1958 (Photorevised 1980).

(c) *Boundary.* The Knights Valley viticultural area is located in northeastern Sonoma County, California. From the beginning point lying at the intersection of the Sonoma/Lake County line and the north line of Section 11, Township 10 North (T. 10 N.), Range 8 West (R. 8 W.) on the "Mount St. Helena Quadrangle" map, the boundary runs—

(1) Westerly along the north line of Sections 11, 10, and 9, T. 10 N., R. 8 W. to the northwest corner of Section 9 on the "Jimtown Quadrangle" map;

(2) Then southerly along the west line of Sections 9, 16, 21, 28, and 33, T. 10 N., R. 8 W., continuing along the west line of Section 4, T. 9 N., R. 8 W. to the southwest corner thereof;

(3) Then easterly along the south line of Section 4 to the southeast corner thereof on the "Mount St. Helena Quadrangle" map;

(4) Then southerly along the west line of Sections 10, 15, and 22, T. 9 N., R. 8 W. to the point of intersection with Franz Creek in Section 22 on the "Mark West Springs Quadrangle" map;

(5) Then easterly along Franz Creek approximately 14,000 feet to the centerline of Franz Valley Road;

(6) Then southerly along the centerline of Franz Valley Road to the point of intersection with the west line of Section 6, T. 8 N., R. 7 W.;

(7) Then southerly along the west line of Section 6 to the southwest corner thereof;

(8) Then easterly along the south line of Sections 6, 5, and 4, T. 8 N., R. 7 W. to the southeast corner of Section 4;

(9) Then northerly along the east line of Section 4 to the point of intersection with the Sonoma/Napa County line;

(10) Then northerly along the meanders of the Sonoma/Napa County

line on the "Mark West Springs Quadrangle," "Detert Reservoir Quadrangle," and "Mount St. Helena Quadrangle" maps to the point of intersection with the Lake County line on the "Mount St. Helena Quadrangle" map;

(11) Then northerly along the meanders of the Sonoma/Lake County line on the "Mount St. Helena Quadrangle" and "Detert Reservoir Quadrangle" maps to the point of beginning.

Signed: October 3, 1983.

W. T. Drake,

Acting Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28704 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-156; Ref: Notice No. 460]

Lake Erie Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." The Bureau of Alcohol, Tobacco and Firearms, [ATF] believes the establishment of Lake Erie as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate where their wines come from and will enable consumers to better identify the wines from this area.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7531).

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 also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which 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.

Mr. William A. Gulvin, Secretary of the Ad Hoc Committee for the Lake Erie viticultural area, petitioned ATF to establish a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 460, in the **Federal Register** on April 4, 1983 (48 FR 14390), proposing the establishment of the Lake Erie viticultural area.

Comments

Three comments were received during the comment period. One was from the Governor of the State of Ohio. The other two comments were from the Director of the Ohio Department of Natural Resources and the Director of the Ohio Department of Development. All three commenters stated that they fully support the Lake Erie viticultural area petition. ATF has received no information from any source indicating opposition to the petition.

General Information

The Lake Erie viticultural area has a 150 year history of grape growing and winemaking according to Leon D. Adams in his book *The Wines of America* (1978). Trial and error over the years has proven viticulture, in areas bordering the Lake Erie area, to be generally uneconomical.

The petition and attached documents show that the Lake Erie area is a distinct and contiguous viticultural district. Current orchard and vineyard surveys conducted by the States of New York (1976), Pennsylvania (1978), and Ohio (1976) report that, except where interrupted by urban development, there are approximately 40,000 acres of commercial vineyards scattered throughout the Lake Erie area. Very little or no commercial viticulture is indicated in surrounding inland counties.

Likewise, there are more than 30 commercial wineries, some dating from well before the turn of the century, distributed rather evenly throughout the Lake Erie area. None of these wineries are located more than ten miles inland from the Lake.

The petition and attached documents also show that the boundaries of the Lake Erie area reflect the extent of the area that contains sites which can justifiably be said to be suitable for viticulture within the beneficial climatic influence of Lake Erie.

Evidence of the Name

The name of the area, Lake Erie, was well documented by the petitioner. Lake Erie is the geographical feature that defines this viticultural area. Its name dates from the earliest written history of this continent, and Lake Erie is universally known as such. After evaluating the petition and the comments received, ATF believes that the Lake Erie viticultural area has a unique historical identity and that the name "Lake Erie" is the most appropriate name for the area.

Geographical 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 show that the Lake Erie viticultural area is distinguished from surrounding areas by its proximity to Lake Erie which exerts a moderating influence on the area. This proximity to Lake Erie and the influence that Lake Erie exerts on the local climate is the fundamental factor that permits viticulture in this area. Soils, elevations, and other physiographic features within the area are diverse and, through most of the area, do not directly form the basis of the Lake Erie area's viticultural distinction.

Authorities agree that temperature, in terms of length of frost-free growing season, freeze hazard at a given site (F. G. Haskins, "A Study of Fruit Sites in Northeastern Ohio from Standpoint of Frost Damage," 1950), and especially winter minimums, is the determining consideration with regard to the viability of a vineyard in the northeast. T. D. Jordan et al. in their bulletin on "Cultural Practices for Commercial Vineyards" (1981) state that: "Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature requirements must be satisfied for a site to be considered." They go on to note that for commercial viticulture in this region a growing season of 165 days is considered minimal and 180 plus days is preferable, and that winter minimum temperature should infrequently fall below minus 10 degrees Fahrenheit and almost never below minus 15 degrees Fahrenheit.

Stephen S. Visher, in his book *Climatic Atlas of the United States*

(1954), well summarizes the general climatic effect of the Great Lakes on their surroundings.

> Although the effect of a lake is chiefly to the leeward, in the Great lakes region winds are so varied in direction that effects are evident on all sides. On the average, the (Great) Lakes raise the January average temperature of their surroundings about 5 degrees, the absolute minimum temperatures about 10 degrees, and the annual minima about 15 degrees . . . They increase the average length of the frost-free season about 30 to 40 days on their eastern and southern sides. They have a slight negative total influence upon precipitation, decreasing it appreciably in summer, largely by reducing convectional thunderstorms. * * * The Lakes produce an average decrease of about five thunderstorms per year, and decrease the violence of many of those which do occur * * * The south shore of Lake Erie, with only five dense-fog days a year, has less fog than any other coastal area except southern Florida.

Visher's comments concerning Lake Erie's effect on the summer moisture regime are very significant. The area surrounding Lake Erie usually gets significantly greater isolation in the summer months than areas further away from the Lake. The reduced summer rainfall and few fog days (which typically occur only in late winter and early spring), combined with almost continuous lake breezes, distinguish the Lake Erie area from surrounding areas. Also, the Lake Erie area is sheltered to some degree from the potential devastation of hail due to the inhibiting influence that Lake Erie has on thunderstorm vigor and activity.

Most important, though are the temperature effects of Lake Erie. The Lake Erie area enjoys what has been termed a "lacustrine climate" lacing the temperature extremes otherwise inherent in a continental location according to Richard E. Dahlberg in an article in *Economic Geography* (1961) entitled "The Concord Grape Industry of the Chautauqua-Erie Area." The region benefits generally by being lower in latitude than and downwind from the other Great Lakes. The great stretches of Lakes Superior and Huron to the northwest considerably moderate arctic air masses moving across these lakes to the Lake Erie area. This effect is then locally enhanced by Lake Erie, thereby producing a climate adjacent to the Lake that has a lower mean daily range of temperatures. This results both in less growth-stimulating high temperatures and tissue-freezing low temperatures. These temperature effects are then diluted and gradually diminish as one proceeds inland from the Lake.

Lake Erie has by far the largest surface to volume ratio of any of the Great Lakes, with an average depth of only 58 feet and one-thirtieth of the volume of Lake Superior against a surface area of nearly 10,000 square miles. As a result, Lake Erie experiences by far the greatest annual temperature variation of any of the Great Lakes. It ranges from an average surface temperature of 72 degrees Fahrenheit in the late summer to 90 percent or more ice cover in the late winter—far more ice than typically develops on any other of the Great Lakes.

This wide and rapid seasonal fluctuation of the lake water temperature, and this fluctuation's lag with respect to seasonal air temperature variation, serves a very beneficial climatologic effect throughout the year. In the early spring, the accumulated ice and the very cold water of the Lake serve to cool the climate of the adjacent land against early spring warm spells. In mid to late April, the Lake commences to warm rapidly and then buffers the area against late spring frost. In the summer, the water temperature is warmer than in any other of the Great Lakes. The summer's high temperature is then carried over into fall, warming the air adjacent to the Lake and keeping fall frosts at bay within the Lake Erie viticultural area for a month or more longer than surrounding areas. This results in an average frost-free period of approximately 170 to 175 days with a 200 day frost-free period to be found in some portions of the Lake Erie area, the longest frost-free period in the Great Lakes region. Likewise, proximity to the Lake in winter affords considerable protection against extreme minimum temperatures, with winter minimum temperatures of less than minus ten degrees Fahrenheit being uncommon across most of the Lake Erie viticultural area while inland areas often experience temperatures 10 to 15 degrees lower.

In many portions of the Lake Erie viticultural area, the air drainage of a given site greatly affects its microclimate with respect to freeze and low temperature damage. In this regard, the sloping areas found further inland within the Lake Erie viticultural area have rather an advantage over the more level areas often found closer to the Lake, and Lake Erie, by being at the lowest elevation, serves as a vast sink for cold air to drain into.

The only portion of the Lake Erie viticultural area in which elevation and physical features play an important role in distinguishing this area from surrounding areas is in Chautauqua County, New York, and Erie County, Pennsylvania. In these areas, the high-elevation Allegheny Plateau with its too short frost-free period and too long winter temperatures clearly limits the "lake effect" to a width of as little as three miles inland.

Evidence of the Boundaries

The following outlines the considerations employed in selecting the specific boundaries for the Lake Erie area:

(1) Cazenovia Creek has been chosen as the northeastern boundary of the viticultural area. The area beyond the northeastern boundary is generally flat and consequently has poor drainage of air.

(2) A line 12 miles inland from Lake Erie running from Cazenovia Creek near Colden, New York, to the 1,300-foot contour line near Dayton, New York, marks the general limit of the "lake effect" in Erie County, New York. The "lake effect" does not extend further inland because of the highlands of the "Boston Hills."

(3) From near Dayton, New York, to Godard, Pennsylvania, the 1300-foot contour line has been chosen as the boundary. This contour is the highest contiguous line that follows the crest of the escarpment of the Allegheny Plateau in this section. The are a above this elevation is generally cooler.

(4) From Godard, Pennsylvania, west to the intersection of Ohio Route 45 and Interstate 90, a line six miles inland from Lake Erie is used as the boundary. Areas further inland in this section are generally too high and too level to enjoy good air or water drainage.

(5) The boundary then proceeds south along Ohio Route 45 to a point about a mile north of Rock Creek, Ohio, 14 miles inland from Lake Erie, and then west along a line 14 miles inland from the Lake to the Ohio-Michigan border. In this area, the "lake effect" extends further inland first, in northeastern Ohio through Cleveland, due to the broken topography. Then from Cleveland to the west, the climatic moderation of Lake Erie extends further inland across the flat lowlands of north central and northwestern Ohio.

(6) The boundary of the viticultural area then follows the Ohio-Michigan border to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to Port Clinton. Then due north in a straight line to the United States-Canada border. Then in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island. The boundary then proceeds due south until it reaches the shoreline of Lake

Erie. The boundary was drawn in this way to encompass several islands in Lake Erie, including the Lake Erie (or Bass) Islands, upon which the climatic influence of Lake Erie is self-evident.

(7) The boundary of the viticultural area then follows the lakeshore in a generally northeasterly direction back to the starting point.

Boundaries

The boundaries of the Lake Erie viticultural area as proposed in Notice No. 460 are adopted with some minor modifications. The Lake Erie viticultural area as described in the notice included approximately 775 square miles of water (Lake Erie). In this final rule, the boundaries have been changed to eliminate approximately 580 square miles of water. Consequently, the Lake Erie viticultural area, as delineated in this final rule, consists of approximately 3,300 square miles of land area and approximately 195 square miles (statute) of Lake Erie for a total of 3,495 square miles. ATF believes that these boundaries delineate an area with distinguishable physical and climatic features.

Currently, there is one approved viticultural area located within the boundaries of the Lake Erie viticultural area. This viticultural area is named the Isle St. George (North Bass Island) viticultural area and is located in Ottawa County, Ohio, about 16 nautical miles north-northwest of Sandusky.

Miscellaneous

ATF does not wish to give the impression by approving the Lake Erie viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lake Erie 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 the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

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

Executive Order 12291

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

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.

List of Subjects in 27 CFR Part 9

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

Disclosure

A copy of the petition and comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

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

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.83. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.83 Lake Erie.

Par. 2. Subpart C is amended by adding § 9.83. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.83 Lake Erie.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Erie viticultural area are four U.S.G.S. maps. They are titled:

(1) "Toledo," scale 1:250,000 (1956, revised 1978);

(2) "Cleveland," scale 1:250,000 (1956, revised 1972);

(3) "Erie," scale 1:250,000 (1959, revised 1972); and

(4) "Buffalo," scale 1:250,000 (1962).

(c) *Boundaries.* The Lake Erie viticultural area is located along the shore and on the islands of Lake Erie across the States of New York, Pennsylvania, and Ohio. The beginning point is where Buffalo Creek empties into Lake Erie at Buffalo Harbor.

(1) From the beginning point the boundary proceeds up Buffalo Creek to the confluence of Cazenovia Creek.

(2) The boundary proceeds up Cazenovia Creek and thence up the west branch of Cazenovia Creek to a point approximately one mile north of Colden, New York, exactly 12 statute miles inland from any point on the shore of Lake Erie.

(3) The boundary proceeds southwestward and along a line exactly 12 statute miles inland from any point on the shore of Lake Erie to a point approximately one mile north of Dayton, New York, where it intersects the 1,300-foot contour line.

(4) The boundary proceeds generally southwestward along the 1,300-foot contour line to a point almost two miles north-northwest of Godard, Pennsylvania, exactly six statute miles inland from any point on the shore of Lake Erie.

(5) The boundary proceeds southwestward along a line exactly six statute miles inland from any point on the shore of Lake Erie to the point where it intersects Ohio Route 45 near the intersection with Interstate 90.

(6) The boundary proceeds southward along Ohio Route 45 to a point exactly 14 statute miles inland from any point on the shore of Lake Erie approximately one mile north of Rock Creek, Ohio.

(7) The boundary proceeds southwestward, then westward, then northwestward along a line 14 statute miles inland from any point on the shore of Lake Erie to the point where it intersects the Ohio-Michigan boundary just north of Centennial, Ohio.

(8) The boundary then follows the Ohio-Michigan border in an easterly direction to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to the mouth of the Portage River just north of Port Clinton. Thence due north in a straight line to the United States-Canada border. Thence in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island.

(9) The boundary then proceeds due south until it reaches the shoreline of Lake Erie. Thence the boundary follows the lakeshore in a generally northeasterly direction to the beginning point at the mouth of Buffalo Creek.

Signed: October 1, 1983.

W. T. Drake,

Acting Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28787 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-157; Re: Notice No. 462]

Establishment of the Grand River 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 Ohio known as "Grand River Valley." 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: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7602).

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 also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the name 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. Anthony P. Debevec, President of Chalet Debonne Vineyards, Inc., a winery located in Madison, Ohio, petitioned ATF for the establishment of a viticultural area in northeastern Ohio to be known as "grand River Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 462) in the **Federal Register** on April 4, 1983 (48 FR 14396) proposing the establishment of the Grand River Valley viticultural area.

Notice of Proposed Rulemaking

Notice No. 462 proposed two alternative boundaries for the Grand River Valley viticultural area. The petitioner's boundary encompassed an area of approximately 125,000 acres and consisted of all of the land within 2 statute miles, in any direction, of the Grand River from its origin to the point at which it flows into Lake Erie.

Based on data contained in the petition for the establishment of the Lake Erie viticultural area, ATF proposed an alternative to the petitioner's boundary. About one-third of the entire valley of the Grand River is inside the Lake Erie viticultural area, established in a final rule published in today's **Federal Register**. ATF believes that the lake's effect on climate is the overriding geographical feature affecting viticulture in northeastern Ohio. Therefore, ATF proposed, as an alternative to the petitioner's boundary, that the Grand River Valley viticultural area be confined to that portion of the valley located within the Lake Erie viticultural area.

Evidence of Name

The name "Grand River" was assigned by early explorers and settlers to the river called "Sheauga" or "Geauga" by the natives. This Indian world actually means "raccoon" but was so widely misinterpreted that the name "Grand River" has applied to the river since the early nineteenth century.

Evidence of Geographical Features Which Affect Viticultural Features

The petition states, "With Lake Erie helping to provide an overall longer growing season (circa 175 days) the Grand River Valley itself contributes in fulfilling the air drainage requirements for prime viticultural lands." ATF agrees that the moderating effect of Lake Erie distinguishes part of the proposed area from its surroundings. Further, the air drainage provided by the Grand River Valley distinguishes the area from the Lake Erie viticultural area which surrounds it. However, the natural boundary of the lake's effect on climate divides the Grand River Valley into a climate area which is strongly influenced by the lake and a climate area which is weakly influenced or not influenced by the lake.

Lake Erie's moderating influence on the climate affects viticulture within a short distance inland from the shore. The lake freeezes in the winter and the late spring thaw prevents unseasonal warm spells in late winter and early spring. Otherwise, premature bud development during these unseasonal warm spells would leave the grapevines vulnerable to damage during a freeze in late spring. In autumn, the warm water of the lake delays the first freeze a month or longer in comparison to areas farther inland from the lake shore. The lake's protection against spring frost damage and the delay of the first autumn frost result in a growing season between 170 and 185 days, depending on the distance inland from the lake shore.

In *Cultural Practices for Commercial Vineyards*, Miscellaneous Bulletin 111, published by the New York State College of Agriculture and Life Sciences, in January 1980, the authors state: "Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature

requirements must be satisfied for a site to be considered." The authors also note that for commercial viticulture in this region, a growing season of 165 days is considered minimal and 180 days is preferable, and that the winter minimum temperature should infrequently fall below minus 10 degrees Fahrenheit and almost never below minus 15 degrees Fahrenheit.

Location of the Natural Inland Boundary of the Lake's Effect

In *The occurrence of Freezing Temperatures in late spring and early fall*, Special Circular 94, published by the Ohio Agricultural Experimental Station (now the Ohio Agricultural Research and Development Center, or O.A.R.D.C.), in October 1959, the isobar for the 180 day growing season passes lengthwise through the middle of Lake County. The isobar for the 170 day growing season passes through the intersection of the 3 county lines of Ashtabula, Lake and Geauga Counties (at a distance about 9 miles inland from the lake shore) and the intersection of the 3 county lines of Cuyahoga, Lake and Geauga Counties (at a distance about 7 miles inland from the lake shore). The isobar for the 160 day growing season is no closer than 20 miles from the lake shore anywhere in Geauga County, and much farther from the lake shore throughout Ashtabula County.

In *Extreme Monthly and Annual Temperatures in Ohio*, Research Bulletin 1041, published by O.A.R.D.C., in November 1970, the isobar for the annual low temperature of −5 to −10 degrees Fahrenheit corresponds closely with the isobar for the 170 day growing season previously discussed; the isobar for annual low temperature of −10 to −15 degrees Fahrenheit corresponds approximately with the isobar for the 160 day growing season previously discussed. The isobar for average annual lowest temperature of 0 to −5 degrees Fahrenheit is between 10 and 15 miles from the lake shore; the average annual lowest temperature of −5 to −10 degrees Fahrenheit covers most of the State of Ohio.

These data help identify the natural inland boundary of the lake's moderating effect on the climate. Based on these data, the Lake Erie viticultural area boundary in northeastern Ohio has been established as any point which is 6 miles inland from the shore east of Ohio Route 45, and 14 miles inland from the shore west of Ohio Route 45. This boundary is also established as the inland boundary of the Grand River Valley viticultural area, the approximate point where the lake's effect is dissipated.

Air Drainage

Air drainage is a geographical feature affecting viticulture which is found in any river valley. It is manifested by the tendency of cool air to sink along the surrounding topography and drain to the surface of the water. This phenomenon draws warmer air closer to the ground and reduces the incidence of frost damage. Air drainage distinguishes the Grand River Valley viticultural area from the Lake Erie viticultural area which surrounds it on all sides except, as discussed above, at the inland boundary of the lake's climate influence. The boundary of the Grand River Valley viticultural area is established as any point which is two miles, in any direction, from the river, the approximate point where the air drainage feature is dissipated.

Public Comments

In response to Notice No. 462, ATF received three comments, all from officials of the state government. All of the comments were in favor of establishment of the Grand River Valley viticultural area. None of the comments discussed the boundary issue presented in the notice.

Alternative Boundary Adopted as Proposed

Based on the data discussed above, ATF is establishing the Grand River Valley viticultural area confined to the portion of the valley within the approved Lake Erie viticultural area.

The boundary proposed as an alternative by ATF (proposed § 9.87b) is established as the approved boundary, described in § 9.87.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

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

Executive Order 12291

In compliance with Executive Order 12291 the Bureau 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) 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.

List of Subjects in 27 CFR Part 9

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

Drafting Information

The principal author of this document is John A. Linthicum, 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

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.87. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.87 Grand River Valley.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.87 to read as follows:

§ 9.87 Grand River Valley.

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

(b) *Approved map.* The approved map for determining the boundary of the

Grand River Valley viticultural area is the U.S.G.S. topographic map in the scale of 1:250,000, entitled Cleveland, number NK 17–8, dated 1956, revised 1972.

(c) *Boundary.* The Grand River Valley viticultural area is located in the following Ohio counties: Lake, Geauga, and Ashtabula. The viticultural area consists of all of the land within the Lake Erie viticultural area, described in § 9.83, which is also within 2 statute miles, in any direction, of the Grand River. Specifically, the Grand River Valley viticultural area consists of all of the land west of Ohio Route 45 which is within 2 statute miles, in any direction, of the Grand River, and which is also within 14 statute miles inland from any point on the shore of Lake Erie.

Signed: September 22, 1983.

Stephen E. Higgins,

Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28786 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Virginia State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Virginia State plan for occupational safety and health. These supplements, representing completion of several of the State's developmental steps, concern: promulgation of safety and health standards identical to the Federal standards; adoption of the Federal standards for explosives; staffing of both the safety and health compliance programs; institution of a reporting system for cases contested under the State's judicial review system; revision of job specifications for both safety and health personnel; and development of health and safety inspection scheduling systems.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. The Virginia plan was approved by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) as a developmental plan on September 23, 1976. On September 28, 1976, a notice was published in the **Federal Register** (41 FR 42655) containing the approval decision, description of the plan, and schedule of the State's major developmental commitments. By a letter dated March 23, 1977, from Edmond M. Boggs, Commissioner of the Virginia Department of Labor and Industry, by letters dated October 5 and November 2, 1977, August 11 and November 11, 1978, September 17, 1980, and May 27 and October 9, 1981, from Robert F. Beard, Jr., Commissioner of the Virginia Department of Labor and Industry, by letters dated September 7, 1977, and May 9, 1979, from Robert S. Jackson, Assistant Commissioner of the Virginia Department of Health, by letters dated December 11, 1980, and October 30, 1981, from Clayton P. Deane, Assistant Commissioner of the Virginia Department of Labor and Industry, and by a letter dated May 28, 1982, from Janice L. Thomas, Chief Administrator for Occupational Safety, Virginia Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Virginia submitted developmental plan change supplements addressing the completion of a number of the developmental steps set forth in the initial approval decision. Following regional review, the supplements were forwarded to the Assistant Secretary for determination as to whether they should be approved. The supplements are described below.

Description of the Supplements

1. *Standards Promulgation.* In accordance with the requirement of the developmental step set forth in 29 CFR 1953.373(a), the State was to have adopted occupational safety and health standards identical to the Federal standards by January 1, 1978. On March 23, 1977, the State submitted standards which were identical to 29 CFR Parts 1910 for General Industry and 1926 for Construction, as published in the **Federal Register** on December 21, 1976, including all additions, revisions, amendments and corrections thereto, with the exception of the State standard for ionizing radiation, which was determined to be at least as effective as the comparable Federal standard (29 CFR 1910.96). The State's submission was approved by the Regional Administrator in the **Federal Register** of March 17, 1978 (43 FR 11274). By a letter dated November 11, 1978, the State submitted standards identical to 29 CFR Part 1928 for Agriculture. The State's submission was approved by the Regional Administrator in the **Federal Register** of June 12, 1979 (44 FR 33751). By a letter dated September 17, 1980, the State reported that the Virginia Safety, and Health Codes Commission had revoked the State's ionizing radiation standard and adopted standards identical to 29 CFR 1910.96 and 1926.53 for exposure to ionizing radiation in general industry and construction, respectively, and were approved in the **Federal Register** of August 20, 1982 (47 FR 36485). In addition, Virginia occupational safety and health standards identical to the Federal standards have been promulgated, subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator in the **Federal Register** of July 15, 1980 (45 FR 47548) and August 18, 1981 (46 FR 41886).

2. *Explosives Standard.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(j), the State was to amend the State explosives code to contain only standards identical to the Federal standards. Included in the State's standards submission of March 23, 1977, were standards indentical to the Federal standards for explosives and blasting agents in general industry and contruction, respectively (29 CFR 1910.109, 29 CFR 1926.860 and 29 CFR Part 1926, Subpart U). The State's submission was approved by the Regional Administrator in the **Federal Register** of March 17, 1978 (43 FR 11274).

3. *Compliance Staffing Requirements.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(e), both safety and health compliance programs were to be fully staffed by Fiscal Year 1979. At the time of plan approval, this developmental step contemplated a minimum compliance staff of 32 safety and health compliance officers. On August 11, 1978, the State submitted a grant application for Fiscal Year 1979 which included

allocation positions for 38 safety and 18 health compliance officers. The number of allocated positions for safety and health has remained the same through Fiscal Year 1983 and substantially conforms with the requirements of this developmental step. In light of current budgetary restraints and the available supply of trained professionals, the State has not, however, achieved the staffing benchmarks necessary for final plan approval, as established by the U.S. District Court in "AFL-CIO v. Marshall," 570 F.2d 1030 (D.C. Cir. 1978).

4. *Court Reporting System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(g), the State was to have developed and implemented a system for the reporting of court decisions resulting from the State's judicial system for the review of contested cases. By a letter dated May 27, 1981, the State submitted the first annual compilation of Final Orders of the Virginia General District Courts and the Virginia Circuit Courts in Contested Cases Arising Under the Virginia Occupational Safety and Health Act, with the first publication covering the period of July 1, 1979 through June 30, 1980. The State has published a second compilation, covering the period of July 1, 1980 through June 30, 1981, and a third publication is under preparation. These publications have been determined to fulfill the State's developmental step regarding its court reporting system. The State's automated Management Information System, also included in 29 CFR 1952.373(g), was previously approved as a completed developmental step on November 21, 1980 (45 FR 77001). Virginia has been a participant in the Federal Unified Management Information System since July 1, 1982.

5. *Review of Job Qualifications.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(k), the State was to review and revise job specifications for both safety and health personnel to accurately reflect job functions within 12 months of plan approval. By a letter dated October 5, 1977, the State submitted revised job specifications for personnel of the Virginia Department of Labor and Industry and the Virginia Department of Health. The U.S. Office of Personnel Management reviewed the submissions and by letters dated January 10 and March 6, 1979, confirmed that the Department of Labor and Industry and Department of Health were in substantial conformity with the Intergovernmental Merit System Standards. The State has continued to update its job specifications by letters dated September 17, 1980, and October 9, 1981. In addition, by a letter dated March 23, 1977, the U.S. Civil Service Commission confirmed that both the Department of Labor and Industry and Department of Health were in conformance with the Intergovernmental Merit System Standards applicable to the OSHA program and that both agencies had implemented Affirmative Action programs.

6. *Inspection Scheduling System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(m), Virginia was to develop inspection scheduling systems for both the safety and health programs. By a letter dated September 7, 1977, the State submitted a health standards enforcement plan which included a health inspection scheduling system. The health scheduling system was found to be comparable to the Federal system with the exception that there was no provision for priority being given to the enforcement of new health standards. By a letter dated May 9, 1979, the State amended its health scheduling system to include such a provision. By a letter dated November 2, 1977, the State submitted an industry inspection planning guide for safety which was found to be consistent with the Federal inspection scheduling system. The State has subsequently adopted revisions identical to revisions to the Federal scheduling systems for safety as well as health inspections by letters dated December 11, 1980, October 30, 1981, and May 28, 1982.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3700, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, 3535 Market Street, Philadelphia, Pennsylvania 19104; and Office of the Commissioner, Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that all of the Virginia plan supplements described above are consistent with commitments contained in the approved plan, which was previously made available for public comment, and that a number of the plan supplements are substantially in agreement with requirements of comparable Federal program changes. Accordingly, it is found that further public comment and notice is unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

PART 1952—[AMENDED]

After careful consideration, the Virginia plan supplements outlined above are approved under Part 1953. In addition, Subpart EE of 29 CFR Part 1952 is amended to reflect the completion of six developmental steps by adding paragraphs (g), (h), (i), (j), (k), and (l) to §1952.374 as follows:

§ 1952.374 Completed developmental steps.

* * * * *

(g) In accordance with 29 CFR 1952.373(a), Virginia was to completely adopt standards identical to the Federal standards by January 1, 1978. State standards identical to the Federal standards of 29 CFR Part 1910 (General Industry) and Part 1926 (Construction) and as effective as the Federal standards for ionizing radiation exposure became effective on April 15, 1977, and were approved by the Regional Administrator in the **Federal Register** of March 17, 1978 (43 FR 11274). State standards identical to the Federal standards in 29 CFR Part 1928 (Agriculture) became effective on April 1, 1978, and were approved by the Regional Administrator in the **Federal Register** of June 12, 1979 (44 FR 3375). The State's subsequent adoption of standards identical to the Federal standards for ionizing radiation exposure was approved on August 20, 1982 (47 FR 36485). The State has continued to adopt standards, amendments and corrections identical to the Federal, as noted in separate standards approval notices.

(h) In accordance with 29 CFR 1952.373(e), the State met its developmental commitment for the staffing of its compliance program by

Fiscal Year 1979 with the submission of its Fiscal Year 1979 grant application on August 11, 1978, which allocated 38 safety and 18 health compliance officer positions. This supplement was approved by the Assistant Secretary on October 14, 1983.

(i) In accordance with 29 CFR 1952.373(g), Virginia met its developmental commitment for the development and implementation of a system for the reporting of court decisions resulting from the State's system for the judicial review of contested cases with the submission of a publication on May 27, 1981, which compiled final orders and decisions regarding cases contested to the Virginia General District and Circuit Courts. The State has subsequently submitted other compilations which are to be published annually. This amendment was approved by the Assistant Secretary on October 14, 1983.

(j) In accordance with 29 CFR 1952.373(j), Virginia submitted revised standards for explosives and blasting agents on March 23, 1977, which were found to be identical to the Federal standards and were approved by the Regional Administrator in the **Federal Register** of March 17, 1978 (43 FR 11274).

(k) In accordance with 29 CFR 1952.373(k), the State met its developmental commitment of reviewing and revising job descriptions for both safety and health personnel with the submission of revised job specifications on October 5, 1977. This supplement was approved by the Assistant Secretary on October 14, 1983.

(l) In accordance with 29 CFR 1952.373(m), Virginia submitted inspection scheduling systems for its health and safety programs on September 7 and November 2, 1977, and a revised health scheduling system on May 9, 1979. The State has subsequently adopted revisions identical to revisions to the Federal scheduling system for safety as well as health inspections with submissions dated December 11, 1980, October 30, 1981, and May 28, 1982. These amendments were approved by the Assistant Secretary on October 14, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 14th day of October, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-28709 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 235

[DoD Directive 4700.3]

Mineral Exploration and Extraction on DoD Lands

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule establishes DoD policy concerning mineral exploration and extraction on DoD lands, that is that DoD lands may be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Department of the Army civil works activities. The Department of Defense favors development of an overall mineral leasing policy on DoD lands with the view to increasing on-shore oil and gas exploration. This rule is hereby published to advise the public of this policy and to express certain relationships between the DoD and the Department of the Interior, the federal mineral leasing agency.

DATE: This rule was approved and signed by the Deputy Secretary of Defense on September 28, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Edgar F. Rummel, Chairman, Department of Defense Mineral Leasing Committee, Room 5138, Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC 20314, telephone: 202-272-0511.

SUPPLEMENTARY INFORMATION:

1. *Executive Order 12291.* The Department of Defense has determined that this rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

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

3. *Regulatory Flexibility Act.* The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) certifies that this rule shall be exempt from the requirements under 5 U.S.C. 601-612.

List of Subjects in 32 CFR Part 235

Mineral exploration, Mineral extraction, Government property.

Accordingly, 32 CFR is amended by adding a new Part 235, reading as follows:

PART 235—MINERAL EXPLORATION AND EXTRACTION ON DoD LANDS

Sec.

235.1 Purpose.
235.2 Applicability and Scope.
235.3 Definitions.
235.4 Policy.
235.5 Responsibilities.
235.6 Procedures.
235.7 Summary of Leasing Authorities.

Authority: 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, 1601 *et seq.* 40 U.S.C. 471, 43 U.S.C. 155 *et seq.*

§ 235.1 Purpose.

Under 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, and 1601 *et seq.*, 40 U.S.C. 471, and 43 U.S.C. 155 *et seq.*, this rule establishes policy, assigns responsibilities, and provides procedures for making DoD lands available for mineral exploration and extraction.

§ 235.2 Applicability and scope.

(a) This Directive applies to the Office of the Secretary of Defense and the Military Departments (including their National Guard and reserve components).

(b) It applies to DoD-controlled lands acquired or withdrawn from the public domain (including Army civil works lands) within the United States and its territories and possessions for which the mineral rights are owned by the United States, with the following exceptions:

(1) Mineral leasing of lands situated within incorporated cities, towns, and villages (30 U.S.C. 351 *et seq.* and 181 *et seq.*).

(2) Mineral leasing of tidelands or submerged lands (30 U.S.C. 351).

(3) Certain hardrock minerals known as locatables (30 U.S.C. 22).

(4) A class of minerals composed of sand and gravel known as saleables (30 U.S.C. 601 *et seq.* and 41 CFR 101-47.302-2).

§ 235.3 Definitions.

(a) *Leasable Minerals.* Minerals, such as oil and gas, that are owned by the United States and that have been authorized under statute as potential minerals for extraction under a mineral lease (30 U.S.C. *et seq.*, 181 *et seq.*, and 1001 *et seq.*

(b) *Locatable Minerals.* Minerals, such as gold and silver, that are owned by the United States, that are on public domain lands, that are subject to discovery and claim, and that are not leasable or saleable (30 U.S.C. 22).

(c) *Mineral Lease.* A grant of a right to explore for and extract leasable minerals. No surface occupancy, drilling, or other mineral extraction is permitted

until an operations plan is approved by the DoI in consultation with the Military Department concerned.

(d) *Multiple-Use Principle.* The integrated management of all resources, each with the other, to achieve their optimum use and enjoyment while maintaining environmental and other qualities in balance.

(e) *Permit.* Temporary permission to conduct seismic or other geological and geophysical tests before requesting a mineral lease.

(f) *Saleable Minerals.* Common variety minerals, such as sand, clay, and gravel, that are sold under certain statutory authorities [30 U.S.C. *et seq.* and 41 CFR 101–47.302–2

§ 235.4 Policy.

In accordance with established DoD policy to promote optimal use of real property under the multiple-use principle (DoD Directive 4700.1), DoD lands shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Army civil works activities.

§ 235.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Have primary responsibility for developing DoD policy for mineral exploration and extraction on DoD lands.

(2) Ensure that the Military Departments issue regulatory documents implementing this Directive.

(b) The *Secretaries of the Military Departments* shall:

(1) Review and approve or disapprove requests from the Department of the Interior (DoI), the federal mineral leasing agency, to lease DoD lands under 43 U.S.C. 155 *et seq.* and DoD Directive 5160.63.

(2) Issue regulatory documents implementing this Directive to prescribe procedures relating to the issuance of permits and leases and the approval of plans of operations for mineral exploration and extraction.

(3) Formulate a system for maintaining records of land status to assist the DoI in mineral leasing. This system shall be established in accordance with DoD Directive 5000.11 and shall use existing standard data elements from DoD 5000.12–M, whenever possible.

§ 235.6 Procedures.

(a) If a Military Department cannot consent to exploration or extraction, it also may not approve testing or leasing. Exclusion of lands from exploration and extraction shall be justified and supported. Availability of lands is subject to certain conditions and stipulations that also shall be justified. Granting approval for leasing usually shall be construed as consent ultimately to allow drilling or other forms of mineral extraction. Accordingly, initial approval clearly shall indicate the conditions, if known, under which further exploration or extraction shall be allowed. For example, classified operations, ammunition and explosives operational storage requirements, and contaminated lands may restrict or exclude leasing or may require no surface disturbance stipulations (DoD 5154.4–S).

(b) The Military Departments may issue permits to parties interested in conducting seismic or other geophysical tests on DoD lands. In unusual circumstances, the Military Departments may refer permit applications to the DoI for issuance. Permits are subject to the approval of, and conditions imposed by, the Military Department concerned. The issuing agency shall make any required environmental and cultural studies. For permits issued by the DoI, the Military Department concerned shall provide, upon request, environmental and cultural information held by the Department.

(c) *Leases.* The DoI receives and processes all mineral lease requests and then forwards such lease offers and title report requests to the Military Department concerned. The Military Department then shall decide whether and under what conditions its land may be made available for leasing.

(1) *Environmental and Cultural Considerations for Leases.* As the lead agency, the DoI obtains all environmental and cultural documentation before deciding to lease. The responsibilities of the Military Department concerned, when acting as a cooperating agency, shall be limited to providing to the DoI, upon request, any available environmental and cultural information.

(2) *Title Search.* The Military Department concerned shall furnish to the DoI available information for acquired lands. DoI title records shall be relied upon for withdrawn public domain lands, except that the Military Departments shall identify all outstanding interests, such as easements and licenses. When title information is incomplete, the Military Department shall so advise the DoI.

(3) *Plans of Operations.* After the lease is executed, the lessee submits a plan of operations (Application for Permit to Drill for oil and gas or Mining Plan for other minerals) to the DoI for technical review and coordination with the Military Department concerned. As a cooperating agency, the Military Department shall supply appropriate stipulations; available environmental, endangered species, and cultural information; and concurrence with the plan. The DoI then formalizes the environmental considerations and approves the plan with the stipulations supplied by the Military Department. Stipulations shall be tied directly to the details of the proposed plan of operations, and each stipulation shall be objectively justifiable.

(4) The DoI has the responsibility for the collection and disposition of proceeds derived from mineral leasing.

§ 235.7 Summary of mineral leasing authorities.

(a) 30 U.S.C. 351 *et seq.* authorizes leasing of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfer within acquired DoD lands. 30 U.S.C. 181 *et seq.* authorizes leasing of coal, phosphate, sodium, oil, oil shale, native asphalt, solid or semi-solid bitumen, and bituminous rock or gas within DoD-withdrawn public domain lands under certain conditions and in certain places. Under the leasing statutes, the Secretary of the Interior is responsible for granting and administering such leases. 30 U.S.C. 101 *et seq.* authorizes the Secretary of the Interior to issue leases for development of geothermal steam and associated resources on public lands. This includes public lands withdrawn for use by the Military Departments.

(b) 30 U.S.C. 351 *et seq.* specifically provides for consent of the head of the executive department having jurisdiction over the lands containing the mineral deposit before leasing. For public domain lands withdrawn for use of the Department of Defense 43 U.S.C. 155 *et seq.* provides that there will be no disposition of or exploration for minerals on public domain lands when the Secretary of Defense, in consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the land.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 18, 1983.

[FR Doc. 83–28726 Filed 10–20–83; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[WH-FRL 2456-2]

Water Pollution Control; National Pollutant Discharge Elimination System; Transfer of Authority Over Coal Mining and Reclamation Facilities Between State Agencies; Virginia

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rule.

SUMMARY: This rule approves the transfer of certain water discharge regulatory responsibilities from one Virginia State Agency to another without any change in the substance of those responsibilities. Currently the Virginia State Water Control Board (SWCB) administers the National Pollutant Discharge Elimination System (NPDES) permitting program for regulating all discharges of pollutants to waters within Virginia. This rule will approve transfer of the NPDES authority for regulating pollutant discharges from coal mining and reclamation facilities from the SWCB to the Virginia Department of Conservation and Economic Development, Division of Mined Land Reclamation (DMLR), which is already charged with other regulatory responsibilities for these facilities.

DATE: This rule will become effective October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Marilyn Goode, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202-426-7010.

SUPPLEMENTARY INFORMATION: On March 31, 1975, the Commonwealth of Virginia was given approval by the Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program for regulating discharges of pollutants to waters within its boundaries. On December 15, 1981, the Commonwealth was conditionally approved to implement and administer the Surface Mining Control and Reclamation Act of 1977 (SMCRA) for coal mining and reclamation operations within the Commonwealth. In Virginia, the NPDES permit program is administered by the State Water Control Board (SWCB) and the SMCRA permit program is administered by the Department of Conservation and Economic Development, Division of Mined Land Reclamation (DMLR).

For coal mining and reclamation facilities, the requirements of the NPDES and SMCRA permit programs are overlapping and duplicative. To reduce confusion and duplication of effort, as well as to provide the coal industry with "onestop" permitting, Virginia has requested that EPA approve a modification of its NPDES program to permit DMLR to assume NPDES responsibilities related to coal mining currently performed by the SWCB. DMLR will then issue to each qualifying coal mining or reclamation facility a single permit incorporating the requirements of both the SMCRA and NPDES programs and will administer both Acts. SWCB will have the opportunity to review the permits in order to concur in the effluent limitations or to impose any more stringent limitations necessary to maintain water quality standards.

On September 21, 1982, EPA published a Notice of Proposed Rulemaking (47 FR 41599) which proposed to transfer NPDES responsibilities for coal mines to DMLR. No public comments were received.

Based on the foregoing, it is the decision of the Administrator of EPA to modify the Commonwealth of Virginia's NPDES authorization to allow implementation of the portion of the program described above by the DMLR instead of by the SWCB. No substantive rights or obligations of any person will be affected by this amendment. The Administrator's decision to approve the proposed amendment has been based on the apparent need for such a revision, the lack of public comments received, and on a determination that the amendment meets the requirement of the Clean Water Act and 40 CFR 123.62.

This notice incorporates by reference the Memorandum of Agreement signed on July 17, 1981 by Mr. Fred Walker (Director of the Department of Conservation and Economic Development) and Mr. R. V. Davis (Executive Secretary, SWCB). The Memorandum sets forth the joint permitting plan described above.

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this action from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Pursuant to Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), I certify that this State program revision will not have a significant impact on a substantial number of small entities. Revision of the Virginia NPDES program establishes no new substantive requirements, but merely transfers responsibilities for administration of the program from one State agency to another.

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-28709 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-4-FRL 2455-3]

Hazardous Waste Management Program; Tennessee; Request for Extension of Application Deadline for Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submission and interim authorization period.

SUMMARY: On September 15, 1983, the State of Tennessee requested a further extension beyond the September 15, 1983 deadline previously granted for submission of their application for Phase II of Interim Authorization under the Resource Conservation and Recovery Act (RCRA) of 1976 as amended (48 FR 34954, August 2, 1983).

Tennessee must continue to pursue legislative and regulatory changes to resolve several issues necessary for approval of Phase II interim and final authorization. Anticipating enactment of the necessary legislation and regulations, Tennessee would like to proceed directly toward Final Authorization. EPA is granting an extension to April 1, 1984, for submission of a draft application for Final Authorization. This extension allows Tennessee to retain Phase I interim authorization pending submission of draft and complete applications for final authorization.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of

Phase II. 40 CFR 271.137(a) (formerly § 123.137[a]; 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization [approval] of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator extended the July 26, 1983 deadline for termination of the approval of the State program to allow Tennessee time to make regulatory changes and administrative changes necessary to qualify for Phase II, Interim Authorization. The most significant issues include: The Tennessee Hazardous Waste Management Act T.C.A. section 68-46-103(1) and (2) allows exemptions for air emissions and water discharges; T.C.A. section 68-46-106(a)(3) does not subject owners of treatment, storage, and disposal facilities to utilization of the manifest system; 68-46-108(b) limits the transporter requirements to the reporting of information; and the State of Tennessee does not provide for citizen intervention in state civil enforcement actions as a matter of right.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Anticipating enactment of the necessary legislation and regulations, Tennessee has committed to the following schedule for applying for final authorization:

April 1, 1984—Submit draft application for Final Authorization.

July 31, 1984—Submit a complete application for Final Authorization.

Decision

Considering the above schedule, immediate reversion of Phase I due to failure to meet the previous deadline was not in the best interest of the State, this Agency, the regulated community, or the citizens of Tennessee. I found there was good cause to grant the State's request for a further extension beyond the September 15, 1983 deadline previously granted for applying for interim authorization. Therefore, Tennessee must officially submit a draft application for Final Authorization on or before April 1, 1984, and a complete application for Final Authorization on or before July 31, 1984. If the State fails to submit draft and complete applications by the above respective dates, approval of the State program will terminate and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: September 30, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 83-28697 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-4 and 101-37

[FPR Temp. Reg. 72; FPMR Temp. Reg. F-501]

Emergency Acquisition of New Customer Premise Equipment

AGENCY: General Services Administration.

ACTION: Temporary regulation—dual issuance—Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR).

SUMMARY: This regulation implements the Federal Communications Commission (FCC) Memorandum, Opinion and Order of April 12, 1983, to enable the Bell Operating Companies (BOCs) and the Long Lines Department (LL) of the American Telephone and Telegraph Company (AT&T) to provide limited amounts of new customer premises equipment (CPE) to Government agencies when necessary to meet certain critical communications requirements.

DATES: Effective date: April 12, 1983.

Expiration date: This regulation expires on the date of divestiture of the BOCs pursuant to the Modification of Final Judgment (MFJ) or April 12, 1985, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Office of Information Resources Management Policy (KMPP), 202-566-0194.

SUPPLEMENTARY INFORMATION: 1. In order to reach both government telecommunications management and procurement activities this temporary regulation is being distributed in looseleaf format to FPMR Subchapter F and FPR addresses.

2. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been structured to maximize the benefits to Federal agencies. This is a government-wide management regulation that will have little or no effect on society.

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

In 41 CFR Chapter 1, the following FPR temporary regulation 72 is added to the appendix at the end of the chapter. In 41 CFR Chapter 101, the identical temporary regulation identified as FPMR temporary regulation F-501 is added to the appendix at the end of Subchapter F.

General Services Administration

Washington, DC 20405

September 6, 1983.

Federal Procurement Regulations Temporary Regulation 72

To: Heads of Federal agencies

Subject: Emergency acquisition of new customer premise equipment (CPE)

1. *Purpose.* This regulation implements the Federal Communications Commission (FCC) Memorandum, Opinion and Order of April 12, 1983, to enable the Bell Operating Companies (BOCs) and the Long Lines Department (LL) Of the American Telephone and Telegraph Company (AT&T) to provide limited amounts of new customer premises equipment (CPE) to Government agencies when necessary to meet certain critical communications requirements.

2. *Effective date.* This regulation is effective April 12, 1983.

3. *Expiration date.* This regulation expires on the date of divestiture of the BOCs under the Modification of Final Judgment (MFJ) or April 12, 1985, whichever is earlier.

4. *Background*

a. On January 5, 1983, AT&T petitioned the FCC to waive Computer II rules for the purpose stated in paragraph 1. The petition was supported by the Department of Defense (DoD) and other specified agencies (see paragraph 5). The basis for the request was to permit the BOCs and LL to respond as a single point of contact to Government requests for service within BOCs franchised

areas in emergencies in which new CPE may be required. (For this purpose new CPE is CPE not on a customer's premises or in a BOCs or LL inventory as of January 1, 1983.) In emergencies it can be critical that a single point of contact is responsible for providing, without delay, and managing all necessary communication facilities and CPE on an end-to-end basis. Only a small amount of new CPE would be anticipated to be provided because embedded inventory would be used until depleted. Since competitive acquisition programs would be available for most Government needs, the waiver is intended to cover extremely limited situations.

Note.—The information in this regulation is identical to the information in FPMR Temporary Regulation F-501.

b. The Department of Justice (DoJ) has stated that it does not oppose a waiver for Presidentially declared emergencies or for other genuine crises as defined in paragraph 6.

c. The FCC adopted the waiver on April 7, 1983, in their Memorandum, Opinion and Order in Docket ENF 83-13.

d. The FCC has determined that any new CPE obtained under the waiver must be accounted for separately from embedded CPE; i.e., the new CPE may not be provided under tariff. Title to any new CPE provided according to the waiver may reside in the Government, in the BOC, in LL, or in the third party CPE supplier.

e. DoD described two fundamental needs. First, in emergencies the Government must be able to obtain end-to-end communication services, including necessary CPE from a single supplier. Second, DoD must ensure the continued availability of new CPE for critical national security systems. The second need is not addressed in this regulation. For nonemergencies, DoJ suggested and the FCC accepted certain conditions and procedures in selection of new CPE providers including notification by the BOC or LL when CPE is not available from inventory and identification of one or more suppliers (including at least one supplier other than an affiliate, when known, which could supply the needed CPE) who might be able to provide the CPE. The BOC or LL may then obtain the new CPE from the supplier selected by the Government. This notification procedure is not required for the emergency need situation.

f. The FCC action provides that after the date of divestiture of the BOCs pursuant to the modification of Final Judgment, any provision of new CPE included in the waiver must be in compliance with the requirements of Computer II and any FCC decision which may affect the structure under which the divested BOCs provide new CPE. An FCC decision on CC Docket 81-893 (Policies for detariffing embedded CPE held by BOCs and other carriers) will be pertinent to this future situation.

g. GSA Bulletin FPMR F-143, dated June 8, 1982, provides additional information regarding emergency telecommunications services.

5. *Applicability.* This temporary regulation applies to agencies as provided in FPMR § 101-37.101. At the request of, and on behalf of agencies specified by AT&T in their petition for FCC waiver to provide new CPE are DoD; the Departments of Energy, Interior, Transportation/FAA/Coast Guard; the General Services Administration (GSA); the Central Intelligence Agency; the National Aeronautics and Space Administration; the U.S. Information Agency; the Nuclear Regulatory Commission; and the Federal Emergency Management Agency (FEMA).

6. *Definitions.* As used in this temporary regulation, the following terms mean:

a. "Emergency situations" means submission of communications requirements for emergency services in connection with (1) a Presidentially declared emergency or (2) other crisis situation.

b. "Other crisis situation" means communications requirements resulting from any of the below circumstances may be submitted as emergency requirements and afforded special handling:

(1) State of crisis declared by the national command authorities;

(2) Efforts to protect endangered U.S. personnel or property;

(3) Enemy action, civil disturbance, national disaster, or any other unpredictable occurrence that has damaged facilities whose uninterrupted operation is essential to national security or other ongoing crisis; or

(4) The director of a Federal agency, commander of a unified/specified command, head of a MILDEP, or commander of a major command; e.g., TAC, COM, 2ND FLT, etc. (CINCEUR ONLY IN THE EUROPEAN AREA), has certified that a communications requirement is so critical to protection of life and property or to the national defense that it must be processed immediately.

7. *Explanation of changes.*

a. FPMR § 101-37.203 is amended to provide that telecommunication requirements for emergency situations shall be satisfied in accordance with new § 101-37.606.

b. FPR § 1-4.1302 is amended to provide that in emergency situations BOCs and LL may provide new customer premise equipment in accordance with new FPMR § 101-37.606.

c. A new FPMR § 101-37.606 is added to provide for management of the FCC waiver to allow BOC's and LL to provide new CPE in emergency situations in BOCs franchise areas, as follows:

§ 101-37.606 Furnishing of new customer premises equipment (CPE) by Bell operating companies (BOCs) or AT&T Long Lines (LL) for use in emergency situations.

(a) *Determining applicability of waiver.* (1) Before requesting CPE, or service including circuits and CPE, from LL or a BOC, the Federal agency must determine:

(i) Whether the new CPE is to be employed on an existing service or circuit that has been assigned Restoration Priority (RP) 1-4, or

(ii) Whether the new CPE is to be employed on a new service or circuit that is eligible for assignment of RP 1-4, or

(iii) Whether the communications requirement justifies sole source acquisition of CPE alone or service involving circuits and CPE.

(2) If none of the conditions in paragraph (a)(1) above applies, the waiver provided by the FCC in this case is not applicable and normal acquisition procedures apply. (See also § 101-37.203 for requirement for reporting National Communications System (NCS) circuit restoration priority assignments.)

(3) If the conditions in paragraph (a)(1) above apply and an emergency situation requires submission of communication requirements for emergency services in connection with a Presidentially declared emergency or other crisis, the FCC waiver may be used in accordance with paragraph (b) below.

(b) *Coordination with GSA and FEMA on use of the waiver.*

(1) Federal agencies shall coordinate their emergency telecommunications requirements with the GSA Federal Emergency Communications Coordinator (FECC) serving the FEMA Regional Director. FECCs are located at GSA regional offices. (See the attachment for a list of offices and FECC telephone numbers.) These GSA offices will coordinate telecommunications services with FEMA to ensure that emergency needs are met. In a disaster or emergency, GSA provides telecommunication services according to

the National Plan for Communications Support in Emergencies and Major Disasters (dated October 1980). Those services are available through FEMA to help Federal agencies in responding to the State and local government needs. Under the direction of FEMA, GSA will also provide emergency telecommunications to State and local governments for specific relief and recovery operations. Emergency communications are provided in accordance with the Disaster Relief Act of 1974, P.L. 93–288.

(2) When Federal agencies request service from a BOC or LL, the BOC or LL will determine whether embedded CPE is available. If so, the CPE or service including CPE may be provided under tariff as it was before January 1, 1983. If not, LL or the BOC may provide or be responsible for new CPE, or end-to-end service involving new CPE, as they did before January 1, 1983, except:

(i) The Government entity ordering the CPE, or the service including circuits and CPE, must provide LL or the BOC with a written service order, or other signed document, stating:

"This service is ordered under the provisions of the FCC's NS/EP Waiver of Computer II."

(ii) The new CPE may not be provided under tariff by LL or the BOC involved.

(iii) The Government and LL or the BOC must negotiate a suitable contract for the new CPE. (Note.—The FCC Order specifically indicates that Government agencies, LL, the BOCs, and any CPE suppliers are free to make any suitable arrangements for obtaining the new CPE, as long as it is not added to the embedded base). The FECC shall act as a technical representative for the agency contracting officer. Some FECCs are warranted contracting officers for these purposes.

(c) *Reporting use of the waiver.* The Federal agency using the waiver shall notify the FECC in the region where the emergency exists when it uses the waiver. The FECC shall consolidate the agency reports for the emergency and submit the consolidated report as early as practicable to Headquarters, Defense Communications Agency, Code 105, Washington, D.C. 20305.

8. *Agency action.* Agencies shall follow this temporary regulation prior to the date of divestiture of the BOCs.

9. *Information and assistance.* For assistance in developing emergency communications plans or for information concerning emergency telecommunications services, contact the GSA regional office serving your State as listed in the attachment.

Ray Kline,

Acting Administrator of General Services.

September 6, 1983.

GSA Regional Offices

Region	States served	City	FTS telephone
1	ME, VT, NH, MA, RI, and CT.	Boston	223-5685
2	NY, NJ, PR, and VI.	New York City	264-1257
3	PA, DE, MD, WV, and VA.	Philadelphia	597-4901
4	GA, AL, MS, FL, SC, NC, TN, and KY.	Atlanta	242-3216
5	WI, MN, MI, IN, OH, and IL.	Chicago	886-8810
6	KS, MO, IA, and NB.	Kansas City	926-7235
7	TX, NM, OK, AR, and LA.	Ft. Worth	334-4840
8	CO, UT, WY, MT, SD, and ND.	Denver	234-2301
9	CA, NV, AZ, and Ht.	San Francisco	454-7602
10	WA, OR, ID, and AK.	Auburn	396-7500
W	District of Columbia.	Washington, DC	472-1800

Federal Emergency Communications Coordinator

Region	FTS telephone
1	233-5685
2	264-4061
3	597-1096
4	242-3251
5	886-8632
6	926-5190
7	334-4840
8	234-2301
9	454-7595
10	396-7522
W	472-1800

[FR Doc. 83-28711 Filed 10-20-83; 8:45 am]

BILLING CODE 6820-25-M

Proposed Rules

Federal Register
Vol. 48, No. 205
Friday, October 21, 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

Rural Electrification Administration

7 CFR Part 1700

General Fund Criteria for New Loans and Advances

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) is reviewing for possible revision its existing procedures and controls regarding the adequacy of a borrower's general funds as related to qualifying for new loans and advance of loan funds. Concerns have been raised by REA, many of the borrowers, and an agency audit with the adequacy of these present REA policies, so suggestions are now being requested.

DATE: Public comments must be received by REA no later than November 30, 1983.

ADDRESS: Persons interested in suggesting possible changes to such REA policies, procedures and controls may submit written data, views, suggestions or comments to Charles R. Weaver, Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this action will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, at the above address, telephone number (202) 382-1900.

SUPPLEMENTARY INFORMATION: REA and many of the borrowers have had concern with the adequacy of present REA policies, procedures and controls used in determining borrowers' general fund levels as related to the development of loan needs and the subsequent advance of funds from approved loans. This concern was also raised in the U.S. Department of Agriculture's Office of Inspector General (OIG) audit of the REA loan-making policies and procedures for electric distribution cooperatives.

In response to the concerns, REA has begun a review of its existing policies, procedures and controls to identify possible actions that may be proposed. Persons interested in suggesting possible revisions are asked to submit them in writing to REA by November 30, 1983. Further public comment will be solicited when specific proposed rules are published.

List of Subjects in 7 CFR Part 1700

Electric power, Loan programs—energy, Rural areas.

(7 U.S.C. 901-950(b), 7 U.S.C. 1921 et seq., and 44 FR 30313, May 25, 1979)

Dated: October 17, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83-28628 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-15-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Services for Retired Persons; Second Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed policy statement; request for comments.

SUMMARY: On March 30, 1983, the NCUA Board requested comments on whether or not it should enable Federal credit unions to include within their fields of membership retired persons residing in the credit union's locale. Although the majority of those who submitted comments were in favor of the proposal, several issues were raised that warrant this second request for comments.

DATE: Comments must be received by April 30, 1984.

ADDRESS: Send comments to Secretary of the NCUA Board, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Hattie Ulan, Attorney Advisor, 1776 G Street, NW., Washington, D.C. 20456, Telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: On March 30, 1983, the NCUA Board requested comments on whether it should revise its policies with respect to membership in Federal credit unions in order to provide Federal credit unions the ability to offer membership to retired persons in the credit union's locale. 48 FR 13194. Eighty-three comment letters were received, the majority of which were in favor of expansion of the field of membership to provide service to retired persons. The March 30, 1983, proposal sought comments on expansion of credit union service to *all* retired persons residing in a credit union's locale, not merely to those retirees with prior credit union membership. It was apparent from the comment letters received that there was some confusion as to whether the proposal applied to all retired persons or only to those with prior credit union membership. The commenters addressed several other issues that also warrant further clarification. Hence, the following questions are presented for further comment:

1. If a retiree proposal is approved, should expansion of credit union service to retired persons apply (a) to all retirees; (b) only to those retirees with prior credit union membership in any credit union; or (c) only to those retirees with prior credit union membership or prior eligibility for membership in a "like sponsor" credit union, that is, one that they were members of or eligible for membership in prior to retirement?

2. If a retiree proposal is approved, should an exclusion clause be utilized? That is, should individuals who are already eligible for membership in a credit union in the locale on a basis other a general "retired persons" policy be excluded from retiree-based membership in other credit unions in the locale?

3. The March 30, 1983 proposal defined retiree as someone receiving retirement benefits or anyone over the age of 60. Should there be a minimum age in the definition of retiree? If so, should it be a mandatory or an optional minimum age? If there should be a minimum age, is 60 appropriate?

4. For purposes of the retiree proposal, how should a credit union's service area

be defined? Should the definition of service area be based on field of membership? Should the definition of service area be based on a certain geographic area? Should a credit union's branch offices be included in either definition?

The NCUA Board encourages all Federal credit unions to respond to these questions. The April 30, 1984, deadline for responses is designed to coincide with a comprehensive study of chartering policies that the NCUA Board recently decided to undertake. It is estimated that this study will be completed in approximately six months. Public comment on other issues may be requested as the study progresses.

List of Subjcts in 12 CFR Part 701

Credit unions.

(12 U.S.C. 1759)

By the National Credit Union Administration Board on October 17, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83-28685 Filed 10-20-83; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANE-26]

Amendment of Description of the Willimantic, Connecticut 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the 700-foot transition area at Willimantic, Connecticut. The Very High Frequency Omnidirection Range-A (VOR-A) instrument approach procedure to the Windham Airport, Willimantic, Connecticut is being changed and, as a result, an alteration of the 700-foot transition area is needed to contain Instrument Flight Rules (IFR) arrival procedures.

DATES: Comments must be received on or before November 30, 1983.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 83-ANE-26.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE-530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before November 30, 1983, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the description of the 700-foot transition area at Willimantic, Connecticut. This amendment is necessary due to a change in the VOR-A instrument approach procedure to the Windham Airport, Willimantic, Connecticut.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administation proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Willimantic, Connecticut

Insert after the line that reads, "That airspace * * * the end of the runway" the following "within 4.5 miles each side of the Norwich VOR 324° radial extended from the 8-mile radius area to one mile northwest of the VOR and within two miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway."

(Secs. 307(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 14 CFR 11.69).

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. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if 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 Burlington, Massachusetts, on October 11, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-28691 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-35]

Proposed Designation of Transition Area, Okolona, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Okolona, Mississippi, transition area in the vicinity of Okolona Municipal-Richard Stovall Field. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Tupelo VOR/DME facility, has been developed to serve the airport and additional

controlled airspace is required for protection of IFR operations.

DATES: Comments must be received on or before: December 5, 1983.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airpspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's 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 § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Okolona, Mississippi, transition area to provide controlled airspace for protection of IFR operations in the vicinity of Okolona Municipal-Richard Stovall Field. If the proposed designation is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to designate the Okolona, Mississippi, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Okolona, MS—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Okolona Municipal-Richard Stovall Field (Lat. 34°00'57" N., Long. 88°43'34" W.); excluding that portion that coincides with the Tupelo, Mississippi, 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))

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 promulaged, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on October 6, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-28696 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Docket 41723 PDR-86]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its procedures for awarding Japanese charter authorizations, by setting up a regular turn-in period at the beginning of the allocation year and allowing carriers to request authorizations on a first-come-first-served basis. The change is needed because of the unexpectedly low demand for such charters, which would cause unjustified penalties in future years for carriers who cannot use their allocated authorizations. The proposed amendment is at the Board's initiative, after reviewing the first year's operations under the rule.

DATE: Comments by: November 21, 1983. Reply comments by: November 28, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: October 31, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41723, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia A. DePuy, Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5878.

SUPPLEMENTARY INFORMATION: In this notice of proposed rulemaking the Board requests comment on a proposal to

amend 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations.* The proposal would allow those carriers holding authorizations under the rule to return them unused without penalty early in the allocation year for which they are valid, and would provide for the redistribution of the turned-in authorizations on an on-demand, first-come-first-serve basis. This proposal is at the Board's own initiative, pursuant to the review procedures established in section 320.4 of the Japan charter rule.

Background

By PR-251 (47 FR 43352, October 1, 1982) the Board adopted 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations.* That rule established procedures for allocating among U.S. carriers the charter authorizations available in the United States-Japan market under the September 7, 1982 Memorandum of Understanding (MOU) between the two countries. Under the MOU, U.S. carriers may operate 300 one-way charters annually for the duration of the agreement. Part 320 provided for a one-time allocation of the 300 available charters for a 3-year period. It gave to certificated carriers with a recent history of charter operations in the Japan market a certain number of "grandfather" allocations based upon the level of their recent operations. It awarded the remaining flights by a lottery open to all U.S. carriers holding authority in the market and having the operational capability to serve Japan. The authorizations were formally allocated by Order 82-10-46.

To assure that the authorizations are used efficiently and not wasted, Part 320 allows for the intercarrier transfer of authorizations. It imposes a penalty, however, on excessive transfers of grandfather authorizations, requiring carriers that transfer more than 10 percent of their grandfather authorizations in any year to forfeit one flight in each future year for each transferred flight above the 10 percent threshold. The rule also places a penalty on the non-use of any authorization, requiring a forfeiture of two flights in each future year for every flight not used.

The allocation system and the transfer and penalty provisions were included in the rule because the Board anticipated that there would be considerable demand for Japan charters. There had been reasonably high levels of charter operations in the past by U.S. carriers in the U.S.-Japan market and persistent efforts by charter carriers to reopen the market after Japanese restrictions severely curtailed their activities. After the MOU was signed, the interest expressed by many U.S. carriers in the market and in the proposed rule suggested considerably excess demand.

In adopting the rule, the Board stated that it might be modified if abuse or undesirable consequences resulted from it. The rule also provided for a Board review of operations conducted under it at the midpoint of the 3-year period, with changes to be made as necessary. The rule is currently under judicial review in the U.S. Court of Appeals for the D.C. Circuit (*Arrow Airways et al v. CAB*, D.C. Cir. Nos. 82-2188 and 82-2392, filed Oct. 4, 1982).

By PR-260, adopted June 16, 1983, Part 320 was amended to allow a brief period during which carriers holding Japan charter authorizations could return them to the Board for the allotment year beginning October 1, 1982, for redistribution to other carriers interested in using them. The amendment provided that carriers returning authorizations, as provided by the amendment, would be relieved from any penalties they would otherwise have incurred by transferring or not using these unneeded authorizations. Redistribution would be on a first-come-first-served basis (unless demand for the returned authorizations was unexpectedly larger than supply).

The amendment was a response to a petition by Flying Tiger. The turn-back period was found justified by the unanticipated low use of authorizations by the holders of Japan charter authorizations, and the resultant likelihood that a large number would expire unused at the end of the allotment year. The Board considered that in this period of low demand, the transfer and penalty provisions of the initial rule might be inhibiting optimum use of the authorizations, and that the amended reallocation process would help to ease the transfer of authorizations to carriers that could use them in the remaining months of the allotment year.

The Board also found that the need to amend the rule so soon after its adoption warranted advancement of the mid-term date for review of the rule.

Operations Under the Rule

Carrier activities to date during the first allocation year, ending September 30, 1983, have been as follows:

—The authorizations were given out to the following carriers:

	Grandfather	Lottery	Total
The Flying Tiger Line	80	8	88
World Airways	57	10	67
Transamerica Airlines	50		50
Pan American World Airways	4	10	14
Northwest Airlines	1	10	11
United Air Carriers d/b/a Overseas National Airways		20	20
Challenge Air Transport		10	10
Continental Airlines		10	10
Arrow Airways/Capitol Air		10	10
Jet Charter Service		10	10
Northeastern International Airways		10	10
Total	192	108	300

—As of September 13, 1983, a total of 38 charter authorizations have been reported used: 28 by Flying Tiger; 7 by Northwest; 2 by Transamerica; and 1 by Alaska International Air.

—Of the original 11 carrier recipients of Japan charter authorizations, only three have used any of them.

—Except for two one-way passenger flights (one round trip) flown by Transamerica, all authorizations were used for cargo flights.

—A total of four authorizations were transferred between carriers.

—All carriers except two returned all of their outstanding charter authorizations for the first allocation year, pursuant to the procedures established by PR-260 and Order 83-6-91; those two carriers each retained 10 authorizations (a request by one to return its charter authorizations late was denied).

—Two carriers have requested a total of five charter authorizations from the pool of those turned back.

—Four carriers are currently holding one or more charter authorizations for this allocation year, which if not used by them by September 30, 1983, will subject the carriers to penalties.

Proposed Changes

The Board has tentatively decided that changes in the Part 320 procedures are warranted. The premise of the initial procedures, that the demand by U.S. carriers for Japanese charter flights would outstrip supply, was not borne out by events. In particular, the expected demand for Japanese passenger charters did not materialize. It therefore appears that adjustments to the procedures are called for to achieve better redistribution and use of the charter rights in light of this first-year experience.

The basic need is to provide an effective incentive for carriers to use the authorizations they have been given—not to needlessly let the rights expire unused—while at the same time not unduly penalizing them for non-use that is the result of low demand for charters

in this market. The incentive in the current rule is the two-for-one penalty, in future years, for authorizations that are unused at the end of a given year. Even in times when the demand is less than the total number of authorizations, this penalty may be important, because (1) all the authorizations have been given out, and the penalty provides an incentive for authorized carriers to transfer them to carriers who wish to enter the market; and (2) one or a few carriers potentially could acquire and hard the majority of the authorizations, thereby having the power to artificially inflate the value of the authorizations or to severely restrict charter competition.

One possible action is to eliminate the prior authorizations altogether, and let any carrier that wishes to fly charters to Japan receive the rights on an as-needed basis as long as they last. The Board reserved the right to do that in PR-251. In response to United's argument that the allocations should only be for 1 year at a time, the Board conditioned its decision to make 3-year allocations by providing for this mid-term review, stating, "We reserve the right [at mid-term] to change the allocation process if necessary." Such a course would eliminate the possibility of hoarding by grandfather carriers, although it would still necessitate some rationing method at least as a reserve measure if carriers requested large blocks of authorizations.

The Board has decided, however, to allow the prior authorizations to stand. We believe that the allocation system initially used was justified considering conditions at the time, and remains equitable and consistent with the U.S. delegation's undertakings with respect to incumbent U.S. carriers assumed at the time the charter agreement was reached. While most incumbent carriers did not reach their previous years' charter activities (on which their grandfather allocations were based) we are not prepared to eliminate or reduce their allotted levels based on this first year's experience. Moreover, only the last 2 years of a 3-year period are at issue. The demand appears to be low relative to the supply of the authorizations, and the present distribution system, considering both the grandfather and the lottery allocations, does not appear to have disserved the public interest. Since a revocation of the allocations would probably not result in a materially superior distribution, there is little justification for upsetting the assumptions and expectations of the carriers presently holding them, and instituting an entirely new system of allocation. Furthermore a turn-back system would appear to solve the reallocation problem at least as well.

For a turn-back system to work efficiently, however, it is important that the unwanted authorizations be turned in as early in the year as possible, so that any carriers that wish to mount charter programs to Japan will have the months that are often needed (by them and by tour operators) to market such programs effectively. The Board is therefore proposing to establish a 1-month turn-in period at the beginning of the allocation year, immediately after these emendments go into effect for the 1983-84 season, and during October of each subsequent allocation year covered by the rule. During that period any authorizations could be turned in without penalty. No further turn-ins would be allowed (although holders still could later transfer authorizations privately), and any unused authorizations at the end of the allocation year would, as now, bring down a two-for-one penalty. The penalty would thus gain the added function of inducing carriers to plan ahead and turn back all authorizations that they do not intent to use. While the penalty would on its face have no effect on third-year behavior of the carriers, the Board would reserve the right to effectuate third-year penalties in administering any extended or subsequent system that might prove to be necessary.

The Board considers it important to avoid, if possible, the arbitrariness of a lottery allocation, and to allow carriers to request turn-in authorizations on a first-come-first-served basis, as they did this year. At the same time, the artificial monopoly that could be obtained by a carrier taking the entire block of turned-in authorizations must also be avoided. The Board therefore proposes to allow qualified carriers to request turned-in authorizations in blocks of any size up to 30 flights (15 round trips) per request. The requests could be made at any time, but a carrier could only make one request per month (regardless of when the charters would be flown). Any request made before October 1 of a given year would be treated as the "October request" for that carrier, with no further request permitted until November 1. While the figure of 30 is of course somewhat arbitrary, it is tentatively chosen as a number large enough to consititue a significant program in this market, but small enough to prevent an immediate "cornering" of the market by one carrier. Any requests would be granted in the order received. Whenever request exceeded available authorizations, they would be placed on a stand-by list. The final rule would establish the date on which requests for authorizations could first be submitted. It would be shortly after the end of the first turn-in period. To avoid first-in-line disorder problems, all requests for authorizations received on the first day would be considered as simultaneously submitted. If they exceeded the number of returned authorizations, their order would be determined by random selection, either by a method agreed to by all the requestors, or (if no agreement were reached) by a method prescribed by Board order.

To prevent carriers from nullifying previously-imposed penalties by achieving a high place on the request list, any carrier that had been assessed a penalty for a given year would not be permitted to make a request for the subsequent year (and any request already received would be nullified) until April 1 of the subsequent year. this provision would not apply to penalties assessed for the year beginning October 1, 1982.

The Board recognizes that various other possibilities for unpenalized abuse of the system might exist. A carrier might, for example, avoid penalties for unused authorizations by transferring them to a "straw" carrier (one that is qualified but uninterested in using them). The low demand level indicates, however, that any abuse that has economic significance is unlikely, and more complex regulation is unjustified. To cover these situations, the Board reserves the right to assess, on its own motion, a penalty on a carrier, and/or bar the carrier's authorization requests for a specified period, if it finds that the carrier has unreasonably requested and received authorizations without using them, or has transferred authorizations to another carrier that had no intention of using them.

These provisions would replace the provisions of § 320.16 for secondary lotteries to dispose of any forfeited authorizations. Any forfeited authorizations would be added to those voluntarily turned in by carriers. By PR-215B, 48 FR 45236, October 4, 1983, the Board has suspended the provisions of § 320.16 for a secondary lottery to be held on November 1, 1983, to dispose of forfeited authorizations, pending the outcome of this rulemaking proceeding.

For editorial consistency, the phrase "charter flight authorization" defined in § 320.3 would be changed to "authorization."

Smith, and McConnell, Members, Concurring

While this allocation scheme is basically first-come-first-served allowing for a give-back period and a penalty provision for unused slots, it continues to rely on an initial allocation involving grandfather rights and a lottery. The demand for Japan charters has shown the grandfather and lottery provisions to be both unnecessary and inappropriate. Given this fact, the initial allocation should also be based on need and allocated on a first-come-first-served basis until the time that an administrative allocation is necessary and appropriate.

We would be interested in carriers' comments on such a proposal.

/s/James R. Smith

/s/Barbara E. McConnell

Schaffer, Member, Concurring in Part and Dissenting in Part

I am concerned that the Board, in granting only a one month, penalty free "turn-back" period, has failed to draw an effective balance between the differing needs of cargo and passenger charter operators. The Board has recognized the necessity for sufficent lead time in the marketing of passenger charters by insisting that unneeded charter authorizations be returned by the initial recipient in sufficient time to allow their use by other airlines.

However, the Board's requirement that those authorizations be returned within 30 days fails to take into account the need of cargo charter operators to be able to sell charters on short notice. This is obviously a situation where the needs of all potential charter operations cannot be fully accommodated. However, I believe that a three or four month "turn back" period would strike a more reasonable and equitable balance between the needs of different kinds of charter services, all of whom must draw their authorizations from the same negotiated quota.

/s/Gloria Schaffer

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95-354, the Board certifies that these amendments would not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The limitation on charters to Japan is the result of the underlying Memorandum of Understanding with that country. Since qualified direct carriers must posses large aircraft, they would by definition not be small businesses. Some charters are sold by tour operators and agents that are small businesses. The effect of these amendments would, however, only affect the way in which direct air carriers dispose of unneeded Japan charter authorizations. They would most probably not have a significant effect on the availability or cost of these charters to the small businesses that market them. If anything, the effect would be to make charter life capability more readily available.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting requirements, Treaties.

Proposed Rule

PART 320—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, as follows:

1. In § 320.3(a), the defined phrase "charter flight authorization" would be changed to "authorization."

2. Section 320.4(b)(2) would be amended to read:

§ 320.4 Charter authorizations.

* * * * *

(b) * * *

(2) A charter flight authorization obtained by request under § 320.15 shall be for one allocation year;

* * * * *

3. In § 320.14(b), the words "or secondary" would be removed.

4. In § 320.14(c), the closing phrase, "and the carrier may not participate in any following secondary lotteries" would be removed.

5. In § 320.15(b), paragraph (b) would be revised, and a new paragraph (c) added, to read:

§ 320.15 Unused charter authorizations.

* * * * *

(b) Notwithstanding paragraph (a) of this section, any carrier may without penalty return any of its allocated authorizations to the Board, during the following periods:

(1) For the year beginning October 1, 1983, until [approximately 30 days after publication of this amendment in the **Federal Register**].

(2) For any subsequent year covered by this rule, until October 31 of that year.

(c) Returns shall be made by written notice to the Board's Regulatory Affairs Division, Bureau of International Aviation, Washington, D.C. 20428, and shall be considered made as of the date the notice is received by the Regulatory Affairs Division. The notice shall identify the air carrier and the number of authorizations returned, and shall be labeled "Return of Japan Charter Authorizations."

(d) The Board reserves the right, on its own motion, to assess a forfeiture of authorizations on a carrier, and/or bar the carrier's requests for authorizations for a specified period, if it finds that the carrier has unreasonably requested and received authorizations without using them, or has transferred authorizations to another carrier that had no intention of operating under them.

6. Section 320.16 would be amended to read:

§ 320.16 Reallocation of authorizations.

(a) Any authorizations forfeited under § 320.14 or § 320.15, or returned to the Board under § 320.15(b), shall be reallocated according to the procedures of this section.

(b) The Board will maintain an up-to-date list of authorizations outstanding, authorizations returned, and the number currently available on request. This information will be available from the Board's Regulatory Affairs Division, Bureau of International Aviation, (telephone 202-673-5878).

(c) A qualified carrier may request authorizations from the Regulatory Affairs Division. A single request shall be for not more than 30 authorizations, and each authorization shall be for one allocation year. The request shall be in writing, and labeled, "Request for Japan Charter Authorizations."

(d) Except as provided in this paragraph and paragraph (e) of this section, a request for authorizations may be made at any time. A particular carrier may make only one request during any calendar month. A request made before October 1 for the allocation year beginning on that date, or a year after that date, shall constitute that carrier's "October request," and that carrier may not make another such request until November 1.

(e) A carrier that has been assessed a penalty under § 320.14 or § 320.15 with respect to a given allocation year (beginning on or after October 1, 1983) shall not make a request for authorizations for a subsequent year until April 1 of the subsequent year.

(f) The Board will accept requests for authorizations continuously during business hours, beginning at 9:00 a.m. on [Date will be shortly after the end of the 1983 turn-back period]. Requests will be filled from the pool of returned authorizations in the order they are received by the Regulatory Affairs Division. If the requests at any time exceed the number of returned authorizations, a stand-by list will be

established. However, all requests received on [above opening date] will be considered as having been received simultaneously, and if they exceed the number of returned authorizations, their order will be established by random selection under procedures agreed to by the requestors or set forth in a Board order.

(Secs. 204, 401, 407, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502)

Dated: September 28, 1983.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28762 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 122

[Docket No. 82N-0285]

Smoked and Smoke-Flavored Fish; Current Good Manufacturing Practice

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revoke the current good manufacturing practice regulation for smoked and smoke-flavored fish. The action is taken because the United States Court of Appeals for the Second Circuit held that, with respect to smoked whitefish, the regulation was promulgated in an arbitrary manner and is invalid.

DATE: Comments by December 20, 1983.

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 13, 1970 (35 Fr 17401), FDA issued a final rule establishing a current good manufacturing practice (CGMP) regulation for smoked and smoke-flavored fish, now codified as 21 CFR Part 122.

In 1976, the United States sought and received an injunction against Nova Scotia Food Products Corp. (NSFPC) to bar it from processing smoked fish until its manufacturing practices conformed to the CGMP regulation. *United States* v. *Nova Scotia Food Products*, 417 F. Supp. 13674 (E.D.N.Y. 1976). NSFPC (appellants) appealed.

Upon appeal, the court, of appeals reversed the grant of the injunction and directed that the complaint be dismissed. *United States* v. *Nova Scotia Food Products Corp.*, 568 F. 2d 240 (1977). In so ruling, the court of appeals said in part:

> Government inspection of appellants' plant established without question that the minimum T-T-S [time-temperature-salinity] requirements were not being met. There is no substantial claim that the plant was processing whitefish under "insanitary conditions" in any other material respect. Appellants, on their part, do not defend on the ground that they were in compliance, but rather that the requirements could not be met if a marketplace whitefish was to be produced. They defend upon the grounds that the regulation is invalid (1) because it is beyond the authority delegated by the statute; (2) because the FDA improperly relied upon undisclosed evidence in promulgating the regulation and because it is not supported by the administrative record; and (3) because there was no adequate statement setting forth the basis of the regulation. We reject the contention that the regulation is beyond the authority delegated by the statute, but we find serious inadequacies in the procedure followed in the promulgation of the regulation and hold it to be invalid as applied to the appellants herein.

Since the 1977 appellate court ruling, FDA has not enforced 21 CFR Part 122. Although FDA now is developing data to support minimum T-T-S requirements that will produce a safe and acceptable product, this project will take considerable time to complete. In view of the court ruling and the time needed to develop the necessary dat, FDA believes it should propose revocation of 21 CFR Part 122. When adequate data are available to support minimum T-T-S requirements, FDA will consider the need to propose an appropriate regulation.

Because the regulations have not been enforced since the 1977 court ruling, the revocation of the regulations will have little or no economic impact. Therefore, FDA has determined that this proposal to revoke the regulations, if promulgated, has no economic effects and therefore is not a major rule under Executive Order 12291. For the same reason, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act of 1980, that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 122

Fish, Good manufacturing practices, Smoked fish.

PART 122—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), is is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by removing Part 122—Smoked and Smoke-Flavored Fish.

Interested persons may, on or before December 20, 1983 submit to the Dockets Management Branch (HFA-305) (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 22, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28857 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 155

[Docket No. 83N-0327]

Certain Other Canned Vegetables; Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standards of indentity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes to permit the use of safe and suitable calcium salts. This action will promote honesty and fair dealing in the interest of consumers.

DATE: Comments by December 20, 1982.

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: FDA is proposing to amend the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red

sweet peppers, and potatoes in § 155.220 (21 CFR 155.200) to provide for the use of safe and suitable calcium salts as optional firming or crisping agents.

In the **Federal Register** of August 9, 1983 (48 FR 36200), FDA gave notice that a temporary permit had been issued covering interstate marketing tests of experimental packs of canned bean sprouts to provide for the use of calcium chloride, in lieu of calcium lactate as is presently prescribed, as a crisping agent. Justification for the request was that the optional use of this additional calcium salt will provide flexibility in maintaining ingredient supplies and assistance in controlling product costs. The standards of identity for canned lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes similarly list the specific calcium salts including calcium chloride which may be used as firming agents. In view of the interest shown in providing for an additional firming agent for use in canned bean sprouts and consistent with the agency's policy to provide for the use of safe and suitable optional ingredients whenever it is appropriate to do so, FDA believes that this is an opportune time to propose to update the appropriate standards of identity for canned vegetables in § 155.200 to provide for the use of safe and suitable firming agents. Providing for the use of safe and suitable ingredients allows a food processor the flexibility to use different ingredients in response to seasonal changes, economic conditions, or the availability of new ingredients without the need for lengthy and expensive administrative proceedings to amend the food standard each time the food processor wants to use a new or different ingredient. As a result, this flexibility can be translated into savings for consumers. For these reasons, FDA is proposing to amend the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes in § 155.200 to provide for the use of safe and suitable calcium salts as firming agents.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354), FDA has reviewed this proposed rule to determine its impact on small entities including small businesses. Because this proposal would increase the number of optional food ingredients permitted for use in canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes, and would impose no new requirements on food manufacturers, FDA therefore certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.10) and redelegated to the Director, Bureau of Foods (21 CFR 5.61), it is proposed that § 155.200 be amended by revising paragraph (c)(6) to read as follows:

PART 155—CANNED VEGETABLES

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(6) In the case of bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes, any safe and suitable calcium salts may be added as a firming agent.

* * * * *

Interested persons may, on or before December 20, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October, 14, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-28656 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 1040

[Docket No. 82N-0188]

Sunlamp Products; Performance Standard; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that proposed to amend the performance standard for sunlamp products and ultraviolet lamps intended for use in these products. This document corrects errors that inadvertently referred to compliance with the proposed rule when it should only have referred to the final rule.

FOR FURTHER INFORMATION CONTACT: Glenn Conklin, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-13449 appearing at page 22886 in the issue of Friday, May 20, 1983, the following corrections are made:

1. On page 22886 in the first column, under "**DATE**", the last sentence is revised to read "The agency will not object to manufacturers complying voluntarily with any final rule based on this proposal prior to the effective date of the final rule promulgating the amended standard."

2. On page 22890 in the first column, the paragraph under the heading, "Effective Date," is revised to read "FDA intends that any final rule based on this proposal would become effective 1 year after the date of publication of the final rule in the **Federal Register**. The agency will not object to manufacturers complying with the final rule promulgating amended standard, after the final rule is published but prior to its effective date, provided that the manufacturer specifies on the certification label that the product complies with that amended standard and provided that the manufacturer complies with the recordkeeping and reporting requirements of 21 CFR Part 1002. Manufacturers of products that are not now subject to the standard because of lack of radiation emission at wavelengths less than 320 nanometers who voluntarily certify compliance prior to the effective date of the amended standard will also be considered subject to the reporting and recordkeeping requirements."

Dated: October 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28653 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 25

Treatment of Certain Contributions of Works of Art, etc.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the

estate and gift tax treatment of contributions of copyrighted works of art. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. These regulations will provide guidance to taxpayers who make charitable contributions of copyrighted tangible personal property.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 20, 1983. The regulations are proposed to be effective for estates of decedents dying after December 31, 1981 and charitable transfers after such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue: Attention: CC:LR:T [LR-210-81], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 [Attention: CC:LR:T] 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Estate and Gift Tax Regulations (CFR Parts 20 and 25) under sections 2055 and 2522 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 423 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 316), and are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805).

In General

This document contains proposed amendments to the regulations relating to the estate and gift tax treatment of charitable contributions of copyrighted tangible personal property. Existing regulations do not allow a gift tax deduction under section 2522 or an estate tax deduction under section 2055 if interests in the same property are transferred for both charitable and noncharitable purposes, unless the charitable interest is in certain specified forms. In applying this rule, the existing regulations treat an original work of art and a copyright interest relating to that work of art as two interests in the same property. Therefore, no charitable deduction would be allowed under section 2055 or 2522 if an individual gave the original of an art work to charity but retained the copyright attributable to that art work.

The proposed regulations provide in §§ 20.2055-2(e)(1)(ii) and 25.2522(c)-3(c)(1)(ii) that for purposes of the estate and gift tax charitable deductions, a work of art and its copyright are treated as separate properties if a donor or decedent makes a qualified contribution of the work of art to a qualified organization. Thus, with respect to gifts made after December 31, 1981, and estates of decedents dying after that date, a charitable deduction will generally be allowable for the transfer to charity of a work of art, whether or not the related copyright is simultaneously transferred to the charitable organization. This provision is not applicable to the income tax charitable deduction under section 170.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 20 and 25 are as follows:

PART 20—[AMENDED]

Paragraph 1. (a) Paragraph (e)(1) of § 20.2055-2 is amended by redesignating paragraph (e)(1) as paragraph (e)(1)(i) and adding a heading thereto, by removing the words "In general," from the first sentence of newly designated paragraph (e)(1)(i), by substituting the words "this paragraph (e)(1)(i)" for the words "this subparagraph" in the second and fourth sentences and Examples (1), (2), (3), and (6) of new paragraph (e)(1)(i), and by adding a new paragraph (e)(1)(ii) to read as follows:

§ 20.2055-2 Transfers not exclusively for charitable purposes.

* * * * *

(e) *Limitation applicable to decedents dying after December 31, 1969*—(1) *Disallowance of deduction*—(i) *In general.* In the case of decedents dying after December 31, 1969, * * *

(ii) *Works of art and copyrights treated as separate properties*—(a) *In general.* For purposes of paragraphs (e)(1)(i) and (e)(2) of this section, in the case of decedents dying after December 31, 1981, if a decedent makes a qualified contribution of a work of art, the work of art and the copyright on such work of art shall be treated as separate properties. Thus, a deduction is allowable under section 2055 for a qualified contribution of a work of art, whether or not the related copyright is simultaneously transferred to a charitable organization.

(b) *Work of art defined.* For purposes of paragraph (e)(1)(ii)(a) of this section, the term "work of art" means any tangible personal property with respect to which a copyright exists under Federal law.

(c) *Qualified contribution defined.* For purposes of paragraph (e)(1)(ii)(a) of this section, the term "qualified contribution" means any transfer of property to a qualified organization (as defined in paragraph (e)(1)(ii)(d) of this section) if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501.

(d) *Qualified organization defined.* For purposes of paragraph (e)(1)(ii)(c) of this section, the term "qualified organization" means any organization described in section 501(c)(3) other than a private foundation (as defined in section 509). A private operating foundation (as defined in section

4942(j)(3)) shall be considered a qualified organization under this paragraph.

§ 20.2055-2 [Amended]

(b) Paragraph (e)(2)(i) of § 20.2055-2 is amended by removing the seventh sentence thereof.

PART 25—[AMENDED]

Par. 2. (a) Paragraph (c)(1) of § 25.2522(c)-3 is amended by redesignating paragraph (c)(1) as paragraph (c)(1)(i) and adding a heading thereto, by substituting the words "this paragraph (c)(1)(i)" for the words "this subparagraph" in the second and fourth sentences and Examples (1), (2), and (3) of newly designated paragraph (c)(1)(i), and by adding a new paragraph (c)(1)(ii) to read as follows:

§ 25.2522(c)-3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(c) *Transfers of partial interest in property*—(1) *Disallowance of deduction*—(i) *In general.* * * *

(ii) *Works of art and copyright treated as separate properties.* For purposes of paragraphs (c)(1)(i) and (c)(2) of this section, rules similar to the rules in § 20.2055-2(e)(1)(ii) shall apply in the case of transfers made after December 31, 1981.

(b) Paragraph (c)(2)(i) of § 25.2522(c)-3 is amended by removing the seventh sentence thereof.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-28757 Filed 10-20-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 52

Environmental Taxes on Petroleum and Certain Chemicals; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the imposition of taxes on petroleum and certain chemicals. Changes to the applicable tax law were made by the Hazardous Substance Response Revenue Act of 1980. The regulations would provide the public with the guidance needed to comply with that Act and would affect certain persons in the petroleum and chemicals industries.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 21, 1983. The amendments are generally proposed to be effective on April 1, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue,, NW., Attention: CC:LR:T (LR-16-81) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 Attention: CC:LR:T:LR-16-81, 202-566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the regulations on Environmental Exicse Taxes on Petroleum, Certain Chemicals, and Hazardous Waste (26 CFR Part 52) under sections 4611, 4612, 4661, and 4662 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 211 of the Hazardous Substance Response Revenue Act of 1980 (94 Stat. 2797) (Act) and are to be issued under the authority contained in sections 4662(b), 4662(d), and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2800, 26 U.S.C. 4662 (b) and (d); 68A Stat. 917, 26 U.S.C. 7805).

The Petroleum Tax

The Act imposes a tax under section 4611 (the petroleum tax) on crude oil received at a United States refinery, domestic crude oil used or exported before it is received at a United States refinery, and petroleum products (including crude oil) entered into the United States for consumption, use, or warehousing. The proposed regulations provide rules for determining when crude oil is received at a United States refinery and when petroleum products are entered into the United States. In general, crude oil is received at a United States refinery when it is charged to the distillation units of a refinery. Petroleum products are entered in the United States for consumption or use when an entry summary for consumption (Customs Form 7501) is filed and are entered for warehousing when an entry summary for warehouse (Customs Form 7502) is filed.

Section 4611(c) identifies the persons liable for the petroleum tax. The tax on crude oil received at a United States refinery will be paid by the operator of the refinery. The tax on petroleum products entered into the United States will be paid by the person making the entry. In general, the regulations treat the consignee filing the entry summary for the petroleum products as the person entering the petroleum products. However, if the consignee filing the entry summary has no beneficial interest in the petroleum products, then the regulations treat the person with the beneficial interest in the petroleum products as the consignee and make that person liable for the tax. The tax on domestic crude oil used or exported before it is received at a United States refinery will be paid by the user or exporter.

Section 4612(b) provides that the petroleum tax is imposed only once with respect to any petroleum product (including crude oil). Anyone who is otherwise liable for the tax on a petroleum product may establish that the tax already has been imposed with respect to that product. The regulations provide that proof of the imposition of a prior tax may be established by a bill of lading or invoice saying that the tax has been paid on the petroleum product covered by the bill of lading or invoice, or, in the case of imported crude oil received at a United States refinery, by Customs documents or a statement by the importer saying the crude oil is imported crude oil.

The proposed regulations provide rules for claiming a refund or credit of an overpayment of the petroleum tax. A taxpayer claiming a refund or credit of the petroleum tax, unlike a taxpayer claiming a refund or credit of the manufacturers excise tax under section 6416, is not required to demonstrate that the taxpayer has not included the amount of the tax in the price of the petroleum product sold. Moreover, if the taxpayer has in fact included the amount of the tax in the price of a petroleum product and collected the tax from the purchaser of the product, the taxpayer may claim a refund or credit without repaying the tax to the ultimate purchaser or obtaining the consent of the ultimate purchaser to the allowance of refund or credit.

The Chemical Tax

The Act also imposes a tax under section 4661 (the chemical tax) on taxable chemicals sold or used by the manufacturer, producer, or importer of the chemicals. The regulations provide rules for determining when a chemical listed in section 4661(b) will be treated as a taxable chemical. Chemicals listed in section 4661(b) that are present in a hydrocarbon stream and that are never isolated from that stream, but are blended with other products and sold as gasoline, are treated as taxable chemicals. A metal will be treated as a taxable chemical only when it has been

processed to the stage at which it is commercially known or sold as a metal.

Computation of the Chemical Tax

The amount of the chemical tax is computed by multiplying the rate of the tax specified for the taxable chemical in section 4661(b) by the number of tons of the taxable chemical sold or used. The regulations provide rules for determining the number of tons of a taxable chemical. In general, the tonnage of a taxable chemical sold or used is computed on a contained weight basis. The regulations provide several different methods of measuring the number of pounds of a taxable chemical used by a manufacturer, producer, or importer. If the number of pounds used is a measured quantity, then the manufacturer, producer, or importer must use the measured quantity to compute the chemical tax. However, if the number of pounds used is not a measured quantity, the manufacturer, producer, or importer may elect to use one of the following methods to determine the number of pounds used: (1) Average quarterly quantities derived from engineering data, (2) normal periodic testing programs, or (3) consumption formulas based on the ratio of the number of pounds of taxable chemical required to produce a substance to the measured number of pounds of the substance produced.

Exemptions From the Chemical Tax

Section 4662 provides four exemptions from the chemical tax. The first applies to methane and butane. Methane and butane are treated as taxable chemicals only if they are used otherwise than as a fuel, and the person so using the methane or butane will be treated as its manufacturer and will be liable for the chemical tax on it.

The second exemption is for certain chemicals that are used to produce fertilizer or that are directly applied to crops or cropland as fertilizer. These chemicals are nitric acid, sulfuric acid, ammonia, and methane used to produce ammonia. The exemption applies if the manufacturer, producer, or importer of the chemicals uses them for fertilizer or sells them to a purchaser who either uses them for fertilizer or sells them to a second purchaser who uses them for fertilizer. In the case of a sale for use, the regulations require the manufacturer, producer, or importer to obtain a certificate in which the purchaser agrees to use the chemicals for fertilizer and to notify the manufacturer, etc., if the chemicals are sold or are not used for fertilizer. In the case of a sale for resale, the regulations require the manufacturer, producer, or importer to obtain a certificate in which the purchaser agrees to resell the chemicals to a second purchaser only for use by the second purchaser as fertilizer, and to obtain proof from the purchaser that the chemicals have been resold for fertilizer. In both cases, the manufacturer, producer, or importer remains liable for the tax if the use for which the chemicals were sold is not made.

The third exemption is for sulfuric acid. No chemical tax will be imposed on sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment. The regulations define air pollution control equipment as any equipment used to comply with the Clean Air Act.

The last exemption is for chemicals derived from coal. The term "taxable chemical" does not include any substance to the extent derived from coal.

The regulations do not provide for any exemptions from the chemical tax other than the four described above. Thus, there is no exemption for sales of taxable chemicals to a state or local government or to any agency of the federal government. In addition, there is no exemption for taxable chemicals sold to nonprofit educational organizations, for use as supplies for vessels or aircraft, or for export.

The Hazardous Wastes Tax

The Act imposes a tax under section 4681 on hazardous waste received after September 30, 1983, at a qualified hazardous waste disposal facility. This document, however, does not provide proposed regulations with respect to that tax. Proposed regulations addressing matters related to the hazardous wastes tax are expected to be provided by another regulation project.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 52

Environmental protection, Taxes Petroleum, Chemicals, and Hazardous waste.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Subchapter D are as follows:

Paragraph. A new part 52, Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste, is added to Subchapter D of Title 26 of the Code of Federal Regulations as follows:

PART 52—ENVIRONMENTAL TAXES ON PETROLEUM AND CERTAIN CHEMICALS AND HAZARDOUS WASTE

Sec.

52.4611–1 Imposition of petroleum tax.
52.4612–1 Definitions and special rules.
52.4612–2 Refund or credit of tax under section 4611.
52.4661–1 Imposition of chemical tax.

Sec.
52.4662-1 Definitions.
52.4662-2 Exemptions.
52.4662-3 Refund or credit of tax under section 4661.
52.4662-4 Disposition of revenue from Puerto Rico and the Virgin Islands.

Authority: Secs. 4662(b) (94 Stat. 2800, 26 U.S.C. 4662(b)), 4662(d) (94 Stat. 2800, 26 U.S.C. 4662(d)), and 7805 (68A Stat. 917, 26 U.S.C. 7805) Internal Revenue Code of 1954.

§ 52.4611-1 Imposition of petroleum tax.

(a) *In general*—(1) *Crude oil.* Section 4611(a)(1) imposes a tax on crude oil received at a United States refinery after March 31, 1981. For the purposes of this section, crude oil is considered to be received at a United States refinery when it is charged to the distillation units of the refinery. See § 52.4612-1(a)(9) for special rules relating to natural gasoline. See § 52.4611-1(d)(1) for the treatment of crude oil received at a United States refinery under a processing agreement or an exchange agreement.

(2) *Petroleum products*—(i) *In general.* Section 4611(a)(2) imposes a tax on petroleum products entered into the United States after March 31, 1981, for consumption, use, or warehousing. For the purposes of this section, petroleum products will generally be considered to be entered into the United States for consumption or use when an entry summary for consumption (Customs Form 7501 or 3311) is filed with Customs, in proper form, with estimated duties attached, and will be considered to be entered into the United States for warehousing when an entry summary for warehouse'(Customs Form 7502) is filed with Customs, in proper form. If a petroleum product is entered into the United States for warehousing and, by the last day of the calendar quarter in which the product is entered, the product is withdrawn for exportation or for transportation and exportation from the United States, no tax will be imposed on the petroleum product under section 4611. If the petroleum product is not withdrawn for exportation or for transportation and exportation from the United States by the last day of the calendar quarter, tax will be imposed on the product under section 4611, but a credit or refund may be claimed when the product is so withdrawn. See § 52.4612-2 for rules relating to credit or refund of overpayments. Petroleum products entered into the United States for transportation and exportation are not subject to tax under section 4611. Petroleum products are entered into the United States for transportation and exportation when a carrier's receipt is given to the lading inspector on a Customs in-bond document (the appropriate Customs Form 7512 or 7520 or a TIR carnet) covering the petroleum products to be transported and exported. If petroleum products entered into the United States for transportation and exportation are not exported from the United States by the last day of the calendar quarter they will be taxed under section 4611, but a credit or refund may be claimed when the product is exported. In the case of areas not subject to the general United States Customs laws (for example, foreign trade zones) an entry will be considered to have occurred at any time such an event would have occurred if the Customs laws were applicable to that area. An entry is not deemed to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile gas tank.

(ii) *Examples.* The provisions of paragraph (a)(2)(i) of this section may be illustrated by the following examples:

Example (1). X operates a refinery in a foreign trade zone in Hawaii. The foreign trade zone is treated as part of the United States, as provided in § 52.4612-1(a)(6). X imports crude oil into the trade zone for processing at X's refinery. Had X imported the crude oil into some part of the United States other than a foreign trade zone for the purposes of processing the oil at a refinery, X would have entered the crude oil into the United States for consumption. Thus, X will be treated as entering the crude oil into the foreing trade zone for consumption and will be liable for the section 4611 tax on each barrel of crude oil imported into the foreign trade zone for refining.

Example (2). Assume the same facts as in example (1) except that X will not be processing all the crude oil at X's refinery. Instead X will place 500,000 barrels of the crude oil in storage at its tank farm in the foreign trade zone before transporting it into California. Had X imported the 500,000 barrels of oil into some part of the United States other than a foreign trade zone, X would have had to enter it into the United States for warehouse. Thus, X will be treated as entering the 500,000 barrels of oil into the United States for warehouse and will be liable for the section 4611 tax on the 500,000 barrels.

(b) *Uses and exemptions*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, if domestic crude oil (as defined in paragraph (a)(4) of § 52.4612-1) is used in or exported from, the United States before it is received at a United States refinery, the crude oil will be subject to tax under section 4611(b)(1). Domestic crude oil is used when it is consumed, it is used as a catalyst, or its characteristics are changed. However, domestic crude oil is not used when its characteristics are changed by operations such as passing the crude oil through separators to remove gas, placing the crude oil in settling tanks to remove basic sediment and water, or dehydrating, cleaning, purifying, or storing the crude oil. For these purposes, the term "use" does not include storage for resale, or storage for the purpose of being processed, refined, or manufactured. Moreover, domestic crude oil lost or destroyed through shrinkage, spellage, fire, or otherwise is not considered to have been "used" and, accordingly, no tax will be imposed on it under section 4611(b)(1). The mere injection of a lightweight crude oil into a crude oil or heavier weight to improve the ability of the heavy crude oil to flow through pipelines is not a taxable use of the light crude oil.

(2) *Domestic crude oil used for extraction purposes.* Domestic crude oil used for extraction purposes on the premises where produced is not taxable under section 4611(b)(1). Thus, for example, domestic crude oil used on the premises where it is produced for powerhouse fuel or for injection as part of the recovery process is not taxable crude oil. See paragraph (a)(10) of § 52.4612-1 for the definition of "premises."

(3) *Exemptions inapplicable.* There is no exemption from the petroleum tax for domestic crude oil exported or sold for export, or for crude oil and other petroleum products sold for use as supplies' for vessels or aircraft, sold to a state or local government for the exclusive use of the state or local government, or sold to a nonprofit eductional organization for its exclusive use. In addition, the Secretary does not have discretion to exempt the federal government from the petroleum tax.

(c) *Rate of tax.* The rate of tax on crude oil received at a refinery, petroleum products entered into the United States for consumption, use, or warehousing, and domestic crude oil used or exported before it is received at a refinery, is $.0079 a barrel. Thus, the tax on 500,000 barrels of crude oil is 3,950. In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(d) *Persons liable for tax*—(1) *Crude oil received at refinery.* The tax on crude oil received at a United States refinery shall be paid by the operator of the refinery. The tax on crude oil received at a United States refinery under an exchange agreement will also be paid by the operator of the refinery. An exchange means a transaction in which two or more persons reciprocally give up and receive crude oil or other substances. The term "exchange" includes exchanges in which one person

may make a payment in cash or other property to compensate the other person involved for costs incurred (e.g., freight costs) pursuant to the transaction. In the case of a business entity, the operator of a United States refinery is the entity and not its employee or owner. If a person refines crude oil under an agreement whereby another person furnishes the crude oil and retains title to it and to the finished products made from it, the person who refines the crude oil, and not the person who furnishes the crude oil, will be subject to the tax.

(2) *Imported petroleum products.* The tax on petroleum products entered into the United States for consumption, use, or warehousing shall be paid by the person so entering the petroleum products. The person entering a petroleum product for consumption, use, or warehousing is the consignee who filed the entry summary for consumption or warehouse, as the case may be, with respect to that petroleum product. However, if the consignee is not the beneficial owner of the petroleum product (for example, the consignee is a Customs broker engaged by the beneficial owner), then the beneficial owner will be deemed to be the consignee who filed the entry summary for consumption or warehouse and will be liable for the tax on the petroleum product.

(3) *Tax on certain uses or exports.* The tax under section 4611(b)(1) on domestic crude oil used or exported before a tax is imposed by section 4611(a) shall be paid by the user or exporter of the oil.

(e) *Termination*—(1) *In general.* Except as provided in paragraphs (e) (2) and (3) of this section, the taxes imposed by section 4611 shall cease to apply after September 30, 1985.

(2) *Calendar year 1984.* No tax shall be imposed under section 4611 during calendar year 1984 if—

(i) On September 30, 1983, the unobligated balance in the Hazardous Substance Response Trust Fund (Fund) exceeds $900,000,000, and

(ii) The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance of the Fund will exceed $500,000,000 on September 30, 1984, if no tax is imposed under section 4611 or 4661 during calendar year 1984.

(3) *Calendar year 1985.* No tax shall be imposed under section 4611 during calendar year 1985 if—

(i) On September 30, 1984, the unobligated balance in the Fund exceeds $900,000,000, and

(ii) The Secretary of the Treasury after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance of the Fund will exceed $500,000,000 on September 30, 1985, if no tax is imposed under section 4611 or 4661 during calendar year 1985.

(f) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4612-1 Definitions and special rules.

(a) *Definitions.* For the purposes of this part and subchapter A of Chapter 38 of the Code—

(1) *Crude oil.* "Crude oil" includes crude oil condensate and natural gasoline, but not other natural gas liquids. Thus, the term "crude oil" does not include methane, butane, ethane, or propane. In addition, the term "crude oil" does not include refined oil or synthetic petroleum such as shale oil or liquids from coal, tar sands, or biomass. See § 52.4662-2(a) for the chemical tax on methane and butane. See § 52.4611-1(b)(2) for the treatment of crude oil used for extraction purposes on the premises where produced.

(2) *Crude oil condensate.* "Crude oil condensate" means the liquid hydrocarbons that result when petroleum hydrocarbons existing in a gaseous phase in a reservoir condense because of changes in temperature or pressure, and that are recovered by a separator or at a natural gas processing plant.

(3) *Natural gasoline.* "Natural gasoline" means a light, volatile hydrocarbon mixture (generally containing butane, pentane, hexane, and heptane) that is recovered from natural gas and that has a Reid vapor pressure of 10–34 pounds determined by ASTMD—323–72 test method.

(4) *Domestic crude oil.* "Domestic crude oil" means any crude oil produced from a well located in the United States.

(5) *Petroleum product*—(i) *In general.* "Petroleum product" includes crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline entered into the United States in liquid form. The term "petroleum product" does not include methane, butane, ethane or propane. See § 52.4662-2(a) for the chemical tax on methane and butane.

(ii) *Example.* The provisions of paragraph (a)(5)(i) of this section may be illustrated by the following example:

Example. Liquid styrene (a hydrocarbon) is entered into the United States for consumption. The styrene was produced in Europe by combining benzene and ethylene, both of which were made from crude oil. The styrene is a petroleum product because it is a hydrocarbon made from crude oil and entered into the United States in liquid form.

(6) *United States.* The term "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The term "United States" also includes those areas considered to be a part of the United States or a possession of the United States under section 638 (relating to continental shelf areas) and any foreign trade zone of the United States.

(7) *United States refinery.* "United States refinery" means any facility in the United States at which crude oil is refined. A facility includes all the equipment (including a natural gas processing plant) on the site at which crude oil is refined. A site means a contiguous property unit; property divided only by a public right-of-way shall be considered to be one site.

(8) *Refining.* "Refining" is any operation by which the physical or chemical characteristics of crude oil products are changed, exclusive of such operations as passing crude oil through separators to remove gas, placing crude oil in settling tanks to remove basic sediment and water, and dehydrating crude oil. The stripping of natural gasoline from natural gas liquids (NGL's) is not refining.

(9) *Refineries that produce natural gasoline*—(i) *In general.* In the case of a United States refinery that produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced. However, if natural gasoline is not produced at a United States refinery, the natural gasoline will be taxed when it is received at a United States refinery, used, or exported.

(ii) *Examples.* The provisions of paragraph (a) (9) (i) of this section may be illustrated by the following examples:

Example (1). M owns a 10 acre tract of land bisected by a highway. On one half of the tract is equipment for refining crude oil. On the other half of the tract is a crude processing plant. The equipment for refining crude oil shares a common power plant with the gas processing plant. There is no other physical connection between the refining equipment and the gas processing plant. Natural gasoline produced from natural gas liquids at the natural gas processing plant is considered received at a United States refinery, and thus subject to the tax under section 4611, as soon as it is produced.

Example (2). N operates a natural gas processing plant at which natural gas liquids are recovered by a process of refrigeration and absorption. N strips natural gasoline from the natural gas liquids. The natural

gasoline will be taxed when it is received at a United States refinery, used, or exported.

(10) *Premises.* "Premises" has the same meaning as when used for purposes of determining gross income from property under section 613A (relating to percentage depletion).

(11) *Barrel.* "Barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(b) *Only one tax imposed with respect to any product.* No tax shall be imposed by section 4611 with respect to any petroleum product (including crude oil) if the person who would be liable for such tax establishes that a prior tax under section 4611 has been imposed with respect to such product. For this purpose, a statement on the bill of lading or invoice that the tax imposed by section 4611 has been paid with respect to the petroleum product covered by the bill of lading or invoice will be sufficient to establish that a prior tax has been imposed. In the case of imported crude oil received at a United States refinery, proof that the crude oil is imported is sufficient to demonstrate that the tax under section 4611 has been imposed once on that crude oil, and a second tax will not be imposed when that crude oil is received at the refinery. Such proof may consist of Customs documents, a written statement given by the person entering the crude oil to the operator of the refinery saying that the crude oil is imported, or any other form of documentation that will show to the satisfaction of the district director that the crude oil is not domestic crude oil.

(c) *Disposition of revenues from Puerto rico and the Virgin Islands.* The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4611. Thus, no amount of the tax imposed by section 4611 shall be covered into the Treasury of Puerto Rico, and no amount of the tax shall be transferred and paid over to the Government of the Virgin Islands.

(d) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4612-2 Refund or credit of tax under section 4611.

Any claim for refund or credit of an overpayment of tax under section 4611 (the petroleum tax) shall be made in accordance with the applicable provisions of this section and the applicable provisions of § 301.6402-2 (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering such amount as a credit on a return of tax under chapter 38 (environmental taxes) filed by the person making the claim. The provisions of this section are effective after March 31, 1981.

§ 52.4661-1 Imposition of chemical tax.

(a) Imposition of tax—(1) *In general.* Section 4661(a) imposes a tax on the sale or use after March 31, 1981, of a taxable chemical by the manufacturer, producer, or importer thereof. See § 52.4611-1(a)(2)(i) for the imposition of the petroleum tax on taxable chemicals that are also petroleum products. See § 52.4661-1(d)(2) for the definition of "manufacturer or producer," § 52.4661-1(d)(3) for the definition of "importer," § 52.4661(e) for the definition of "sale," § 52.4661-1(f) for definition of "use," and § 52.4662-1(a) for the definition of "taxable chemical."

(2) *Examples.* The provisions of paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). X manufactures a taxable chemical and sells it to Y. Y resells the taxable chemical to Z. X is liable for the tax imposed by section 4661 because X has manufactured and sold a taxable chemical. Although Y has sold a taxable chemical, Y is not liable for the tax imposed by section 4661 because Y is not the manufacturer, producer, or importer of the taxable chemical Y sold.

Example (2). X manufactures a taxable chemical on March 15, 1981, prior to the effective date of section 4661. On April 1, 1981, X sells the taxable chemical. X is liable for the chemical tax on the taxable chemical it sold on April 1, 1981.

Example (3). On March 30, 1981, Y, a United States corporation with a foundry in Pennsylvania, enters into a contract with Z, a British corporation. Under the terms of the contract, Y will buy 100,000 tons of a taxable chemical from Z. Z will transport the taxable chemical in 20 ton lots from Europe, where it is produced, to Canada. From Canada, the taxable chemical will be transported to Y's foundry. On June 1, 1981, 20 tons of the taxable chemical are delivered to Y's foundry. As of June 30, 1981, Y has used only 15 tons of the chemical. Thus, for the calendar quarter ending June 30, 1981, Y is liable for the chemical tax on the 15 tons of the taxable chemical it used in June. The remaining 5 tons of taxable chemical that Y imported during the quarter ending June 30 will be taxed when Y uses it or sells it.

(b) *Rates of tax.*

	The tax is the following amount per ton
In the case of:	
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Napthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

(c) *Computation of tax*—(1) *In general.* The tax is computed by multiplying the number of tons of the taxable chemical sold or used by the rate applicable to the chemical as set out in paragraph (b) of this section. The term "ton" means 2000 pounds. In the case of any taxable chemical that is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2000 pounds on a molecular weight basis. The volume of a gas shall be measured using standard conditions of 14.78 psia and 60° F. In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton. For the purposes of this section, only the amount of the taxable chemical contained in the substance sold or used, shall be taken into account. Thus, for example, if one pound of a substance contains 50 percent by weight of a taxable chemical, there is one-half pound of that taxable chemical.

(2) *Measurement.* In the case of sales at arm's length of a taxable chemical, the tonnage shall be determined by the number of pounds of taxable chemical invoiced to the purchaser. In the case of uses of a taxable chemical, the tonnage shall be determined by the measured number of pounds used when this is a measured quantity. When the number of pounds of a taxable chemical used is not a measured quantity, the taxpayer need not install a meter or other measuring device to determine the tonnage. Instead, if reasonable under the circumstances, the taxpayer may elect

to determine the number of pounds used on the basis of—

(i) Average quarterly quantities derived from engineering data,

(ii) Normal periodic testing programs, or

(iii) Consumption formulas based on the ratio of the number of pounds of a taxable chemical used to produce a substance to the measured number of pounds of the substance produced. Once the taxpayer elects to use one of these methods of measurement with respect to a taxable chemical, the taxpayer must continue to use the same method for that chemical. However, the taxpayer need not elect the same method for all the taxable chemicals the taxpayer uses. The election is made by writing, on the back of Form 6627 (Environmental Taxes) or on a sheet attached to Form 6627, the method the taxpayer used to determine the tonnage of each chemical reported on Form 6627.

(3) *Examples.* The provisions of paragraph (c)(1) and (c)(2) of this section may be illustrated by the following examples:

Example (1). M produces sodium hydroxide, which M mixes with water to form a solution. M sells this solution in an arm's-length transaction to N. M's tax liability on the sale is to be measured by the number of pounds of sodium hydroxide invoiced to N. According to the invoice, M sold 10 tons of 50 percent sodium hydroxide solution. Thus, M's tax liability is $1.40 ($0.28 x 50 percent of 10 tons).

Example (2). X uses taxable chemical T to make plastic. X does not actually measure the T used. However, X establishes that 1.25 pounds of taxable chemical T are required to make 1 pound of plastic. Thus, the ratio of T used to plastic produced is 1.25/1 or 1.25. X elects to use this ratio to determine its tax liability for T. Assuming X produces 40,000 pounds of plastic during the calendar quarter ending June 30, 1981, X used 50,000 pounds (40,000 x 1.25), or 25 tons, of T. Assuming further that the tax on T is $4.87 a ton, X's tax liability for the T is $121.75 ($.87 x 25).

(d) *Persons liable for tax*—(1) *In general.* The tax imposed by section 4661 is payable by the manufacturer, producer, or importer of the taxable chemical that sells or uses the taxable chemical.

(2) *Manufacturer or producer*—(i) *In general.* The terms "manufacturer" and "producer" include any person that produces a taxable chemical from new or raw substances or from scrap, salvage, waste or recycled substances. However, a person that uses a taxable chemical and subsequently reuses that chemical will not be considered a manufacturer or producer with respect to the amount of the taxable chemical the person reuses. If, as the result of any manufacturing, mining, or other operation, a person produces a waste material contaning any taxable chemical, that person will not be treated as the manufacturer or producer of the taxable chemical contained in the waste material, unless the person removes the taxable chemical from the waste material. If the person sells the waste material with the taxable chemical still in it, then the person that buys the waste material and removes the taxable chemical from it will be treated as the manufacturer or producer of the taxable chemical. If a person manufactures or produces a taxable chemical for another person who furnishes substances, under an agreement whereby the person that furnishes the substances retains title to them and to the finished substances, the person for whom the taxable chemical is manufactured or produced and not the person that actually manufactures or produces it will be considered the manufacturer. See section 4662)(b)(1) and paragraph (a) of § 52.4662–2 for rules relating to the manufacturer of methane and butane.

(ii) *Example.* the provisions of paragraph (d)(2)(i) of this section may be illustrated by the following example:

Example. X manufacturers sulfuric acid and uses it as a catalyst in one of its refining processes. The process requires 1000 pounds of sulfuric acid. At the beginning of the first processing run, X adds 1000 pounds of new sulfuric acid to the container in which the process takes place. X must pay tax on this 1000 pounds of new sulfuric acid. During the process, the sulfuric acid becomes contaminated. At the end of the process, X draws off the contaminated sulfuric acid, cleans it, and returns it to the container to be used again. The cleaning process is such, however, that only 900 pounds of the sulfuric acid are recovered. As a result, X must add 100 pounds of new sulfuric acid at the start of the next processing run. X will not be considered a manufacturer or producer of the 900 pounds of sulfuric acid it reuses. X must, of course, pay tax on the 100 pounds of new sulfuric acid added at the beginning of the second processing run.

(3) *Importer.* The term "importer" means the person entering the taxable chemical into the United States (as defined in § 52.4612–1(a)(6)) for consumption, use, or warehousing. The person entering the taxable chemical for consumption, use, or warehousing is the consignee who filed the entry summary for consumption or warehouse, as the case may be, with respect to that taxable chemical. However, it the consignee is not the beneficial owner of the taxable chemical (for example, the consignee is a Customs broker engaged by the beneficial owner), then the beneficial owner will be deemed to be the consignee who filed the entry summary for consumption or warehouse and will be liable for the tax under section 4661 when that beneficial owner sells or uses the taxable chemical.

(e) *Sale*—(1) *In general.* The term "sale" means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership, in goods) to the buyer of consideration, called the price, which may consist of money, services, or other things.

(2) *Exchanges.* As exchange of a taxable chemical is a sale of that taxable chemical for the purposes of section 4661. "Exchange" includes a transaction in which two or more persons reciprocally give up and receive taxable chemicals or other substances. The term "exchange" includes exchanges in which one person may make a payment in cash or other property to compensate the other person involved for costs incurred (e.g., freight costs) pursuant to the transaction.

(3) *Examples.* The provisions of paragraphs (e)(1) and (e)(2) of this section may be illustrated by the following examples:

Example (1). M manufacturers and sells a taxable chemical. Occasionally, M enters into a contract to sell more of the taxable chemical than it can manufacture in time to satisfy the terms of the contract. Consequently, M has an exchange agreement with Z, also a manufacturer of the taxable chemical, whereby Z will supply the taxable chemical to M so that M can make timely deliveries to its customers, and M will pay back to Z an equivalent amount of the taxable chemical within 30 days after the end of the calendar quarter in which M obtains the taxable chemical from Z. Pursuant to the agreement, title to and risk of loss of the taxable chemical Z supplies M passes to M when Z delivers it to M. The title to and risk of loss of the taxable chemical M pays back to Z passes to Z when M delivers it to Z. Z is liable for the chemical tax on the taxable chemical is supplies to M. M is liable for the chemical tax on the taxable chemical it returns to Z.

Example (2). M manufacturers a taxable chemical at its plant in New Jersey. X manufacturers the same taxable chemical at its plant in California. Some of M's customers are in California, and some of X's customers are in New Jersey. To avoid unnecessary transportation expenses, M and X enter into an exchange agreement. Under the terms of the agreement, M will deliver taxable chemical to X's New Jersey customers, and X will deliver an equivalent amount of taxable chemical to M's California customers. Title to and risk of loss of the taxable chemical that M delivers will pass at delivery. Thus, M is liable for the chemical tax on the amount of the taxable chemical it delivers to X's customers. Title to and risk of loss of the taxable chemical that X delivers also will pass at delivery. Thus, X is liable for the chemical tax on the amount of the taxable chemical it delivers to M's customers.

(f) *Use*—(1) *In general.* The term "use" includes a broad range of activities carried on by the manufacturer, producer, or importer with respect to a taxable chemical. The mere manufacture or production of a taxable chemical is not a use of that chemical. Thus, for example, if a taxable chemical is produced as a by-product of a chemical reaction, the taxable chemical so produced will not be taxed unless it is used or sold. If, however, a taxable chemical is produced as a by-product of a chemical reaction and the taxable chemical is wasted rather than sold or used, the taxable chemical is not treated as having been used. For the purpose of determining whether a taxable chemical has been used, the origin or destination of the taxable chemical is immaterial. Thus, a taxable chemical produced and then used in a process that is designed for the production of another product is subject to the tax imposed by section 4661. Taxable chemicals lost or destroyed through spillage, fire, or other casualty are not considered to have been used for the purposes of the tax imposed by section 4661. A taxable chemical will be considered used when—

(i) It is consumed;

(ii) Its chemical composition is changed; or

(iii) Its chemical composition remains unchanged, but the chemical reaction in which it plays a role would not have occurred without it.

(2) *Examples.* The provisions of paragraph (f)(1) of this section may be illustrated by the following examples:

Example (1). X produces zinc chloride and zinc sulfate and uses them to produce zinc metal. X is liable for the chemical tax on the zinc chloride and zinc sulfate so used.

Example (2). Y produces cupric sulfate cupric oxide, and cuprous oxide and uses them to produce copper metal. Y is liable for the chemical tax on the cupric sulfate, cupric oxide, and cuprous oxide so used.

Example (3). Z produces lead oxide and uses it to produce lead metal. Z is liable for the chemical tax on the lead oxide so used.

Example (4). M operates an oil refinery. During the refining process, ammonia is produced as a by-product. The ammonia is not recovered for sale or use; instead, it is flared off. The heat from the ammonia is not used in any way. The incineration of the ammonia results in no economic benefit to M. Thus, no tax under section 4661 is imposed on the ammonia produced as a by-product and flared off.

Example (5). N operates a petrochemical plant. N uses propane to make ethylene. N pumps the ethylene from the tubes in which it was made to another part of the plant, where the ethylene is used to make plastics. N must pay the chemical tax on the ethylene N uses for plastics. This is so even though the ethylene was produced as an intermediate product betwen the propane and the plastic, and even though the ethylene was never removed from the plant equipment before it was used.

Example (6). O produces a mixed stream of light hydrocarbons containing benzene, xylene, and toluene. O uses the mixed stream (without isolating the benzene, xylene, or toluene) to make gasoline. O is liable for the chemical tax on the benzene, xylene, and toluene so used.

(g) *Termination.* No tax shall be imposed under section 4661 during any period in which no tax is imposed under section 4611. See § 52.4611–1(e) for rules relating to when tax is not imposed under section 4611.

(h) *Effective date.* The provisions of this paragraph are effective after March 31, 1981.

§ 52.4662–1 Definitions.

(a) *Taxable chemical*—(1) *In general.* Except as provided in paragraphs (a) through (d) of § 52.4662–2, the term "taxable chemical" means any substance that is listed in section 4661(b) and paragraph (a)(2) of this section (listed substance), and that is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing. (See § 52.4612–(a)(6) for the definition of "United States.") A listed substance will generally be considered to be entered into the United States for consumption or use when an entry summary for consumption (Customs Form 7501 or 3311) is filed with Customs in proper form, with estimated duties attached, and will be considered to be entered into the United Sttes for warehousing when an entry summary for warehouse (Customs Form 7502) is filed with Customs, in proper form. A listed substance entered into the United States for transportation and exportation is not a taxable chemical. A listed substance is entered into the United States for transportation and exportation when a carrier's receipt is given to the lading inspector on a Customs in-bond document (the appropriate Customs Form 7512 or 7520 or the TIR carnet) covering the chemical to be transported and exported. If the listed substance is entered into the United States for transportation and exportation but is not exported from the United States, it will be treated as a taxable chemical and will be taxed under section 4661 when it is sold or used. In the case of areas not subject to the general United States Custom laws (for example, foreign trade zones), an entry will be considered to have occurred at any time such an event would have occurred if the Customs laws were applicable to that area. An entry is not deemed to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile gas tank.

(2) *Special Rules*—(i) *Ores.* Chromite is the only ore subject to tax under section 4661. See paragraph (a) (2) (ii) of this section for the treatment of other ores used to produce the metals listed in section 4661(b) and in paragraph (b) of this section.

(ii) *Metals.* A metal will be treated as a taxable chemical only when it has been processed to the stage at which it is commercially known or sold as the metal. Consequently, ores (other than chromite), concentrates, alloys, and scrap of the metals listed are not considered taxable chemicals.

(iii) *Trace amounts.* If a listed substance is present in a mixture only in commercially insignificant amounts, the substance will not be treated as a taxable chemical. For example, a liquid natural gas feedstock contains small quantities of methane (2.4 percent), butane (4.4 percent), and ethylene (0.3 percent). However, these quantities are so small that the methane, butane, and ethylene cannot be commercially used without further processing. Therefore, the methane, butane, and ethylene contained the in liquid natural gas feedstock will not be treated as taxable chemicals.

(b) *Listed substances.*

(1) *Acetylene.* Acetylene is a hydrocarbon of the general formula HC≡CH. Acetylene is also called ethyne or ethine.

(2) *Benzene.* Benzene is an aromatic hydrocarbon of the general formula C_6H_6. Benzene is also called benzol.

(3) *Butane.* Butane is a hydrocarbon of the general formula C_4H_{10}. Butane includes normal butane and isobutane. Butane is also called diethyl and trimethyl-methane.

(4) *Butylene.* Butylene is a hydrocarbon of the general formula C_4H_8. Butylene includes normal butylene and isobutene. Butylene is also called butene-1, cis-butene-2, transbutene-2, and 2-methyl propane.

(5) *Butadiene.* Butadiene is a hydrocarbon of the general formula C_4H_6. Butadiene is also called methyl-allene and erythrene.

(6) *Ethylene.* Ethylene is a hydrocarbon of the general formula C_2H_4. Ethylene is also called ethene.

(7) *Methane.* Methane is a hydrocarbon of the general formula CH_4. Methane is also called marsh gas.

(8) *Naphthalene* Naphthalene is a hydrocarbon of the general formula $C_{10}H_8$.

(9) *Propylene.* Propylene is a hydrocarbon of the general formula C_3H_6. Propylene is also called propene.

(10) *Toluene.* Toluene is an aromatic hydrocarbon of the general formula C_7H_8. Toluene is also called methylbenzene.

(11) *Xylene.* Xylene is an aromatic hydrocarbon of the general formula C_8H_{10}. Xylene includes mixed xylene, metaxylene, orthoxylene and paraxylene. Xylene is also called dimethyl benzene.

(12) *Ammonia.* Ammonia is an inorganic compound of the general formula NH_3.

(13) *Antimony.* Antimony is a metal.

(14) *Antimony trioxide.* Antimony trioxide is an inorganic compound of the general formula Sb_2O_3.

(15) *Arsenic.* Arsenic is a metalloid element of atomic number 33.

(16) *Arsenic trioxide.* Arsenic trioxide is an inorganic compound of the general formula As_2O_3.

(17) *Barium sulfide.* Barium sulfide is an inorganic compound of the general formula BaS.

(18) *Bromine.* Bromine is a nonmetallic halogen element of atomic number 35.

(19) *Cadmium.* Cadmium is a metal.

(20) *Chlorine.* Chlorine is a nonmetallic halogen element of atomic number 17.

(21) *Chromium.* Chromium is a metal.

(22) *Chromite.* Chromite is an ore of the general formula (Mg, Fe2+) (Cr, Al, Fe3+)2 04.

(23) *Potassium dichromate.* Potassium dichromate is an inorganic compound of the general formula $K_2Cr_2O_7$.

(24) *Sodium dichromate*—Sodium dichromate is an inorganic compound of the general formula $NaCr_2O_7$.

(25) *Cobalt.* Cobalt is a metal.

(26) *Cupric sulfate.* Cupric sulfate is an inorganic compound of the general formula $CuSO_4$.

(27) *Cupric oxide.* Cupric oxide is an inorganic compound of the general formula CuO.

(28) *Cuprous oxide.* Cuprous oxide is an inorganic compound of the general formula Cu_2O.

(29) *Hydrochloric acid.* Hydrochloric acid is an inorganic compound of the general formula HCL.

(30) *Hydrogen fluoride.* Hydrogen fluoride is an inorganic compound of the general formula HF. Hydrogen fluoride is also called hydrofloric acid.

(31) *Lead oxide.* Lead oxide is an inorganic compound of the general formula PbO.

(32) *Mercury.* Mercury is a metal.

(33) *Nickel.* Nickel is a metal.

(34) *Phosphorus.* Phosphorus is a nonmetallic element of atomic number 15.

(35) *Stannous Chloride.* Stannous chloride is a inorganic compound of the general formula $SnCl_2$.

(36) *Stannic Chloride.* Stannic chloride is an inorganic compound of the general formula $SnCl_4$.

(37) *Zinc chloride.* Zinc chloride is an inorganic compound of the general formula $ZnCl_2$.

(38) *Zinc sulfate.* Zinc sulfate is an inorganic compound of the general formula $ZnSo_4$.

(39) *Potassium hydroxide.* Potassium hydroxide is an inorganic compound of the general formula KOH.

(40) *Sodium hydroxide.* Sodium hydroxide is an inorganic compound of the general formula NaOH.

(41) *Sulfuric acid.* Sulfuric acid is an inorganic compound of the general formula H_2SO_4.

(42) *Nitric acid.* Nitric acid is an inorganic compound of the general formula HNO_3.

(c) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4662-2 Exemptions.

(a) *Methane or butane used as a fuel*—(1) *In general.* Methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel. If methane or butane is not used as a fuel, the person using the methane or butane will be treated as its manufacturer.

(2) *Use as a fuel.* Methane or butane is used as a fuel when it is used as a source of heat or when it is dissolved or mixed (without any change in its chemical composition) in gasoline to enhance the overall performance of the gasoline. If, however, butane is repeatedly mixed with other substances in an extended sequence of mixtures or its chemical composition is changed, then it is not used as a fuel and is not exempt from the tax imposed by section 4661.

(3) *Examples.* The provisions of paragraphs (a)(1) and (a)(2) of this section may be illustrated by the following examples:

Example (1). M imports methane and sells it to N, who uses it otherwise than as a fuel. N is treated as the manufacturer of the methane and must pay the tax imposed on it by section 4661(a). Although M is the importer of the methane and M sold the methane, M is not liable for the tax because M did not use the methane otherwise than as a fuel. Moreover, M is not liable for the petroleum tax because methane is not a petroleum product. See § 52.4612-1(a)(5)(i).

Example (2). N Produces methane and uses it to fire the process furnances at N's refinery. N uses the methane as a fuel, and the methane will not be treated as a taxable chemical.

Example (3). O produces isobutane and uses the isobutane to produce alkylate, which O adds to gasoline to improve the octane rating of the gasoline. In the alkylation process, the chemical composition of the isobutane is changed by mixing the isobutane with a propane/propylene stream in the presence of a catalyst, usually sulfuric acid. The isobutane O uses to produce alkylate is considered used otherwise than as a fuel and will be treated as a taxable chemical.

Example (4). P produces normal butane, which P adds to gasoline to pressure the gasoline. P does not change the chemical composition of the normal butane in any way. The normal butane P uses to pressure gasoline is used as a fuel and will not be treated as a taxable chemical.

Example (5). X is a natural gas company. X separates isobutane from natural gas and sells the isobutane to Y. Y, in turn, sells the isobutane to Z, a producer of aerosol cans. Y delivers the isobutane to Z's factory, where Y pumps it into Z's storage tanks. Z adds the isobutane to aerosol cans as a propellant to force the contents from the cans when a button on top of the cans is pressed. The isobutane Z uses as a propellant in its aerosol cans is not used as a fuel. Therefore, Z will be treated as the manufacturer of the isobutane and will have to pay the chemical tax on it.

(b) *Substances used in the production of fertilizer*—(1) *General rule.* If nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia is a qualified substance, no tax will be imposed under section 4661(a) on such nitric acid, sulfuric acid, ammonia and methane used to produce ammonia. A qualified substance is any substance—

(i) Used by the manufacturer, producer, or importer thereof in a qualified use;

(ii) Sold for use by the purchaser in a qualified use; or

(iii) Sold resale by the purchaser to a second purchaser for use by the second purchaser in a qualified use.

A qualified use is any use in the manufacture or production of fertilizer. The term "qualified use" includes the normal field application of fertilizer, which is the act of putting fertilizer on crops or croplands. The term "fertilizer" does not include pesticides, insecticides, or fungicides. Taxable chemicals other than nitric acid, ammonia, sulfuric acid, or methane used to produce ammonia may be equlified substances. Nevertheless, the section 4662(b)(2) exemption does not apply to them. Thus, for example, zinc sulfate used by the manufacturer thereof to produce fertilizer is not exempt from the tax imposed by section 4661(a).

(2) *Qualified use by manufacturer, producer, or importer*—(i) *In general.* If a manufacturer, producer, or importer of nitric acid, sulfuric acid, ammonia, or

methane used to produce ammonia, uses such chemicals in a qualified use, the manufacturer, producer, or importer shall not be liable for tax under section 4661(a). When a manufacturer, producer, or importer of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, regularly uses such chemicals in qualified and nonqualified uses to produce chemical substances or mixtures, the determination of whether a use constitutes a qualified use shall be made at the time such manufacturer, producer, or importer sells the derivative chemical substances or mixtures produced. In the case of a taxable sale of such chemical substances or mixtures, the tax shall be imposed on the amount of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia that was used to produce the chemical substances or mixtures sold.

(ii) *Example.* The provisions of paragraph (b)(2)(i) of this section may be illustrated by the following example:

Example. A company manufactures ammonia and carbon dioxide. The manufacturer combines the ammonia and carbon dioxide to produce urea. Subsequently, 90 percent of the urea so produced is sold for use as a fertilizer. Ten percent of the urea is sold for other purposes. Pursuant to sections 4661 and 4662(b), a tax is imposed on that portion of the ammonia used for purposes other than the production of urea as a fertilizer. The tax due on the ammonia will be determined at the time of the sale of the urea. In this example, a tax is due on 10 percent of the ammonia used in the production of urea because 10 percent of the urea was sold for uses other than fertilizer uses.

(3) *Tax-free sale of nitric acid, sulfuric acid, or ammonia.* No tax is imposed on the sale of nitric acid, sulfuric acid, or ammonia when sold—

(i) for use by the purchaser in a qualified use; or

(ii) For resale by the purchaser to a second purchaser for use in a qualified use.

No nitric acid, sulfuric acid, or ammonia may be sold tax free after [Insert the date that these regulations are published in the **Federal Register** as a T.D.] unless the requirements of paragraph (b)(4) or (b)(5), as the case may be, are satisfied.

(4) *Nitric acid, etc., sold for use by the purchaser*— (i) *In general.* To establish the right to exemption with respect to nitric acid, sulfuric acid, or ammonia sold for use by the purchaser in a qualified use, the manufacturer, producer or importer must obtain from the purchaser, prior to or at the time of sale, a certificate as outlined in paragraph (b)(4)(ii) of this section. The manufacturer, producer, or importer must keep the certificate in its possession. If the manufacturer, producer, or importer does not obtain a certificate by the time of the sale, the manufacturer, producer, or importer must pay the tax involved. However, if the purchaser subsequently uses the nitric acid, etc., in a qualified use, the purchaser may file for refund or credit under § 52.4662–3(c).

(ii) *Form of certificate.* Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(4)(i) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchases of nitric acid, sulfuric acid, or ammonia for use in a qualified use under section 4662(b)(2) of the Internal Revenue Code of 1954)

(Date) ———————, 19——

The undersigned hereby certifies that he/she is the

(owner/authorized officer) ———————

of (name of company)———————

and that: (check applicable type of certificate)

——————— the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or

——————— all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date) ——————— and ending (date) ——————— (period not to exceed 12 calendar quarters) will be (A) used in the manufacture or production of fertilizer or (B) directly applied as a fertilizer.

It is understood that the exemption from tax in the case of sales of nitric acid, etc., under this exemption certificate is limited to the sale of such nitric acid, etc., for use in the manufacture or production of fertilizer or for direct application as a fertilizer, and it is agreed that if the nitric acid, etc., purchased tax free under this exemption certificate is used otherwise, or is sold, the undersigned will report such fact to the manufacturer, producer, or importer of the nitric acid, etc., covered by this certificate. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

Signature ———————

(Title of officer)

(5) *Nitric acid, etc. sold for resale*—(i) *In general.* To establish the right to exemption from tax with respect to nitric acid, sulfuric acid, or ammonia sold by the manufacturer, producer, or importer to a purchaser for resale direct to a second purchaser for use by the second purchaser in a qualified use, it is necessary that:

(A) The manufacturer, producer, or importer obtain from the purchaser, prior to or at the time of the sale, a certificate as outlined in paragraph (b)(5)(iv)(A) of this section, showing that the purchaser will resell the nitric acid, etc., to a second purchaser only for use by the second purchaser in a qualified use, and

(B) The manufacturer, producer, or importer obtain from the purchaser proof that the nitric acid, etc., has been so resold. Such proof of sale may be either a certificate (as outlined in paragraph (b)(5)(iv)(B) of this section) obtained by the purchaser from the second purchaser showing that such second purchaser bought the nitric acid, etc., for use in a qualified use and not for resale, or a statement by the purchaser that the purchaser has obtained and has in its possession such a certificate from the second purchaser.

(ii) *Cessation of exemption.* The certificate required by paragraph (b)(5)(i)(A) of this section suspends liability for the payment of tax by the manufacturer, producer, or importer on the sale of the nitric acid, etc., for a two-month period which begins on the date of sale or the date of shipment, whichever is earlier. If on the first day following the close of the two-month period, the manufacturer, producer, or importer has not received the proof required by paragraph (b)(5)(i)(B) of this section, then the temporary suspension of liability for the payment of the tax ceases and the manufacturer, producer, or importer shall include the tax on the sale of such chemical in the return for the quarter in which such two-month period expires. If such proof later becomes available, a claim for refund of tax may be filed or a credit taken upon a subsequent return. The payment of this tax by the manufacturer, producer, or importer is considered an overpayment for the purposes of section 4662(d)(2). Nevertheless, only the manufacturer, producer, or importer that actually paid the tax will be allowed a refund or credit under section 4662(d)(2) for the overpayment.

(iii) *Only one intervening sale.* The exemption applies only where there is not more than one intervening sale between the manufacturer, producer, or importer of the nitric acid, etc., and the purchaser who buys the nitric acid, etc., for use in a qualified use.

(iv) *Form of certificate.* (A) Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(5)(i)(A) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchasers of nitric acid, sulfuric acid, or ammonia for resale to a purchaser for a qualified use under section 4662(b)(2) of the Internal Revenue Code of 1954)

(Date)———————, 19——

The undersigned hereby certifies that he/she is the
(owner/authorized officer) _____
of (name of company)_____
and that (check applicable type of certificate)
_____the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or
_____all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date)_____and ending (date)_____(period not to exceed 12 calendar quarters) will be resold by the undersigned to a purchaser only (A) for use by that purchaser in the manufacture or production of a fertilizer or (B) for the direct application by that purchaser as a fertilizer.

It is understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.
Name _____
Address _____

(B) Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(5)(i)(B) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchases of nitric acid, sulfuric acid, or ammonia for use in a qualified use under section 4662 (b)(2) of the Internal Revenue Code of 1954)
(Date) _____, 19—.

The undersigned hereby certifies that he/she is the
(owner/authorized officer) _____
of (name of company)_____
and that: (check applicable type of certificate)

_____ the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or

_____ all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date) _____ and ending (date) _____ (period not to exceed 12 calendar quarters) will be (A) used in he manufacture or production of fertilizer or (B) directly applied as a fertilizer.

It is understood that the exemption from tax in the case of sales of nitric acid, etc., under this exemption certificate is limited to the sale of such nitric acid, etc., for use in the manufacture or production of fertilizer or for direct application as a fertilizer, and it is agreed that if the nitric acid, etc., purchased tax free under this exemption certificate is used otherwise, or is sold, the undersigned will report such fact to the seller of the nitric acid, etc., covered by this certificate. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.
Name _____
Address _____

(c) *Sulfuric acid produced as a byproduct of air pollution control*—(1) *General rule.* Section 4662(b)(3) provides that no tax shall be imposed under section 4661 on sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment. Air pollution control equipment is any equipment used to comply with the Clean Air Act.

(2) *Example.* The provisions of paragraph (c)(1) of this section may be illustrated by the following example:

Example. To comply with emissions standards for sulphur dioxide gas under the Clean Air Act, X, a smelter of copper, builds an acid plant. X uses the plant to convert sulphur dioxide gas into concentrated sulfuric acid, which X sells. The sulfuric acid is produced solely as a byproduct of and on the same site as air pollution control equipment. Therefore, its sale is not taxable under section 4661.

(d) *Substances derived from coal*—(1) *In general.* Under section 4662(b)(4), the term "taxable chemical" does not include any substance to the extent derived from coal. For the purposes of section 4662(b)(4), any substance that contains a coal-derived product and does not contain any product derived from crude oil or a petroleum product will be considered to be derived wholly from coal and will be exempt from the section 4661 tax. Any substance that contains a product derived from crude oil or from a petroleum product as well as a coal-derived product, will be considered to be derived from coal, and thus exempt from the section 4661 tax, only to the extent of the coal-derived product, determined on a contained weight basis. A product will not be considered to be derived from coal merely because coal served as the source of energy for the process furnaces or units in which the product was produced. For the definition of "crude oil" and "petroleum product," see § 52.4612–1(a)(1) and § 52.4612–1(a)(5), respectively.

(2) *Coal.* As used in section 4662(b)(4) the term "coal" includes lignite, bituminous coal, and anthracite.

(3) *Examples.* The provisions of paragraph (d)(1) of this section may be illustrated by the following examples:

Example (1). Z uses a high-temperature carbonization process to convert coal to coke and several volatile products, one of which is coal tar. Z then cracks the coal tar to produce napthalene. The napthalene so produced is derived from coal and thus is exempt from the tax under section 4661.

Example (2). Z manufactures acetylene from calcium carbide and water. The calcium carbide is produced when coke derived from coal is heated in an electric furnace with lime. The carbon in the acetylene is supplied by the calcium carbide, which is made indirectly from coal. None of the hydrogen in the acetylene is from crude oil or a petroleum product. Consequently, the acetylene will be considered to be derived wholly from coal and exempt from the tax under section 4661.

(e) *Other exemptions not applicable.* There is no exemption from the chemical tax for chemicals exported or sold for export, sold for use as supplies for vessels or aircraft, sold to a state or local government for the exclusive use of the state or local government, or sold to a nonprofit educational organization for its exclusive use. The Secretary does not have discretion to exempt from the chemical tax sales of taxable chemicals for use by the United States. In addition, the use or sale by the United States of a taxable chemical manufactured or entered by the United States is not exempt from the chemical tax.

(f) *Effective date.* The provisions of this section are effective after March 31, 1981, except as provided in paragraph (b)(3) of this section.

§ 52.4662–3 Refund or credit of tax under section 4661.

(a) *In general.* A manufacturer, producer, or importer who pays more than the correct amount of tax imposed under section 4661 (the chemical tax) for a calendar quarter may file a claim for refund or credit of the overpayment. Any claim for refund or credit of an overpayment of the chemical tax shall be made in accordance with the applicable provisions of this section and the applicable provisions of § 301.6402–2 (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering such amount as a credit on a return of tax under chapter 38 (environmental taxes) filed by the person making the claim. See § 52.4662–3(c) for refund or credit of tax on tax-paid chemicals used to produce taxable chemicals. See § 52.4662–3(d) for refund or credit of tax on certain tax-paid chemicals used, or resold for use, as a qualified substance.

(b) *Tax-paid chemicals used to make taxable chemicals*—(1) *In general.* Section 4662(d)(1) and paragraph (b)(2) of this section provide that tax under section 4661 paid to the United States on the sale or use of a taxable chemical that is used by any person (hereinafter the subsequent manufacturer) in the manufacture or production of a taxable chemical shall be deemed to be an overpayment. Any overpayment of tax within the meaning of section 4662(d)(1) and paragraph (b)(2) of this section is deemed to have been made by the

subsequent manufacturer, and such subsequent manufacturer may file claim for refund of any such overpayment or may claim credit for the overpayment on any return of tax under chapter 38 that the subsequent manufacturer files. Any such caim for refund shall be filed with the service center serving the internal revenue district in which the subsequent manufacturer files returns of tax under chapter 38, or would file such returns if required. No interest shall be allowed on any refund or credit of an overpayment determined under section 4662(d)(1) and paragraph (b)(2) of this section. For provisions relating to the evidence required in support of a claim for refund or credit of such overpayment, see § 301.6402-2 (Regulations on Procedure and Administration) and paragrah (b)(3) of this section.

(2) *Overpayment*—(i) *In general.* If a tax under section 4661 was paid with respect to any taxable chemical and such chemical is used by a subsequent manufacturer in the manufacture or production of a chemical the sale or use of which would be taxable under section 4661, then an amount equal to the tax so paid shall be treated as an overpayment of tax under section 4661. For the purposes of the preceding sentence, the taxable chemical manufactured or produced by the subsequent manufacturer need not be a different chemical from the tax-paid chemical, so long as the subsequent manufacturer can demonstrate that the tax on the chemical used by the subsequent manufacturer was in fact paid. In no case may the amount of the credit or refund exceed the amount of tax imposed by section 4661 on the taxable chemical manufactured or produced by the subsequent manufacturer. If the tax-paid chemical is used to manufacture or produce more than one taxable chemical or a taxable chemical and a non-taxable chemical, then the subsequent manufacturer must allocate the tax on the tax-paid chemical among the chemicals manufactured or produced. The tax shall be allocated on the basis of the ratio of the weight of each chemical manufactured or produced to the total weight of all chemicals produced. Thus, if a tax-paid chemical is used to produce ½ ton of taxable chemical A and 1½ tons of taxable chemical B, the tax on the tax-paid chemical is allocated ¼ to A and ¾ to B. Section 52.4661-1(c)(2), relating to measurement, applies to the determination of the amount of tax to be allocated to the taxable chemicals manufactured or produced.

(ii) *Example.* The provisions of paragraph (b)(2)(i) of this section are illustrated by the following example:

Example. Z manufactures lead acid storage batteries. During one stage in the manufacturing process, Z prepares a paste of lead oxide, sulfuric acid, and water. This paste is applied to grids which are placed inside the battery. Z produces the lead oxide used in the paste from materials recovered from old acid storage batteries, all of which batteries were produced using a lead oxide paste like the one Z uses. Z cannot establish whether the tax under section 4661 was paid with respect to any of the lead oxide used to produce the paste applied to the grids of the old batteries. Therefore, Z cannot claim a credit or refund with respect to the lead oxide in the old batteries.

(3) *Supporting evidence.* Each claim for credit or refund in respect of tax-paid taxable chemicals used to produce or manufacture a substance taxable under section 4661 shall include a statement showing—

(i) The total number of tons of each tax-paid taxable chemical used during the period covered by the claim to produce or manufacture a substance taxable under section 4661, multiplied by the rate of tax imposed on that chemical under section 4661(b),

(ii) The total number of tons of each substance taxable under section 4661 so manufactured or produced during the period covered by the claim, multiplied by the rate of tax that would be imposed on that substance under section 4661(b), and

(iii) In the case of a tax-paid taxable chemical used to produce more than one substance taxable under section 4661 or a substance taxable under section 4661 and a nontaxable substance, a computation showing the allocation of the tax required by paragraph (b)(2) of this section to the various substances.

(4) *Records to be kept in substantiation of credits or refunds.* (i) *In general.* Every person making a claim for credit or refund under section 4662 (d)(1) must keep records sufficient to enable the district director to determine whether the person is entitled to credit or refund under section 4662(d)(1) and, if so, the amount of the credit or refund. No particular form is prescribed for keeping the records, but the records should include a copy of the excise tax return or claim and a copy of any statement or document submitted with the return or claim. The records must show, with respect to the period covered by the claim, information as necessary to establish the correctness of the claim.

(ii) *Acceptable records.* Evidence of purchases of tax-paid taxable chemicals, and the purpose for which they were used, to substantiate claims may include paid duplicate sales invoices or tickets from the dealer or the vendor, and detailed records of all tax-paid taxable chemicals used which show the amount used for the prescribed purpose and the amount used for other purposes. Records maintained for Federal or State pollution control purposes may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit or refund under section 4662 (d)(1).

(iii) *Place and period for keeping records.* All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. Records required to substantiate a claim for credit or refund under section 4662(d)(1) must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or refund.

(c) *Use as a fertilizer*—(1) *In general.* Section 4662(d)(2) provides that tax under section 4661 paid to the United States with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, that any person uses or sells for use as a qualified substance shall be deemed to be an overpayment. Any overpayment within the meaning of section 4662(d)(2) is deemed to have been made by the person so using or selling the nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, and that person may file claim for refund of any overpayment or may claim credit for the overpayment on any return of tax under chapter 38 that the person files. Any such claim for refund shall be filed with the service center serving the internal revenue district in which the person files returns of tax under chapter 38, or would file such return if required. The amount of the credit or refund shall be the excess of the tax paid with respect to the nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia without regard to section 4662(b)(2) over the tax determined with regard to section 4662(b)(2). No interest shall be allowed on any refund or credit of an overpayment determined under section 4662(d)(2).

(2) *Supporting evidence.* Each claim for credit or refund in respect of tax-paid nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia used or sold for use as a qualified substance shall include a statement showing—

(i) The total number of tons of nitric acid, etc., purchase tax paid and used or sold for use during the period covered by the claim in the manufacture or production of fertilizer or for direct application as a fertilizer, and

(ii) The total number of tons in (i) multiplied by the rate of tax imposed on the nitric acid, etc., under section 4661(b).

(3) *Records to be kept in substantiation of credits or refunds*—(i) *In general.* Every person making a claim for credit or refund under section 4662(d)(2) must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under section 4662(d)(2) and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records should include a copy of the excise tax return or claim and a copy of any statement or document submitted with the return or claim. The records must show, with respect to the period covered by the claim, information as necessary to establish the correctness of the claim.

(ii) *Acceptable records.* Evidence of purchases of tax-paid nitric acid, etc., and the purpose for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the dealer or the vendor, and detailed records of all tax-paid nitric acid, etc., used which show the amount used for the prescribed purpose and the amount used for other purposes. Records maintained for Federal or State pollution control purposes may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit or refund under section 4662(d)(2).

(iii) *Place and period for keeping records.* All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. Records required to substantiate a claim for credit or refund under section 4662(d)(2) must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

(d) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4662-4 Disposition of revenue from Puerto Rico and the Virgin Islands.

The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4661. Thus, no amount of the tax imposed by section 4661 shall be covered into the Treasury of Puerto Rico, and no amount of the tax shall be transferred and paid over to the Government of the Virgin Islands. The provisions of this section are effective after March 31, 1981.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-28756 Filed 10-20-83; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 111

Designating of Serving Post Offices for Acceptance of Electronic Computer Originated Mail (E—COM)

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the interim regulations designating the Serving Post Offices (SPOs) at which E—COM messages may be deposited. The Postal Service does not presently require that E—COM users deposit their messages at any specified SPO: they are permitted to use any E—COM SPO.

This proposed rule would require, with two exceptions, that all E—COM messages must be deposited at the SPO primarily responsible for serving the area to which the material is addressed. The first exception would provide for larger service areas by clustering several SPOs. An E—COM user would have to deposit all messages destined for delivery in this enlarged area at one or more of the SPOs within the cluster area. The Postal Service proposes to establish nationally eight clusters of E—COM SPOs based upon a finding that messages sent to any one of the SPOs in each cluster by 5:00 p.m. could (with minor exceptions we believe are tolerable) be delivered by the Postal Service to addresses within the cluster within two business days.

The second exception would permit an E—COM user to send, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area by depositing the messages at an SPO outside of the cluster area of the addresses. This exception is designed to avoid undue hardship on users which would result, in the absence of such an exception, from the application of the current 200 message per transmission minimum requirement.

DATE: Comments must be received on or before November 21, 1983.

ADDRESS: Written comments should be addressed to the Director, E—COM Operations Office, Mail Processing Department, U.S. Postal Service, Washington, D.C. 20260-7140. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6624, U.S. Postal Servicxe Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ed Senft, E—COM Operations Office, 202/245-5780.

SUPPLEMENTARY INFORMATION: On April 28, 1983, the Postal Service published a solicitation of comments in advance of proposed rulemaking addressing the question of whether the Postal service should restrict the deposit of E—COM messages at an SPO which were not addressed to points inside the SPO's primary service area (48 FR 19187). That solicitation noted that some users of E—COM service were depositing large numbers of E—COM messages at a single SPO even though many of the messages were addressed to points outside the SPO's primary service area. The Postal service stated that it was exploring possible methods of accomplishing the goal of getting E—COM users to deposit their mail at the SPO primarily serving the delivery address in order to preserve the concept of E—COM service as a high-speed, reliable service with delivery of messages in two days or less.

The solicitation indicated that the Postal Service was concerned that an outright ban on the deposit of an E—COM message at any SPO other than the one primarily responsible for serving the address of the message could impose an undue hardship on some users of E—COM service. For that reason and to solicit ideas on how an acceptable restriction could be designed, the Postal Service requested comments and suggestions on the treatment of messages that are deposited at an SPO other than the SPO primarily responsible for serving the delivery address.

In response to this solicitation, the Postal Service received 35 comments. These comments confirmed the fears of the Postal Service that an absolute ban on inter-SPO messages—requiring users on E—COM service to transmit their messages to up to 25 different SPOs—would work an extreme hardship on smaller volume E—COM users.

Six commenters supported the idea of a full restriction on the entry of inter-SPO messages. They did so for two

primary reasons. Three commenters felt that messages that are sent to a SPO other than the SPO of delivery cause an increase in postal costs that will eventually be reflected in the rates charged for E—COM service. They expressed the opinion that such a result would be unfair to those users who transmit their messages to the appropriate SPO.

The second reason given by three commenters favoring a ban on inter-SPO messages was the belief that the present authorization for E—COM service requires that messages be deposited only at the SPO primarily responsible for serving the addresses of the messages. The Postal Service disagrees with this interpretation. The provisions of the E—Com classification schedule do not prohibit the Postal Service from allowing E—COM users to tender messages to an SPO other than the SPO primarily responsible for serving the delivery address. Those provisions leave to the Postal Service the decision of how many SPOs there will be and the designation of the SPO or SPOs at which messages can be deposited.

Twenty-three commenters opposed the idea of restricting the deposit of E—COM messages to the SPO primarily responsible for serving the delivery addresses of the messages. Seven commenters stated that their use of such a restricted E—COM service would be more labor intensive, prone to error and costly. Four commenters felt that the task of transmitting to each SPO primarily responsible for serving the addresses of their messages would become too complicated in view of the limited training their personnel had received. Two commenters indicated that a total restriction would put small users at an extreme price disadvantage in their use of E—COM service. In addition, one commenter believed that requiring the routing of messages to the SPO primarily responsible for serving the delivery addresses would hamper the growth of E—COM service and those companies offering connection to E—COM service.

Many commenters offered alternatives to the idea of an absolute ban on inter-SPO messages. Seven urged the creation of a surcharge for messages not entered at the SPO primarily responsible for serving the delivery addresses. Eight commenters stated that the most efficient solution would be for the Postal Service to provide for electronic interconnection of all SPOs so that the user could deposit all E—COM messages at the most convenient SPO for processing and transmission by the Postal Service for printing and output at the SPO primarily responsible for serving the delivery address. Four commenters felt that the Postal Service should establish larger service areas for each SPO. Such areas would overlap with the service areas of other SPOs, giving E—COM users some choice of which SPOs to use. Two commenters felt that the present system was satisfactory and said that speed of delivery was not a major concern to them. One commenter urged the Postal Service to regulate only the message deposit of very large E—COM mailings. One commenter recommended the establishment of regional SPOs for use by small voluume E—COM users. One commenter proposed a ban on inter-SPO messages except for those messages sent to addresses in the service area of a contiguous SPO.

In addition to the above noted comments, six persons submitted written documents in response to the solicitation which, while expressing various views on E—COM service, did not specifically comment on the issue of how the Postal Service should treat inter-SPO messages.

Upon a thorough review of all the comments received in response to our solicitation of comments, the Postal Service has decided to publish, for notice and comment, a proposed amendment to the E—COM regulations which will, if adopted, resolve the problems presented by the current unrestricted deposit of inter-SPO messages while reducing the impact as much as practicable on smaller volume E—COM users.

This proposed rule would require, with two exceptions, that all E—COM messages must be deposited at the SPO primarily responsible for serving the delivery addresses of the messages. (The current primary service areas for each SPO would be retained.) The first exception would provide for larger service areas for clusters of several SPOs. These areas would be referred to as cluster service areas and messages sent to a cluster SPO for delivery within that SPO's cluster service area would be classified as intra-cluster messages. An E—COM user would have to deposit all messages destined for delivery in the enlarged cluster service area at one or more of the SPOs within that cluster area. The Postal Service proposes to establish nationally eight clusters of E—COM SPOs based upon a finding that messages sent to any of the SPOs in each cluster by 5:00 p.m. could, with minor exceptions we believe are tolerable, be delivered by the Postal Service to addresses within the cluster within two business days.

The second exception to the prohibition on inter-SPO messages would permit an E—COM user to deposit, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area by depositing the messages at an SPO outside of the cluster area of the addresses. This exception is designed to avoid undue hardship on users which would result, in the absence of such an exception, from the application of the current 200 message per transmission minimum requirement. This exception would be reevaluated in the future if the Postal Service's pending classification proposal before the Postal Rate Commission to eliminate the minimum entirely is adopted.

The result of these two exceptions is that E—COM user, who has 200 or more messages over the course of a day addressed to locations within the primary service area of an SPO, must, at a minimum, deposit those messages at an SPO within the cluster service area of the delivery addresses.

Two examples will illustrate how the proposed system is intended to work. An E—COM mailer has 50,000 messages to send to customers who are mainly located in the East and Midwest. There are, however, 250 customers in Los Angeles and 50 in San Francisco. The mailer, of course, can and is encouraged by the Postal Service to transmit all the messages to the SPOs primarily responsible for serving each delivery address. If the mailer did so, 50 messages would be sent to San Francisco, but the mailer would be charged for 200 messages to San Francisco because of the current message minimum. Under the rule proposed in this notice, the mailer may transmit to as few as seven SPO and comply with the proposed input restriction. In the East and Midwest there would be more than enough messages per cluster service area to separately deposit messages at at least one SPO per cluster. Because there were more than 200 messages for the Los Angeles SPO's primary service area, those messages would have to be deposited in one of the SPOs in the cluster area serving the Los Angeles addresses. The 50 messages to San Francisco could be combined with the Los Angeles messages, even though the Los Angeles SPO is not in the San Francisco cluster, because there are fewer than 200 messages to San Francisco addresses.

In the second example, an E—COM carrier, located in Charlottesville, Virgina, has 300 messages at the end of the day to send for clients: 100 for the

Pittsburgh service area, 50 for Richmond service area, 75 for the Washington service area and 75 for the Charlotte service area. Under an absolute ban on inter-SPO messages, four separate transmissions would be needed and the Postal Service would be paid for 500 messages not sent. Under the proposed rule, all the messages could be deposited at any SPO in the East cluster—Philadelphia, Washington, Pittsburgh or Richmond. The 75 messages for Charlotte, which is located in the Southeast cluster, would come within the exception that permits up to 200 messages that are addressed to the primary service area of one SPO to be deposited at another SPO. Therefore, as a result of the proposed rule, this small E—COM carrier would not have to incur multiple transmission costs or pay for more E—COM messages than actually sent.

Although exempt by 39 U.S.C. 410(a) from the requirements of the Administrative Procedure Act, 5 U.S.C. 553 (b), (c), regarding proposed rulemaking, the Postal Service invites public comment on the following proposed revisions of interim Part 570 of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 570—MAILING [OF E—COM MESSAGES]

1. Revise 570 to read as follows:

570 Mailing

571 Time of Mailing

Mailers may transmit messages to E—COM SPOs 24 hours a day, seven days a week.

572 General Mailing Requirement

Except as permitted by 573 and 574, all E—COM messages must be transmitted to the SPO identified in Exhibit 572 as primarily responsible for serving the delivery addresses of the messages. Acceptable transmissions received at the specified SPO prior to 11:59 p.m. are processed and delivered according to the E—COM service objectives in 530.

573 Alternative Mailing to Cluster Service Areas

The primary service areas of the 25 SPOs listed in Exhibit 572 are also part of eight larger cluster service areas which may be used by E—COM mailers as an alternative mailing scheme to that required by 572. Except as permitted 574, an E—COM user must deposit all messages destined for delivery to addresses within a cluster service area at at least one of the SPOs within that cluster service area. With the exceptions noted in Exhibit 573, messages properly deposited prior to 5:00 p.m. at any SPO designated to serve a SPO cluster area are processed and delivered according to the E—COM service objectives in 530.

574 Permissible Inter-Cluster Messages

Without regard to the requirements of 572 and 573, an E—COM user is permitted to deposit, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area at an SPO outside of the cluster area in which the addresses are located.

2. Change the title of Exhibit 570 to Exhibit 572.

3. Add a new Exhibit 573 to read as follows:

EXHIBIT 573

SPO locations cluster service area (states and ZIP codes)	Exceptions to service standard (states and ZIP codes) [1]
NORTHEAST CLUSTER	
1. Boston, MA: MA(010-027), RI(026-029), NH(030-039), ME(040-049), VT(050-059), CT(060-067).	
2. New York, NY: CT(068-069), NJ(070-079, 086-089), NY(004-006, 090-096, 100-129).	PR and VI (006-009) [2]
EAST CLUSTER	
1. Philadelphia, PA: NJ(080-087), PA(169-196), DE(197-199).	MD(214, 219), WV(267)
2. Washington, DC: DC(200, 202-205), MD(206-212, 214-219) VA(220-223, 226-227) WV(254, 267).	
3. Pittsburg, PA: NY(130-149), PA(150-168), WV(250-253, 255-266, 268), OH(439).	MD(214, 219), WV(267)
4. Richmond, VA: VA(224-225, 228-245), WV(246-249).	MD(214, 219), WV(267)
SOUTHEAST CLUSTER	
1. Charlotte, NC: NC(270-289), SC(290-297).	GA(295-299, 307, 398) FL(342), TN(386), AR(723)
2. Atlanta, GA: SC(298-299), GA(300-307, 308-319), AL(350-351, 359-364, 367-368).	GA(307), FL(342), TN(386), AR(723)
3. Nashville, TN: GA(307), AL(356-358), TN(370-386), MS(388), KY(420-422), AR(723).	SC(297), GA(298-299, 368), FL(330-333, 342), AL(355)
4. Orlando, FL: FL(320, 322-331, 333-340, 342).	SC(297), GA(298-299, 307, 368), AL(355), TN(386), AR(723)
SOUTHWEST CLUSTER	
1. Dallas, TX: AR(716-722, 724-729), OK(730-731, 734-738, 740-741, 743-749), TX(750-767, 790-794).	AL(369), TX(733, 789, 795)
2. New Orleans, LA: AL(365-366, 369), MS(387, 389-397), LA(700-701, 703-708, 710-714).	TX(733, 788, 795)
3. San Antonio, TX: TX(733, 768-789, 795-799).	LA(365-366, 387-389), AL(369), GA(367-368), MS(390-397)
MIDEAST CLUSTER	
1. Cincinnati, OH: KY(400-418, 423-427), OH(430-433, 437-438), DH(440-459), IN(470-471).	WI(534)
2. Chicago, IL: IN(460-469, 472-479), IL(600-606, 609-611, 613-619).	OH(459), IN(470-471), WI(534)
3. Detroit, MI: OH(434-436), MI(480-482, 484-497).	OH(459), IN(470-471), WI(534)
4. Milwaukee, WI: MI(498-499), WI(530-532, 534-535, 537-539, 541-545, 549).	OH(459), IN(470-471)
WEST CLUSTER	
1. Denver, CO: CO(800-816), WY(820, 822-831), UT(840-847), NM(870-875, 877-884), NV(893, 898).	AZ(865)
2. Los Angeles, CA: CA(900, 902-908, 910-918, 920-928, 930-935).	AZ(865)
3. Phoenix, AZ: AZ(850, 852-853, 855-857, 859-860, 863-865), NV(890-891)	
NORTHWEST CLUSTER	
1. Seattle, WA: MT(590-599), WY(821), ID(832-838), OR(970-979), WA(980-994).	NV(894-895, 897), CA(961), AK(995-999) [2]
2. San Francisco, CA: NV(894-895, 897), CA(936-941, 943-966).	HI(967-969) [2]
MIDWEST CLUSTER	
1. Kansas City, MO: IA(500-508, 510-516, 520-528), IL(612), MO(640-641, 644-649, 653, 656-658), KS(660-662, 664-679), NE(680-681, 683-693), OK(739).	WI(540), MO(620, 622)
2. Minneapolis, MN: WI(540, 546-548), MN(550-551, 553-554, 556-567, SD(570-577), ND(580-588).	IA(516, 528), MO(620, 622, 649), KS(662), OK(739)
3. St. Louis, MO: IL(620, 622-629), MO(630-631, 633-639, 650-652, 654-655).	IA(516, 528), WI(540), MN(567), ND(580-588), MO(649), KS(662), OK(739)

[1] Messages destined for delivery in these three-digit ZIP Code areas may not receive delivery in accordance with the service objectives in 530 unless they are deposited at the SPO opposite which they are listed. Note that messages addressed for delivery in some ZIP Code areas may be reached within the service objectives from more than one SPO in a given cluster, but not all.

[2] Messages destined for delivery in these three-digit ZIP Code areas, which are outside of the continental United States, do not receive delivery in accordance with the service objectives in 530.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if this proposal is adopted.

(39 U.S.C. 401(a), 403)

Fred Eggleston,

Assistant General Counsel, Office of General Law and Administration.

[FR Doc. 83-28721 Filed 10-20-83; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 31014-202]

Western Pacific Spiny Lobster Fisheries

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule for Amendment 2 to the Fishery Management Plan (FMP) for the Spiny Lobster Fisheries of the Western Pacific Region. After reviewing the problem that new traps not meeting the requirements of current law had been brought into the fishery during the several years required to develop and implement this FMP, the Western Pacific Fishery Management Council (Council) concluded that trap entryway requirements should be changed. The intended effect of this action is to allow the use of a wider variety of lobster traps in the spiny lobster fishery in the Northwestern Hawaiian Islands (NWHI) while still affording protection for the Hawaiian monk seal.

DATE: Comments are invited until December 2, 1983..

ADDRESSES: Comments should be addressed to Floyd S. Anders, Jr., Acting Regional Director, National Marine Fisheries Service (NMFS), Southwest Region, 300 South Ferry Street, Room 2016, Terminal Island, California 90731. Copies of the amendment, environmental assessment, and regulatory impact review are available by writing to either Floyd S. Anders or Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (NMFS, Southwest Region), 213-548-2518.

SUPPLEMENTARY INFORMATION: On February 7, 1983, regulations implementing the FMP were published in the **Federal Register** (48 FR 5560) with an effective date of March 9, 1983. The FMP was approved on April 12, 1982.

To protect the monk seal, the entryway measurements of existing traps were adopted and specified by the regulations implementing the FMP. This was done because (1) the existing traps were being used in the fishery with no documented monk seal problems and (2) the opening was small enough (6½ inches) that, based upon cranial measurements of monk seals, most could not get their heads inside the trap. The Council adopted the trap entryway measurements in the FMP because they concluded that the restriction would not disrupt the fishery and that it would prevent the future use of traps with larger openings which might be dangerous to the seals. Soon after the publication of the final regulations, NMFS determined that many of the lobster traps in use in the spiny lobster fishery in the NWHI did not meet the entryway requirements. During the period between FMP development and implementation, new traps had been brought into the fishery.

After reviewing the problems associated with trap entryways, the Council concluded that monk seals could still be protected from becoming caught in the entryways of traps, and that the fishermen's ability to use a greater variety of traps could be enhanced and their financial hardships minimized, by changing the entryway regulation. The Council voted unanimously on May 24, 1983, at a Council meeting in Honolulu to change the entryways regulation and to request the Secretary of Congress (Secretary) to implement emergency regulations to make the change. An emergency interim regulation was approved on June 27, 1983, and published in the **Federal Register** (48 FR 31655) on July 11, 1983. The regulation was effective for 90 days, from July 6, 1983, to October 11, 1983.

The **Federal Register** rule of July 11, 1983, that changed the trap entryway requirement, provided background information on how the original trap entryways were established in the spiny lobster fishery to prevent the possible entrapment of monk seals. Section 681.24(b) of the regulation that implemented the FMP required that "an entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the larger end, and no greater than 6½ inches in its greatest diagonal or diameter at the smaller end." The emergency rule changed § 681.24(b) to read "the smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap."

Approval of Amendment 2 will make the emergency regulation permanent. Because the public review period of the amendment will extend beyond October 11, the emergency interim rule has been extended an additional 90 days, from October 11, 1983, to January 9, 1984, under § 305(e)(3)(B) of the Magnuson Fishery Conservation and Management Act (48 FR 46342, October 12, 1983).

Options, Costs, and Benefits

Amendment 2 presents the economic and environmental costs and benefits of four alternatives to manage the lobster trap problem: (1) take no action and enforce the regulations as they stand; (2) allow lobster traps to have inner openings larger than 6.5 inches; (3) exempt lobster traps in use as of March 9, 1983, from entryway restrictions but require that traps brought into the fishery after that date have the specified entrance measurements; and (4) amend § 681.24(b) of the regulations to eliminate the outer opening requirement and change the method of measuring the inner opening.

Alternative 4 is the preferred option; it will continue to protect the monk seal while preventing economic loss to the fishermen by allowing the continued use of existing traps and by allowing a wider variety of traps in the fishery. Alternative 1 protects monk seals, but results in the elimination of existing gear and an economic loss to the fishermen. Alternative 2 is the most economical and allows maximum flexibility for the fishermen but it may have a detrimental effect on monk seals. Alternative 3 will protect monk seals and minimize costs to the fishermen in the short term, but it will not protect them as much as alternative 4. It imposes long-term costs on the fishermen and it will require higher enforcement costs.

The change in the trap entryway requirements proposed by alternative 4 will maintain a 6.5 inch measurement to prevent the possible entrapment of monk seals, while allowing the use of a wider variety of traps in the lobster fishery of the NWHI. Enforcement costs and costs to the fishermen are minimized by this approach.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by Pub. L. 97-453, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of an EMP amendment and regulations. At this time, the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment, which is included in the amendment, from the Council at the address listed above.

The Administrator of NOAA has determined that the regulations implementing this amendment are not major under Executive Order 12291 and that they do not require a regulatory impact analysis. Since the action proposed by this amendment is essentially a clarification of existing regulations, a negative economic impact of no greater than $2,000.00 is projected, with the possibility of increasing the economic benefits from the fishery up to $180,000.00 per year. The Council prepared a regulatory impact review which concludes that this rule will have the following economic benefits:

1. Economic benefits will improve for the commercial fishermen because a wider variety of traps can be used in the fishery. Also, fishing with some of the traps may be more efficient.

2. Enforcement costs will be lowered because the measuring of the traps will be simpler under the new rule.

3. The employment impacts will be negligible.

You may obtain a copy of this regulatory impact review, which is included in the amendment, from the Council at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97-453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the amendment allows greater flexibility in the use of fishing gear which results in savings to individual fishermen. As a result, a regulatory flexibility analysis was not prepared.

Although the proposed regulations modify the existing regulations there is no requirement for any new "collection of information" as defined in the Paperwork Reduction Act (44 U.S.C. 4501 *et seq.*).

In response to a letter from the Council stating that this proposed rule will be implemented in a manner consistent to the maximum extent practicable with the approved coastal zone management programs of Hawaii, in accordance with § 307 of the Coastal Zone Management Act, the Hawaii Department of Planning and Economic Development on August 17, 1983, informed the Council that Amendment 2 is consistent with the Hawaii Coastal Zone Management Plan.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: October 18, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

For reasons set out in the preamble, 50 CFR Part 681 is proposed to be amended as follows:

1. The authority citation for Part 681 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 681.24 paragraph (b) is revised to read as follows:

§ 681.24 Gear restriction.

* * * * *

(b) The smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap.

[FR Doc. 83-28770 Filed 10-18-83; 4:50 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 205
Friday, October 21, 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

Agricultural Marketing Service

Tobacco Inspection; David T. Stephenson III, and Joseph L. Boyett; Public Hearing Regarding Application

Notice is hereby given of a public hearing to be held in the Main Courtroom, Ware County Courthouse, corner of Albany Avenue and Church Street, Waycross, Georgia, beginning at 10:00 a.m., e.s.t. on November 1, 1983, upon the application of Mr. David T. Stephenson, III, Waycross Tobacco Warehouse, Inc., Waycross, Georgia, and Mr. Joseph L. Boyett, Big Z Tobacco Warehouse, Inc., Blackshear, Georgia, for tobacco inspection and price support services to a new market which would be a consolidation of the currently designated markets of Waycross and Blackshear, Georgia. Such public hearings will be conducted and evidence received governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR Part 29, Subpart A, §§ 29.1–29.3).

Dated: October 19, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-28802 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

1983-Crop Honey Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1983-crop honey loan and purchase rates.

SUMMARY: This notice affirms determinations made by the Secretary of Agriculture on April 7, 1983 with respect to the level of price support and loan and purchase rates for the 1983 crop of honey.

These determinations have been made in order to make price support available with respect to eligible producers of 1983-crop honey in accordance with section 201 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

EFFECTIVE DATE: April 7, 1983.

ADDRESS: Director, Cotton, Grain and Rice Price Support Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, (202) 447–7935.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memoradum 1512–1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, 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 U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases: Number: 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for honey is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. In accordance with section 201 of the Act, loans or purchases are required to be made available to producers of 1983-crop honey at a level not in excess of 90 percentum nor less than 60 percentum of the parity price therefor. Section 401(b) of the Act sets forth certain factors to be taken into consideration in determining the level of support in excess of the specified minimum. In addition, section 403 of the Act provides that appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined under the Act.

On February 11, 1983, a notice of proposed determinations was published in the **Federal Register** (48 FR 6375) requesting comments with respect to certain determinations for the 1983 crop of honey. Such determinations included price support rates based on color, differentials, class, grade, and the program availability period. Comments were received for a period of 30 days.

There were seven responses received through March 14, 1983, all of which favored the continuation of loans on, and purchases of, honey. Five of the responses dealt with the impact of restrictions on the importation of honey into the United States on the domestic honey market and on program operations. Three commenters favored import controls while two others objected to any type of import restrictions. These comments were not considered since they were not responsive to the request for comments involving the determinations which were to be made with respect to the 1983 Honey Price Support Program.

Two of those commenting favored implementation of a deficiency payment program because they claim it would reduce costs and allow domestic producers to effectively compete for the domestic honey market. These comments were not adopted because there is no current statutory authority to implement a deficiency-type payment program for honey. One other commenter recommended establishing the level of price support for honey at 53 percent of parity rather than 60 percent. Current legislation requires, however, that honey must be supported at a level not in excess of 90 percent nor less than 60 percent of the parity price.

Other comments concerned: (1) The retention of containers by the Commodity Credit Corporation (CCC) when honey is delivered in satisfaction

for a loan; and (2) the establishment of price support loan and purchase rates for dark table honey and nontable honey at the same rate regardless of color and class. The suggestions made by these commenters have not been adopted. CCC take title to *both* the honey and the container because it would be too costly and time-consuming to empty, clean and return the containers to the producer. Also, the determination to increase the rate for the 1983-crop of "white and lighter", "extra light amber", and "light amber" honey by 2 cents per pound was made to account for the increase in market differentials now existing between such grades and "other table honey" and "nontable honey."

The determinations set forth herein to establish the loan and purchase rate for the 1983 crop of honey at the minimum statutory level of 60 percent of parity (i.e., 62.5 cents per pound) was reached after taking into consideration the responses received, statutory considerations, and other factors. Establishing the loan and purchase rate for the 1983 crop of honey at the minimum statutory level should provide beekeepers reasonable price and income protection and should also provide them with interim financing to permit the orderly marketing of their honey. The loan and purchase rates determined herein reflect the level of support determined for the 1983 crop of honey.

This notice of determination also sets forth the discounts applicable to the 1983 crop of honey.

Since the only purpose of this notice is to affirm determinations which were announced by the Secretary with respect to the 1983 crop of honey in a press release issued on April 7, 1983, it has been determined no further public rulemaking is required with respect to the following determinations:

Determinations

(a) *Level of support.* The level of price support for the 1983 crop of honey has been established at 60 percent of parity. The loan and purchase rate for the 1983 crop has been determined to be 62.2 cents per pound.

(b) *Loan and Purchase Rates.* (1) *Table and nontable honey.* The rate for the quantity of 1983-crop honey pledged as price support loan collateral or acquired by the Commodity Credit Corporation under its purchase program shall be the rate for the respective class and color set forth below:

	Cents/pound
(1) Table honey:	
(A) White and lighter	64.4
(B) Extra light amber	61.4
(C) Light amber	56.4
(D) Other table honey	54.4
(2) Notable Honey	54.4

(2) *Objectionable flavor, fermentation, or caramelization.* The settlement value for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of objectionable flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the loan and purchase rate for nontable honey.

(3) *Grade not certified.* The settlement value for a lot of honey, delivered in satisfaction of a loan or under a purchase agreement for which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(4) *Substandard.* The rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of defects or moisture or a combination of the defects and moisture shall be adjusted by the discounts in (c) below.

(c) *Discounts.* (1) *Defects.* The loan and purchase rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of defects shall be adjusted by the following discount:

	Discount (cents per lb)
Substandard on account of defects	2

(2) *Moisture.* (1) The loan and purchase rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement shall be adjusted by the following discounts for the moisture content indicated, which shall be in addition to the discount for defects:

Moisture percent	Discount (cents per pound)
(i) 0 to 18.5	0
(ii) 18.6 to 19.0	3
(iii) 19.1 to 19.5	6
(iv) 19.6 to 20.0	9

(ii) The loan and purchase rates for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which contains moisture in excess of 20.0 percent shall be the lower of the market price as determined by CCC or the support rate for nontable honey. This rate may be further discounted for defects.

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421))

Signed at Washington, D.C. on October 18, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-28699 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 83-10-54]

Application of Southern Air Transport, Inc. for Unused Authority Under Section 401(d)(5)

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause Order (83-10-54).

SUMMARY: The Board is proposing to find Southern Air Transport, Inc. fit, willing and able to operate unused authority under section 401(d)(5) in the San Juan, Puerto Rico-St. Croix, Virgin Islands and San Juan-St. Thomas, Virgin Islands markets, and to approve various control and interlocking relationships involving Southern, Caribbean Air Services, Inc., CASI Holding, Inc., and Mr. Howard Bastian.

DATES: Objections: All interested persons having objections to the Board's tentative fitness determination shall file, and serve upon all persons listed below no later than November 2, 1983, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Responses shall be filed in docket 41280 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon Southern Air Transport, the mayors and airport managers of San Juan, Puerto Rico, St. Croix and St. Thomas, U.S. Virgin Islands, the Department of Justice, the Department of Transportation, the Federal Aviation Administration, and the U.S. Postal Service.

FOR FURTHER INFORMATION CONTACT: Phyllis Solomon, Bureau of Domestic

Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-54 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 83-10-54 to that address.

By the Civil Aeronautics Board: October 14, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28746 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended October 7, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 4, 1983	41736	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Application of Eastern Air Lines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 59 so as to authorize service between the terminal point San Juan, Puerto Rico, and the terminal point Caracas, Venezuela. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 18, 1983.
Do	41737	Arrow Air, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, 1211 Connecticut Ave., NW., Suite 300, Washington, D.C. 20036. Conforming Application of Arrow Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: Between San Juan, Puerto Rico, and Caracas, Venezuela. Answers may be filed by October 18, 1983.
Oct. 5, 1983	41741	Airmark Corporation, c/o Aidan D. Jones, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, 1120 Connecticut Avenue, NW., Washington, D.C. 20036. Application of Airmark Corporation pursuant to Section 401 and Subpart Q of the Board's Procedural Regulations requests charter service in foreign air transportation of passengers and their property as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possesion of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Carribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; and (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 2, 1983.
Do	41742	Airmark Corporation, c/o Aidan D. Jones, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, 1120 Connecticut Ave., NW., Washington, D.C. 20036. Application of Airmark Corporation pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a determination of fitness and certificate of public convenience and necessity to provide charter interstate and overseas air transportation. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 2, 1983.
Oct. 7, 1983	41748	Pan Aero International, c/o Harry A. Bowen, Bowen and Atkin, Suite 350, 2020 K Street, NW., Washington, D.C. 20006. Application of Pan Aero International pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate authorizing Pan Aero to engage in scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories, and possessions. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 4, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28745 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See 14 CFR 302.1701 et seq.); Week Ended October 14, 1983

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 13, 1983	41755	Rainbow Air, Inc., c/o Harry A. Bowen, Bowen & Atkin, 2020 K Street, NW., Suite 350, Washington, Washington, D.C. 20006 Application of Raibow Air, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in foreign charter air transportation of persons and property as follows: Between any point in any state of the United States or the District of Columbia, or any United States territory or possession and (a) points in Canada;

Date filed	Docket No.	Description
Do	41756	(b) points in Mexico; (c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) points in Central and South America; (e) points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; and (f) points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 10, 1983. Rainbow Air, Inc., c/o Harry A. Bowen, Bowen & Atkin, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Application of Rainbow Air, Inc., pursuant to Section 401 at the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas air transportation of persons, property and mail as follows: Between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions of Modify Scope and Answers may be filed by November 10, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28748 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41321; Order 83-10-67]

British American Air Inc. Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *British American Air, Inc. Fitness Investigation:* Order 83-10-67, Docket 41321.

SUMMARY: The Board is instituting the *British American Air, Inc. Fitness Investigation* (1) to determine the fitness of the applicant to operate foreign scheduled air transportation of persons, property, and mail between the United States and Belgium, The Netherlands, Luxembourg and Hong Kong and to comply with the Act and our rules, regulations and requirements; and (2) to approve, exempt, or disclaim jurisdiction over any interlocking or control relationships which may exist under sections 408 and 409 of the Act. The complete text of Order 83-10-67 is available as noted below.

DATES: Requests for additional evidence and petitions for leave to intervene shall be filed by November 10, 1983.

ADDRESS: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41321 and on: British American Air, Inc.; Northwest Airlines, Inc.; Transamerica Airlines, Inc.; the Departments of Transportation of California and Hawaii; The Mayors and airport managers of Burbank, Los Angeles, Long Beach, Ontario, and San Francisco, and Honolulu, Hawaii; the U.S. Departments of State and Transportation; the U.S. Attorney General; the Ambassadors of the United Kingdom, the Netherlands, Belgium, and Luxembourg in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-67 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-67 to that address.

By the Civil Aeronautics Board: October 17, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28747 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41679; Order 83-10-56]

Fitness Investigation of Bicoastal Air Service, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Bicoastal Air Service Fitness Investigation,* Order 83-10-56, Docket 41679.

SUMMARY: The Board is instituting an investigation to determine the fitness of Bicoastal Air Service to engage in interstate and overseas scheduled air transportation.

DATES: Persons wishing to intervene or proposing to request additional evidence in the *Bicoastal Air Service Fitness Investigation* shall file their petitions in Docket 41679 by October 28, 1983.

ADDRESSES: Petitions to intervene and requests for additional evidence should be filed in Docket 41679 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John F. Brennan, 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 83-10-56 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 83-10-56 to that address.

By the Bureau of Domestic Aviation: October 14, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28742 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41526]

Key Airlines, Inc., Fitness Investigation; Resumption of Hearing

Notice is hereby given that a resumption hearing in the above-entitled matter is assigned to be held on October 26, 1983, at 9:30 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., October 17, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-28744 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned

to commence on November 29, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave. NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., October 13, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-28745 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

American National Metric Counsel Proposed Metrication Plan Guideline With the Office of Metric Programs

ACTION: Solicitation of comments.

SUMMARY: In cooperation with the Office of Metric Programs, Department of Commerce, the American National Metric Council's Aerospace Sector Committee seeks comments on its *Aerospace Sector Committee Metrication Plan.*

DATE: All comments should be submitted no later than November 30, 1983.

ADDRESS: Mr. Philip M. Gulak, Program Manager, Aerospace Sector Committee, American National Metric Council, 5410 Grosvenor Lane, Bethesda, Maryland 20814. Telephone: Area Code 301-530-8333.

SUPPLEMENTARY INFORMATION: The Department of Commerce has been assigned certain responsibilities under the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007, 15 USC 205a-205k) and other legal authorities principally to perform metric coordination among Federal agencies and between the Federal and State Government as well as the private sectors.

The American National Metric Council is a private, non-profit organization which acts as a representative of the private sector in formulating and coordinating industrywide metric conversion plans. The Council's Aerospace Sector Committee seeks comments on its proposed metric transition plan entitled *Aerospace Sector Committee Metrication Plan.* The plan is intended to serve as a guide to generate future aerospace sector metric transition planning and activity.

Comments are being sought from industry, interested trade associations, State Governments, and Federal agencies, and any other interested parties. The plan has been under development since December 1975 and incorporates comments received from circulation of prior draft plans. Interested parties are urged to review the proposed plan and submit their comments.

Copies of the proposed plan are available by contracting Mr. Philip M. Gulak at the above cited address or telephone number.

Dated: October 14, 1983.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 83-28752 Filed 10-20-83; 8:45 am]

BILLING CODE 3510-18-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel; Meeting

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

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The main purpose of the meeting is to discuss four panel subgroup reports on: (1) Accountability and responsibility, (2) research, (3) education, and (4) advisory service of the Sea Grant Program.

DATE: The announced meeting is scheduled for November 29, 1983, from 8:30 a.m. to 2 p.m.

ADDRESS: The meeting will be held at: Herbert Hoover Building (Main Commerce Building), 14th and Constitution Avenues, NW., Room 4830, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8894.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Pub. L. 94-461. This Act, signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this Program.

The agenda for the meeting is:

8:30-12:00

Discussion of four panel subgroup reports on:

(1) Accountability and Responsibility
(2) Research
(3) Education
(4) Advisory Services

1:00-2:00

"Post mortem" of University of Washington Recertification review

The meeting will be open to the public.

Dated: October 12, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

[FR Doc. 83-28648 Filed 10-20-83; 8:45 am]

BILLING CODE 3510-12-M

Civil Operational Remote Sensing Satellite Advisory Committee; Meetings

AGENCY: National Environmental Satellite, Data, and Information Service, NOAA.

ACTION: Notice of Two Partially Closed Meetings.

SUMMARY: The Civil Operational Remote Sensing Satellite Advisory Committee (formerly the Land Remote Sensing Satellite Advisory Committee) was established on September 6, 1983, to advise the Secretary of Commerce on the Department's responsibilities for the civil operational land and weather satellites. The Advisory Committee's subcommittee, the Working Group on Commercialization, consists of members appointed by the Chairman from the parent Committee.

Agenda

The Working Group will evaluate the draft Request for Proposals (RFP) for the civil operational land and weather satellite systems from the perspective of non-Federal views and requirements. The Working Group's report will be considered by the parent Committee in formulating recommendations to the Secretary of Commerce. The Working Group and the full Committee plan closed sessions of up to three hours duration to evaluate the RFP's classified annex covering national security. All other parts of both meetings will be open to the public.

Location and Date

The partially closed meeting of the Working Group on Commercialization will be held at the Mackay School of Mines, University of Nevada-Reno.

Reno, Nevada 89557, from 9:00 a.m. on Wednesday, October 26, 1983, to about 4:30 p.m. on Friday, October 28, 1983. The closed session for the Working Group meeting will occur on Thursday, October 27, from 9:00 a.m. to 12:00 p.m. The partially closed meeting of the Civil Operational Remote Sensing Satellite Advisory Committee will be held in Conference Room 4830, Herbert C. Hoover Building, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, from 9:00 a.m. on Thursday, November 17, 1983, to about 3:30 p.m. on Friday, November 18, 1983. The morning session on Friday, November 18, 1983, will be closed from 9:00 to 10:00 a.m. All other parts of the November meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Contact the Committee's Executive Secretary, Dr. Richard J. Keating, (301) 763–5904, or the Committee Staff Officer, Ms. Peggy Harwood, (301) 763–7821, External Relations Staff, NOOA/NESDIS (E/ER), Washington, D.C. 20233.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce with the concurrence of the General Counsel, formally determined on October 19, 1983 pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed sessions should be exempt from the provisions of the Act relating to open meetings and public participation because the discussions are likely to disclose classified information within the purview of 5 U.S.C. 552b(c)(1). A copy of the determination is available for public inspection and copying in the Public Reading Room Central Reference and Record Inspection Facility, Room 6628, Department of Commerce.

Dated: October 19, 1983.

Samuel A. Lawrence,

Director, Office of Administration and Technical Services.

[FR Doc. 83-28847 Filed 10-20-83; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Advisory Committee on the Air Force Historical Program; Meeting

October 7, 1983.

The Advisory Committee on the Air Force Historical Program will hold a meeting on November 30, 1983 from 8:30 a.m. to 4:00 p.m. and December 1, 1983 from 8:00 a.m. to 12:00 noon at Bolling Air Force Base (AFB), D.C., Building 5681, Office of Air Force History's 4th Floor Conference Room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open to the public. Topics to be discussed include: organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Lt Col Elliott Converse, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767–5764.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28846 Filed 10-20-83; 8:45 am]

BILLING CODE 3910-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Existing Collection in Use Without an OMB Control Number

Chaplain Candidate Training Record (ARPC Form 0–5).

The information collection is necessary to identify chaplain candidates and to schedule tours of active duty training. It is also used to readily identify trained candidates awaiting reappointment.

All individuals who apply for appointment as chaplain candidates or chaplains: 90 responses, 30 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from Ms. Sandy Mosley, HQ ARPC/HC, Denver, Colorado 80280, telephone (303) 370–4901.

Dated: October 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-28725 Filed 10-20-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Meeting Change

October 17, 1983.

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Army Utilization of Space, which was announced in the **Federal Register** issue of 14 October 1983 (48 FR 46835):

DATES OF MEETING: Monday and Tuesday, 14 and 15 November 1983 (instead of Thursday and Friday, 3 and 4 November 1983).

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28720 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Change

October 17, 1983.

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense, which was announced in the **Federal Register** issue of 22 September 1983 (48 FR 43214):

DATES OF MEETING: Thursday and Friday, 17 and 18 November 1983 (instead of Wednesday and Thursday, 9 and 10 November 1983).

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28719 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of meeting: Wednesday & Thursday, November 16 and 17, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Updating Old Equipment will meet for classified briefings and discussions on various currently fielded equipment and systems and for status reports from panel members on their assigned topics. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5 U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, Subsection 10(d). The classified and nonclassified matters to be discussed are so inextricable interwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner

Administrative Officer.

[FR Doc. 83-28727 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, November 21, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: After a series of preparatory classified briefing and discussion sessions, the Army Science Board Ad Hoc Subgroup on Near Term Implementation of "How to Fight" will meet for an executive report writing session. The subgroup's task is to determine necessary procurement adjustments in the 1985 budget to bring off fully-integrated Airland Battle capabilities by the end of 1986. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Adminstrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28728 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of Meeting: Tuesday, November 22, 1983.

Times: 0830–1700 hours (Closed).

Place: HQS III Corps, Ft. Hood, Texas.

Agenda: The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on operational deterioration of personnel in military operational protective posture dress. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28729 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday, Wednesday, Thursday, November 29 and 30, and December 1, 1983.

Place: 29&30 Nov., Ft. Benning, GA; 1 Dec., Ft. Leavenworth, KS (Open).

Agenda: The ASB Ad Hoc Subgroup on Army Leadership will meet for briefings and discussions addressing the following: (1) What are the quantitative measures between leadership performance and unit performance in the Army?; (2) How can the Army best determine which officers have cognitive capability for integrative thought and appropriate levels of mental abstraction for long term strategic time spans?; (3) Explore mechanisms and processes necessary to firmly link leader development programs to the future; (4) Explore new ways of developing individual systems thinking skills; and (5) Are there cost-effective leadership assessment techniques that the Army has not, but should explore? This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28730 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday and Friday, December 1 and 2, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: After a series of preparatory classified briefing and discussion sessions, the Army Science Board Ad Hoc Subgroup on the Army Decontamination Program will meet for an executive report writing session. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28731 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Thursday, 1 December 1983.

Times: 0830–1700 hours (Closed).

Place: U.S. Army Training & Doctrine Command, Fort Monroe, Virginia

Agenda

The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on the following: Medical Support Systems in the Combat Zone; Impact of Conventional/Chemical Warfare on Medical Support; Medical Force Structure; Aidman Training; Lessons Learned in Recent Conflicts; Self-Aid/Buddy Aid; and Auxiliary Aidman. An executive session will wind up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contracted for further

information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28732 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Tuesday, 8 November 1983.

Times: 0630–1700 hours (Closed).

Place: Hughes Aircraft Company, Fullerton, California

Agenda

The Army Science Board Ad Hoc Subgroup on Acquiring Army Software will meet for finalization of the written report. Much proprietary information was briefed to the subgroup for deliberation and therefore, this meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The proprietary and nonproprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28733 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Construction of the Michigan Transmitter Facility, Elf Communications System; Marquette and Dickinson Counties, Michigan

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (§ 1508.13 of Title 40, Code of Federal Regulations), the Department of the Navy gives notice that an environmental impact statement is not being prepared for the construction of the Michigan Transmitter Facility, ELF Communications System, Marquette and Dickinson Counties, Michigan.

Land acquisition for the proposed facility will be limited to approximately 7 acres of state-owned forest land. All remaining land requirements for the antenna right-of-way, with an approximate effective length of 56 miles, grounding areas and access roads will be obtained by grant-of-easements with respective property owners.

Major aspects of the proposed action include construction of a transmitter building and ancillary support buildings, an access road, vehicle parking areas, fuel storage tanks, fencing around this approximately six-acre complex plus the construction of an overhead single-line antenna system (56 mi), associated grounding system and the provisioning of various utilities associated with the transmitter site facilities. The transmitter facility site is located approximately equal distance from the towns of Republic and Witch Lake in southern Marquette County with a portion of the north-south antenna line extending into northern Dickinson County.

The environmental assessment of the proposed construction deals primarily with the installation of the antenna lines themselves, as the principal effect on the environment, and not with operation of the communications system as that subject has been thoroughly addressed in previous environmental documentation. The Navy has, continuously since the publication in 1977 of its Environmental Impact Statement, reviewed new scientific information on extremely low frequency propagation with the conclusion that there is no credible evidence of adverse effect to human health or the environment. In addition the Navy has established new initiatives in Michigan for ecological monitoring in order to confirm the absence of adverse effects by the communications system.

The loss of approximately 675 acres of native vegetation to create the antenna corridors is the greatest effect associated with the proposed construction. The project area is generally covered by stands of second-growth hardwoods. The area once supported abundant stands of white pine, which were devastated by heavy commercial logging in the mid-to-late 1800s. Some pine stands, which remain today, are still being logged. The loss of what is estimated to be less than 1% of vegetation within the project area is not considered a significant alteration of the local environment, and should not place a significant burden on the forest ecosystem or affect productivity.

In the grounds area (to be constructed at the end of each antenna cable), clearing of trees and other vegetation will be limited. The grounds cable will be plowed into the ground to a minimum depth of 6 feet.

Extensive pre-planning efforts have sited the antenna systems away from sensitive wildlife areas as well as recreation areas. Wetlands were also avoided where possible. Some of these areas included heron rookeries, forest management areas, quiet areas, field trial areas, osprey and eagle (protected species) nesting areas and deer yards. Additionally, development of new wildlife/recreation areas should not be hindered by the proposed ELF construction.

Upon completion of the antenna and grounds systems, the corridors will be revegetated with appropriate grasses and low-growing shrubs. A corridor maintenance plan will be developed for the Navy in consultation with Michigan Department of Natural Resources. Construction roads will be restored and the areas returned to original conditions.

The Navy has conducted a Threatened and Endangered Plant Species Survey along the proposed antenna and grounds corridors. Should any significant species be identified, appropriate mitigative measures (relocation, avoidance, etc.) will be taken. The survey is not yet complete as a plant species survey must be conducted over two seasons (Spring and Fall) and only the Fall survey has been completed.

Finally, the completed grounding system will include approximately twelve (12) vertical wells to the bedrock. The primary effects will be temporary disturbance of the soil environment and related erosion although control measures will minimize the effects. There are no impacts associated with other wildlife or impacts associated with archaeological or cultural resources.

The completed system should not significantly detract from the natural scenic quality of the area. The antenna system will appear as an ordinary utility power line. Right-of-ways (ROW) and grounding areas will appear as common fire breaks through the forested area. Both access roads and ROW's have been designed with bends to avoid extended non-vegetated lines-of-site. Vegetation will be maintained at road and stream crossings to allow for natural views/appearances at these crossing points. ROW's will not be fenced through public lands and hiker and hunter access will be permitted. Likewise, fenced ROW's through private lands will be the option of the landowner. Electromagnetic interference mitigation, if needed, will be provided by the Navy. The transmitter site itself

will be fenced and access will be restricted.

The Environmental Assessment of this action, completed in close cooperation with the Michigan Department of Natural Resources, indicates that construction and operation will not cause significant impacts on the environment. Alternatives included: no action, or the choice of alternate means to fulfill the Navy mission. It is the Navy's belief that the system selected for radio communications significantly enhances the credibility of Fleet Ballistic missile submarines as an effective deterrent and as such has no equivalent alternative. The Environmental Assessment prepared by the Navy addressing this action is on file and may be reviewed by interested parties at both the point of origin, Commander, Naval Electronic Systems Command, Washington, D.C. 20363 [Attn.: Capt. R. L. Koontz, PME 110E, telephone (202) 692-8871)], or at the Environmental Protection, Safety and Occupational Health Division (NOP-45), Office of the Chief of Naval Operations, Room BD766, Pentagon, Washington, D.C. 20350, telephone (202) 697-3639. Additionally, a limited number of copies of the Environmental Assessment are available to fill single-copy requests.

Dated: Ocotober 18, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28670 Filed 10-20-83; 8:45 am]

BILLING CODE 3810-AE-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total numbers of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

EXTENSION

Unit Price Analysis and Unit Price Analysis Summary

The Commander, Naval Sea Systems Command as the coordinator of Shipbuilding, Conversion and Repair is responsible for the design, development, acquisition, modernization, and conversion of Navy Ships. As such, the Commander, has a direct interest in the total naval Shipbuilding Budget. The Unit Price Analysis and Unit Price Analysis Summary are required from all Shipbuilders bidding on New Construction, conversions and small craft. The information from these forms is used by NAVSEA to validate the bidders price. The unit price analysis sheets are used after contract award to help in preparing budget estimates for awards of like or similar ships.

Respondents are private shipyards and other contractors bidding on naval construction and conversion. The Naval shipbuilding budget includes approximately 15 ships per year and an equal amount of small craft and approximately six bidders bid on each procurement for a total of 180 responses. Estimated hours needed to provide the information on NAVSEA 4280/2 is 600 and on NAVSEA 4280/2A is 800.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Commander, Naval Sea Systems Command (SEA 017), Department of the Navy, Washington, D.C. 20362, telephone (202) 692-0720.

Dated: October 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-28724 Filed 10-20-83; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2455-8]

Availability of Environmental Impact Statements Filed October 10 Through October 14, 1983 Pursuant to 46 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or (202) 382-5076.

EIS No. 830554, Final, HUD, OH, Beckett Ridge Residential Development, Mortgage Insurance, Butler, Co., Due: Nov. 21, 1983.

EIS No. 830555, Final, FHW, CA, I-80 Improvement, Auburn Ravine Undercrossing to E. Auburn Overhead, Due: Nov. 21, 1983.

EIS No. 830556, Final, FHW, OR, Umatilla-Stanfield Highway/US 395 Improvement, Umatilla County, Due: Nov. 21, 1983.

EIS No. 830557, Final, COE, VA, Willoughby Spit/Vicinity Hurricane Protection & Beach Erosion Control, Due: Nov. 21, 1983.

EIS No. 830558, Draft, FHW, WA, Mildred Street Improvement, 6th Ave. to North 17th St., Pierce County, Due: Dec. 5, 1983

EIS No. 830559, Final, FHW, NY, I-508 (I-88/I-81 Connector) Completion, Broome County, Due: Nov. 21, 1983.

EIS No. 830560, Final, BLM, SEV, UT CO Uinta-SW Utah Coal Region Development, Round Two Leasing, Due: Nov. 21, 1983.

EIS No. 830561, Draft, FHW, NC, Benjamin Parkway Ext., Benjamin Pkwy to Airport Pkwy, Guilford County, Due: Dec. 5, 1983.

EIS No. 830562, Draft, COE, GU, Merizo Small Boat Harbor Construction, Merizo, Territory of Guam, Due: Dec. 5, 1983.

Amended Notices:

EIS No. 820389, Draft, FHW, GA, Lakewood Freeway/I-420 Ext., I-75/I-85 to I-20, Fulton & DeKalb Cos., published **Federal Register** June 18, 1982—Officially withdrawn.

EIS No. 830458, Draft, UAF, SEV, UT NV Gandy Range Supersonic Flight Training Area, Hill AFB, Published **Federal Register** Aug. 26, 1983—Review extended, Due: Oct. 14, 1983.

Dated: October 18, 1983.

Allan Hirsch,

Director, Office of Federal Activities

[FR Doc. 83-28760 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51489; TSH-FRL 2455-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-eight PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–14 and 84–15, January 4, 1984.
PMN 84–16, 84–17, 84–18, 84–19, 84–20, 84–21, 84–22, 84–23 and 84–24, January 8, 1984.
PMN 84–25, 84–26, 84–27, 84–28, 84–29, 84–30, 84–31, 84–32, 84–33, 84–34, 84–35 and 84–41, January 9, 1984.
PMN 84–36, 84–37, 84–38, 84–39 and 84–40, January 10, 1984.

Written comments by:

PMN 84–14 and 84–15, December 5, 1983.
PMN 84–16, 84–17, 84–18, 84–19, 84–20, 84–21, 84–22, 84–23 and 84–24, December 9, 1983.
PMN 84–25, 84–26, 84–27, 84–28, 84–29, 84–30, 84–31, 84–32, 84–33, 84–34, 84–35, and 84–41, December 10, 1983.
PMN 84–36, 84–37, 84–38, 84–39 and 84–40, December 11, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51489]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–14

Manufacturer. Spencer Kellogg Division of Textron Inc.

Chemical. (G) Polyurethane prepolymer resin.

Use/Production. (G) A coating to be used in an open, non-dispersive manner. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–15

Importer. Confidential.

Chemical. (G) Substituted heterocyclic metal complex.

Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hrs (Rainbow trout): 10–100 mg/l; IC_{50} bacteria: >100 mg/1.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on site biological treatment sytstem.

PMN 84–16

Manufacturer. Confidential.

Chemical. (G) Epoxy urethane

Use/Production. (G) Adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–17

Importer. Confidential.

Chemical. (G) Substituted heterocyclic metal complex.

Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hrs (Rainbow trout): 10–100 mg/l; IC_{50} bacteria: >100 mg/l.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on site biological treatment system.

PMN 84–18

Manufacturer. ARCO Chemical Company.

Chemical. (S) 1(1,1 dimethylethoxy)-propan-2-o1.

Use/Production. (S) Commercial and consumer solvent for cleaners and coatings. Prod. range: 2,000,000–10,000,000 kg/yr.

Toxicity Data. Acute oral: 3.7 gm/kg; Acute dermal: 2.0 gm/kg; Irritation: Skin—Slight, Eye—Severe; Inhalation LC_{50} 4 hr: 485 parts per million (ppm).

Exposure. Manufacture: Dermal, a total of 7 workers, up to 4 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Disposal by publicily owned treatment works (POTW).

PMN 84–19

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Tolylene diisocyanate polymer with acrylated glycols.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 4 gm/kg; irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manfacture and disposal: dermal, a total of 7 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–20

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Methylene bis (4-isocyanatocyclohexane) polymer with acrylated glycols.

Use/Production. (S) Industrial coating. Prod. range: 0–40,000 kg/yr.

Toxicity Data. Acute oral: 5 gm/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 6 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–21

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Polybutanediol acrylate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Mild, Eye—Minimal.

Exposure. Manufacture, processing, and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 150 da/yr.

Environmental Release Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–22

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Isophorone diisocyanate polymer with acrylated diols.

Use/Production. (S) Component of industrial coating for fiber optics. Prod. range: 0–400,000 kg/yr.

Toxicity Data. Acute oral: 4.5 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.

Exposure. Manufacture, processing, and disposal: dermal, a total of 8 workers, up to 2 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–23

Manufacturer. Fairad Technology, Inc.

Chemical. (G) 1,4-cyclohexylene diisocyanate polymer with acrylated diols.

Use/Production. (S) Component of industrial coating. Prod. range 0–200,000 kg/yr.

Toxicity Data. Acute oral: 4.0 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.

Exposure. Manufacture, processing and use: dermal, a total of 8 workers, up to 2 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–24

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Methylene-bis (cyclohexyl isocyanate) polymer with acrylated diols.

Use/Production. (S) Component of industrial and fiber optic coating. Prod. range: 0–500,000 kg/yr.

Toxicity Data. Acute oral: 5.0 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 2 hrs/da, up to 175 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–25

Manufacturer. Confidential.

Chemical. (G) Titanium alcohol complex.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Severe; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–26

Manufacturer. Confidential.

Chemical. (G) Alkoxy functional polydimethylsiloxane.

Use/Production. (G) Open non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg: Acute dermal: >2,000 mg/kg; Irritation: Skin—Non irritant, Eye—Non irritant; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–27

Manufacturer. Confidential.

Chemical. (G) Polyol carboxylate ester.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral: 3.1 g/kg; Acute dermal: >5.0 g/kg; irritation: Skin—Slight, eye—Substantial; Ames Test: Not mutagenic; Skin sensitization: Positive.

Exposure. Manufacture, processing, use and disposal: dermal and ocular, a total of 33 workers, up to 6 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. 10–1,000 kg/yr released to water with less than 10 to 1,000 kg/yr to land. Disposal by POTW, incineration and approved landfill.

PMN 84–28

Manufacturer. Confidential.

Chemical. (G) Flexibilized dicyclopentadiene modified unsaturated polyester resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by incineration and landfill.

PMN 84–29

Manufacturer. Confidential.

Chemical. (G) Ethylene terpolymer.

Use/Production. (S) Film, blow molding, extrusions, rotational moldings, injection moldings, and sheeting. Prod. range: Confidential.

Toxicity Data. No date submitted.

Exposure. Manufacture and use: dermal, a total of 1,100 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill or recycling.

PMN 84–30

Manufacurer. Confidential.

Chemical. (G) Modified polyethylene ionomer.

Use/Production. (S) Injection, rotational, blow molding, film and sheet extrusion. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 500 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration, landfill or recycling.

PMN 84–31

Manufacturer. Confidential.

Chemical. (G) Modified polyethylene ionomer.

Use/Production. (S) Injection, rotational, blow molding, film and sheet extrusion. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 500 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. No realease. Disposal by incineration, landfill or recycling.

PMN 84–32

Manufacturer. Confidential.

Chemical. (G) Aminomethylene phosphonic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,000–4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Severe.

Exposure. Confidential.

Environmental Release/Disposal. No release. Disposal by waste water treatment facility.

PMN 84–33

Manufacturer. Confidential.

Chemical. (G) Phosphorus containing aminosilane.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Moderate; Inhalation LC_{50}: >26.7 mg/1; LC_{50} (Daphnia magna): 2,000 mg/L; LC_{50} (Fathead minnow): 3,500 mg/L; BOD Day 5: 14–16% Th OD.

Exposure. Confidential.

Environmental Release/Disposal. No release. Disposal by waste water treatment facility.

PMN 84–34

Manufacturer. Confidential.

Chemical. (G) Aliphatic polycarbonate diol.

Use/Production. (S) Industrial and commercial intermediate for synthesizing polyurethane and polyester polymers. Prod. range: 8,000–30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 2 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. No release.

PMN 84–35

Importer. Confidential.

Chemical. (G) (Substitutedphenyl) (heterocyclesubstituted alkyl) ketone.

Use/Import. (G) Non-dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: 1,800 mg/kg; Acute dermal: >12,000 mg/kg; Irritation: Skin—Minimal, Eye Minimal; Ames Test: Postitve with activation, negative without activation; Skin sensitization: Not a sensitizer; COD: 1,946 mg O_2/g; Biodegradability: Not readily biodegradable; LC_{50} 96 hr (Zebra fish): 9.8 ppm; EC_{50}24 hr (Daphnia magna): 18.0 ppm; Nucleus anomaly test negative; Sister chromatid exchange: Negative; L5178Y/TK^+: Negative.

Exposure. Import: dermal and inhalation, up to 2–4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Up to 100 kg/yr released to air. Disposal by incineration and landfill.

PMN 84-36

Importer. Confidential.

Chemical. (G) Substitute heterocyclic metal complex.

Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Nonirritant; TOC: 50–100%; LC_{50} 48 hr (Rainbow trouts): 10–100 mg/L; IC_{50} bacteria: >100 mg/1.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on-site biological treatment system.

PMN 84-37

Manufacturer. Texaco Chemical Company.

Chemical. (S) Poly[oxy(methyl-1m2-ethanediyl)], alpha-hydroomega-(2-amino-2-methyl)ethoxy-, ether with 1,2,3-propanetriol (3:1).

Use/Production. (S) Industrial and commercial urethanes and epoxy. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,690 mg/kg; Acute dermal: >12.5 gm/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up to 75 da/yr.

Environmental Release/Disposal. No release.

PMN 84-38

Manufacturer. Superior Varnish and Drier Company.

Chemical. (G) Oil modified polyester.

Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr.

Environmental Release/Disposal. No release.

PMN 84-39

Manufacturer. Superior Varnish and Drier Company.

Chemical. (G) Oil free polyester.

Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr

Environmental Release/Disposal. No release.

PMN 84-40

Manufacturer. Superior Varnish and Drier Company.

Chemical. (G) Oil modified polyester.

Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr

Environmental Release/Disposal. No release.

PMN 84-41

Manufacturer. Confidential.

Chemical. (G) Metal complex with amine fatty acid salt.

Use/Production. (S) Elastomer additive, open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral; >4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant; LC_{50} 48 hr (Daphnia magna): 267 mg/L; LC_{50} 96 hr (Fathead minnow): 3,200 mg/L.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted. Disposal by industrial waste treatment facility.

Dated: October 14, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83-28706 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

Science Advisory Board

[OPP-FRL-2456-3]

Environmental Health Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a one-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on November 10, 1983, in Conference Room 3906-3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. and adjourn no later than 4:30 p.m.

A principal purpose of the meeting will be to review and comment on the scientific adequacy of two draft health assessment documents prepared by the Office of Health and Environmental Assessment of EPA's Office of Research and Development. The titles and publication numbers of the two documents are:

Title	EPA No.
Health Assessment Document for Chromium.	EPA-600/8-83-014A, July 1983.
Health Assessment Document for Manganese.	EPA-600/8-83-013, June 1983.

The draft documents are available in single copy quantity from EPA at the following address: ORD Publications Office, Center for Environmental Research Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone: (513) 684-7562. Requestors should be sure to cite the EPA number assigned to the document.

The agenda will also include discussion of suggested upcoming issues for Environmental Health Committee review, brief reports, and informational items of current interest to the Members.

The meeting will be open to the public. Any menber of the public wishing to attend, participate, submit a paper, or wishing further information should contact the Executive Secretary, Environmental Health Committee, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 2, 1983. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382-2552.

Dated: October 17, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83-28707 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-48]

Alaska Maritime Agencies, Inc., et al. v. Port of Anacortes, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Alaska Maritime Agencies, Inc., and 23 other steamship agencies against the Port of Anacortes and 31 other west coast port or terminal facilities was served October 11, 1983. Complainants allege that respondents have violated sections 15, 16 First, and 17 of the Shipping Act, 1916, in connection with the establishment of tariff rules and practices which hold agents liable, as principals, for various port and terminal charges.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are

necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28754 Filed 10-20-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-49]

Galin Ataei v. Barber Blue Sea Line, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Galin Ataei against the Barber Blue Sea Line joint service and its members was served October 11, 1983. Complainant alleges that respondents have violated sections 14 Fourth, 16 First, 17, 18(b)(1), and 18(b)(3) of the Shipping Act, 1916, in connection with various charges assessed against a particular shipment of complainant.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing is this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28753 Filed 10-20-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review by OMB

October 17, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Deletion of a Report

1. Report title: Report of Ownership of the Reporting Bank and on Indebtedness of its Executive Officers and Principal Shareholders to the Reporting Bank and to its Correspondent

Agency form number: FFIEC 003

Frequency: Annual

Reporters: State member banks

Small businesses are affected.

General description of report:

Respondent's obligation to reply is mandatory [12 U.S.C. 1972]; a pledge of confidentiality is not promised.

Each state member bank of the Federal Reserve System is required to file annually a form FFIEC 003 which discloses information on ownership of the bank and loan involving the bank's executive officer and principal shareholders. State member banks are required to make copies of the report available to the public upon request.

Board of Governors of the Federal Reserve System, October 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28675 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; SouthTrust Corp. and TCBankshares, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to acquire 75 percent of the voting shares or assets of Citibank Group, Inc., Alexander City, Alabama. Comments on this application must be received not later than November 16, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *TCBankshares, Inc.,* North Little Rock, Arkansas; to acquire at least 97.3 percent of the voting shares of Citizens Bank and Trust Company, Flippin, Arkansas. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28678 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; One American Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, (or continue to engage in an activity earlier commendced *de novo*), *directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.*

With respect to these aplications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *One American Corporation*, Vacherie, Louisiana (insurance agency activities; Louisiana): To engage, through its *de novo* subsidiary, One American Agency, Inc., in selling life, accident and health, and involuntary unemployment insurance directly related to its extensions of credit. There activities would be conducted from its office in Vacherie, Louisiana, serving Louisiana. Comments on this application must be received not later than November 16, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Utah): To continue to engage through its subsidiary, Norwest Financial Utah, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Salt Lake City, Utah, serving Salt Lake City, Utah, and other nearby communities. Comments on this application must be received not later than November 14, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado (credit related insurance activities; Colorado): To act through its subsidiary, Colorado National Insurance Agency, as insurance agent or broker for life, disability and hazard insurance coverages directly related to extensions of credit of three newly acquired banking subsidiaries, Colorado National Bank—Southwest, Littleton, Colorado; Colorado National Bank—East Boulder, Boulder, Colorado; and Colorado Natonal Bank—Fort Collins, Fort Collins, Colorado. The respective geographic scopes for these activities will be the cities of Boulder and Fort Collins, Colorado and the southwest quadrant of Littleton, Colorado. Colorado National Bankshares earlier secured approval to engage in insurance activities by Board Order of July 1, 1974.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (discount securities brokerage and incidental activities; *de novo* offices; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, Charles Schwab & Co., Inc., in the activities of discount securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T. The activities will be conducted from five *de novo* offices located in Carmel and Laguna Hills, California; Hartford and Stamford, Connecticut; and Princeton, New Jersey; each of the five proposed offices will be serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than November 16, 1983.

2. *Frontier Bancorp*, Vista, California (lending and servicing activities; California): To engage, through its wholly-owned subsidiary, Vista Frontier Financial Services, Inc. in servicing and selling loans in the secondary market permitted by the California Personal Property Brokers' Law. These activities would be conducted from an office in Vista, California, serving the State of California. Comment on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28679 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Peoples Security Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Peoples Security Bancorp, Inc.*, Louisa, Kentucky; to become a bank

holding company by acquiring 100 percent of the voting shares of The Peoples Security Bank of Louisa, Louisa, Kentucky. Comments on this application must be received not later than November 16, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hills Bancorporation*, Hills, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Hills Bank and Trust Company, Hills, Iowa. Comments on this application must be received not later than November 15, 1983.

2. *Westmont Corporation*, West Union, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers Savings Bank, West Union, Iowa. Comments on this application must be received not later than November 16, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *B. B. Bancshares, Inc.*, Shell Knob, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Table Rock Bancshares, Inc., Shell Knob, Missouri and thereby, indirectly acquiring Community Bank of Shell Knob, Shell Knob, Missouri. Comments on this application must be received not later than November 14, 1983.

2. *First Perry Bancorp, Inc.*, Pinckneyville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to First National Bank in Pinckneyville, Pinckneyville, Illinois. Comments on this application must be received not later than November 16, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Plainville Bancshares, Inc.*, Plainville, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Plainville State Bank, Plainville, Kansas. Comments on this application must be received not later than November 16, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First Community Financial Corp.*, Lufkin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank, Lufkin, Texas. Comments on this application must be received not later than November 16, 1983.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *ASB Bank Holding Company*, Pierre, South Dakota; to become a bank holding company by acquiring 81.4 percent of the voting shares of American State Bank of Pierre, Pierre, South Dakota. This Application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than November 16, 1983.

2. *H. S. Holding Company, Ltd.*, Tel Aviv, Israel; Corporation for International Agricultural Production Limited, Ramat-Gan, Israel; and S. H. Resources and Development Corporation, Los Angeles, California; to become a bank holding company by acquiring at least 80 percent of the voting shares of Empire State Bank of Layton, Layton, Utah. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than November 16, 1983.

3. *Urban Bancshares, Inc.*, Kansas City, Missouri; to become a bank holding company by acquiring 81 percent of the voting shares of Missouri Bank and Trust Company of Kansas City, Kansas City, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28677 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 14.

Public Health Service

Food and Drug Administration

Subject: Petitions for Affirmation of Generally Recognized as Safe (GRAS) Substances (0910-0132)—Extension/No Change

Respondents: Businesses, small businesses, and other for profit organizations

Subject: Food Additive Petitions (0910-0016)—Extension/No Change

Respondents: Businesses, small businesses, and other for profit organizations

Subject: Hepatitis Requirements to Permit Shipment Before Completion of Hepatitis B Surface Antigen Testing—New

Respondents: Businesses, small businesses, and other for profit organizations

OMB Desk Officer: Richard Eisinger

Health Resources and Services Administration

Subject: Indian Health Service Scholarship Application and Progress Reports—New

Respondents: Individuals or households

OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: National Ambulatory Medical Care Survey (0937-0017)—New

Respondents: Businesses, small businesses, and other for profit organizations

OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn. (name of OMB Desk Officer).

Dated: October 17, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-28702 Filed 10-20-83; 8:45 am]

BILLING CODE 4150-04-M

Senior Executive Service Performance Review Board Membership

Title 5, U.S.C. 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Federal Performance Review Board Members

Richard H. Adamson	Ruth L. Kirschstein
Clifford Allen	Irwin J. Kopin
Loran D. Archer	Jeffrey P. Koplan
William H. Aspden, Jr.	Richard M. Krause
Calvin B. Baldwin, Jr.	Richard P. Kusserow
Albert Balows	Louis C. LaMotte, Jr.
Francisco R. Bayo	James D. Lawrence
David D. Bayse	Claude J. Lenfant
Edwin D. Becker	Joseph R. Leone
Peter J. Bersano	Rose M. Lepore
Joseph H. Boutwell, Jr.	Arthur S. Levine
Gerald L. Boyd	Bryan R. Luce
Gerald H. Britten	Michael W. Maher
Everett F. Bryant	Thomas E. Malone
Charles E. Carter	Jaime L. Manzano
Bruce A. Chabner	F. Lynn May
Philip S. Chen, Jr.	Robert F. McClernan
Sandy Crank	Thomas S. McFee
Lester M. Crawford	Edward E. McManus
Glenna M. Crooks	Marjory E. Mecklenburg
John L. Decker	Gerald F. Meyer
Vincent T. DeVita, Jr.	Richard A. Millstein
Philip J. DiBenedetto	Bryan B. Mitchell
Carl D. Douglass	Joseph A. Mottola
Walter R. Dowdle	Thomas P. Murphy
Jack Durell	Stuart L. Nightingale
John C. Eberhart	A. Mark Novitch
Jean K. Elder	Marie U. Nylan
Joyce D. K. Essien	Jack Orloff
Marion J. Finkel	John J. O'Shaughnessy
Bartlett S. Fleming	Arnold W. Pratt
Carl A. Fretts	Alan S. Rabson
Barbara J. Gagel	Joseph E. Rall
Michael I. Goldberg	William F. Raub
Murray F. Goldstein	Darrel A. Regier
Frederick K. Goodwin	Youn B. Rhee
Robert A. Goyer	Everett R. Rhoades
R. Alexander Grant	Jo Anne B. Ross
Jerome C. Green	Jesse Roth
Richard C. Greulich	Robert J. Rubin
Darrel J. Grinstead	Jay T. Sanford
Elizabeth J. Haglund	Thomas Scarlett
Milton G. Handelsman	Fred Schutzman
George E. Hardy, Jr.	James L. Scott
Lowell T. Harmison	Kenneth W. Sell
Elliott S. Harris	Robert F. Sermier
Ronald W. Hart	Frank H. Seubold
Joe R. Held	Clay E. Simpson, Jr.
Robert A. Israel	Vivian L. Smith
James S. Jeffers	DeWitt Stetten, Jr.
Julian Jurand	Frank J. Sullivan
Irving G. Kagan	Robert L. Trachtenberg
Martin L. Kappert	James A. Walsh
Ronald C. Kaufman	William C. Watson, Jr.
John H. Kelso	Robert C. Wetherell, Jr.
Roland E. King	Storm H. Whaley
Jin H. Kinoshita	Frances L. White
Henry G. Kirschenmann, Jr.	Will L. Williams

Dated: October 17, 1983.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

Summary Statement

Department of Health and Human Services

Action: Listing of members of this Department's Senior Executive Service Performance Review Boards

Date: Performance Review Boards effective October 17, 1983.

For further information contact: Merle G. Forney, 202: 426-2753

[FR Doc. 83-28701 Filed 10-20-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83C-0310]

Paragon Optical, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Paragon Optical, Inc., has filed a color additive petition proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402-403 (21 U.S.C. 376(d))), notice is given that a color additive petition (CAP 3C0162) has been filed by Paragon Optical, Inc. 2442 East McKellips Rd., P.O. Box 988, Mesa, AZ 85201, proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-28654 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer, at (202) 395-7340.

Title: Application for Sioux Benefits

Bureau Form Number: BIA-4210

Frequency: nonrecurring

Description of Respondents: Eligible Cheyenne River Sioux Indians of the Cheyenne River Reservation, South Dakota

Annual Responses: 260 Annual Burden Hours: 130

Bureau Clearance Office: Diana Loper (202) 343-3574

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-28643 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Realty Action; Competitive Sale of Public Lands; Camas County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action for I-19636, I-20329 and I-20330, competitive sales of public lands in Camas County, Idaho.

SUMMARY: The following described public land has been examined, and through land use planning, which included public input, it has been determined that the sales of these tracts are consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will be offered for sale at public auction for no less than the appraised

fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted on the following described lands:

	Acres
I-19636: T. 1N., R. 14E., B.M.:	
Sec. 14:	
SE¼NE¼	40
NE¼SE¼	40
Total	80
I-20329: T. 1N., R. 14E., B.M.:	
Sec. 14: S½NE¼	80
Sec. 15: SE¼NE¼	40
Total	120
I-20330: T. 1N., R. 14E., B.M.:	
Sec. 14:	
S½SW¼	80
SW¼SE¼	40
Total	120

The patents, when issued, shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1980, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals, including oil and gas, with the right to explore, prospect for, mine and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

In addition, the patents are subject to the following conditions:

1. All valid existing rights and reservations of record.

2. The successful bidder agrees that he takes the real estate subject to the existing grazing use of States Investment Corporation, holder of grazing authorization No. 5625. The rights of States Investment Corporation to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 5625 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from States Investment Corporation in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

3. Pursuant to the authority contained in Section 3(d) of Executive Order 11988 of May 24, 1977 and Section 203(a)(1) of Pub. L. 94-579, FLPMA, this patent is subject to a restriction which constitutes a convenant running with the land, that any portion of the land lying within the 100-year floodplain may be used only for agricultural purposes or for park and nonintensive open space recreation purposes, but not for dwellings or buildings.

4. Pursuant to the authority contained in Section 4 of Executive Order 11990 of May 24, 1977 and Section 203(a)(1) of Pub. L. 94-579, FLPMA, this patent is subject to a restriction which constitutes a convenant running with the land, that the portion of the land lying within SW¼NW¼ and SW¼SE¼ of Section 14, T. 1N., R. 14E., B.M., containing wetland-riparian habitat must be managed to protect and maintain the wetland-riparian habitat on a continuing basis. This pertains to only the public lands identified under case file numbers I-20329 and I-20330.

DATE: The public auction will be held on December 23, 1983 at 10:00 a.m. If the lands are not sold by close of business on December 23, 1883, the sale will be adjourned until Friday, January 13, 1984 at the same hour and place and continued on an interval every four weeks until the lands are sold, as specified in this notice, or the sale is otherwise terminated.

ADDRESS: The public auction will be held at the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352. Additional information concerning these lands, terms and conditions of the sale and bidding instructions may be obtained from Joe Aitken, Bennett Hills Realty Specialist, at the above address or by calling (208) 886-2206.

Supplementary Information: For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Sec. 203(g) of the FLPMA or other applicable laws.

FOR FURTHER INFORMATION CONTACT: Charles J. Haszier, District Manager, Shoshone.

Dated: October 12, 1983.

Charles J. Haszier,

District Manager, Shoshone.

[FR Doc. 83-28945 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47388]

Realty Action; Proposed Public Land Sale; Washington County, Utah

Under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land within the Bloomington 5 Ranches Subdivision described as Lot 9 (.89 acres) and Lot 10 (.66 acres), Section 13, T 43 S, R 16 W, SLB&M, Utah will be offered for sale at 2 p.m. on December 22, 1983, at the BLM Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah.

Each lot will be offered for sale individually at public auction through competitive bidding. BLM will reject any bid for less than fair market value as determined by BLM through appraisal.

Bids may be made by a principal or a duly qualified agent pursuant to 43 CFR subpart 2711.1.

Persons desiring more information concerning the Land Report/Environmental Assessment or in making a bid should contact the Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah 84770 (telephone 801-673-4654).

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager at the above address. Comments will be evaluated, and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 12, 1983.

Morgan S. Jensen,

District Manager.

[FR Doc. 83-28649 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[F-80743]

Leasing of Public Lands at Skiland/Cleary Summit, Alaska; Corrected Notice of Realty Action

Under authority of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732), the Bureau of Land Management intends to offer certain lands under its administration in the Skiland/Cleary Summit area for lease for residential purposes. The approximately 60 acres affected are within Section 31 of T. 3 N., R 2 E., Fairbanks Meridian.

The purpose of the 10 proposed renewable 10-year leases is to authorize a long-standing occupancy. For this reason, they are being offered on a non-competitive basis to present occupants. Fair market rental will be charged.

Detailed information concerning the leases is available for review at the Fairbanks District Office.

Within 30 days of the final publication of this Notice, in accordance with 43 CFR 2920.5-2, the prospective lessees

must submit an application which shall include the name and legal mailing address of the applicant, a reference to the serial number shown above, and a $250.00 non-returnable payment for processing costs. Applications should be submitted to the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

For a period of 30 days following the final publication of this Notice, interested parties may submit comments to the Fairbanks District Office.

Carl D. Johnson,

District Manager.

[FR Doc. 83-28716 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[N-35376]

Nevada; Conveyance

October 14, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), Gertrude L. Buffington, Mina, Nevada, has purchased, by non-competitive sale, public lands in Mineral County described as:

Mount Diablo Meridian, Nevada

T. 7 N., R. 34 E.,
Sec. 25, SW¼SE¼NW¼NE¼.

Containing 2.5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Gertrude L. Buffington.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-28714 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[N-37154]

Nevada; Conveyance

October 14, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976, (90 Stat. 2750· 43 U.S.C. 1713), Wilfred H. Florence, Etta Mae Florence and Diane Marie Kountapanya, Las Vegas, have purchased, by noncompetitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 30, W½NW¼NE¼NE¼NW¼.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to the above named parties.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-28717 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Marine Mammal Annual Report; Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: The Director, U.S. Fish and Wildlife Service, on June 20, 1983, signed the annual report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1982. The report covers the period January 1, 1982, to December 31, 1972, and was submitted to the Congress on September 16, 1983. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (PUB), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Reffalt, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Mail Code 355, Department of the Interior, Washington, D.C. 20240, 202/632-2202.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972 (MMPA). These species are polar bears, sea and marine otters, walruses, manatees (three species) and dugongs. The report reviews the Service's marine mammal-related activities during the report period. Administrative actions discussed include MMPA appropriations, marine mammals in Alaska, endangered and threatened marine mammal species (specifically the West Indian manatee and the sea otter in California), law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

This notice was prepared by Jeffrey L. Horwath, Wildlife Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202/632-2202.

Dated: October 7, 1983.

Robert A. Jantzen,

Director, Fish and Wildlife Service.

[FR Doc. 83-28712 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Designation of Agents—Motor Carrier of brokers
OMB Form No.: 3120-0008
Agency Form No.: BOC-3
Frequency: On occasion
Respondents: Motor Carrier—Brokers
No. of Respondents: 6,000
Total Burden Hrs.: 1,500

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28683 Filed 10-20-83; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Allegheny Beverage Corporation, One Macke Circle, Cheverly, Maryland 20781

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Allegheny Pepsi-Cola Bottling Co.—Maryland, 2216 N. Charles Street, Baltimore, Maryland 21218
(ii) Desks & Furnishings, Inc.—Maryland, 8610 Cherry Lane, Laurel, Maryland 20707

1. Parent corporation and address of principal office:

Roundy's, Inc., 11300 West Burleigh Street, Wauwatosa, Wisconsin 53222

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Jondex Corporation (Wisconsin)
(ii) Ropak, Inc. (Wisconsin)
(iii) W-Marketing, Inc. (Wisconsin)
(iv) Villard Ave. Shop-Rite, Inc. (Wisconsin)
(v) Shop-Rite, Inc. (Wisconsin)
(vi) Pick 'N Save Warehouse Foods, Inc. (Wisconsin)
(vii) Kee Wholesale, Inc. (Wisconsin)
(viii) Cedarburg Dairy, Inc. (Wisconsin)
(ix) Super Market Investors, Inc. (Wisconsin)
(x) Lila's Supermarket, Inc. (Wisconsin)
(xi) United Foods of Hartford, Inc. (Wisconsin)
(xii) United Foods of West Bend, Inc. (Wisconsin)
(xiii) Insurance Planners, Inc. (Wisconsin)
(xiv) B. D. Marketing, Inc. (Wisconsin)
(xv) Wayco Foods Corporation of Illinois, Inc. (Illinois)

1. Parent corporation and address of principal office:

The Southland Corporation, 2828 North Haskell, P.O. Box 719, Dallas, TX 75221.

2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation:

(i) CITGO Petroleum Corporation (Delaware)
(ii) Foremost Petroleum Company (Texas)
(iii) 7-Eleven Stores Division of the Southland Corporation (Texas)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-28680 Filed 10-20-83; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-C-10800 (Sub-No. 1)]

Petition for Declaratory Order—Interpretation of Used Pallet, Container, and Shipping Devices Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final decision.

SUMMARY: The Commission has interpreted the statutory exemption at 49 U.S.C. 10526(a)(11) to embrace bogies, chassis, trailers, vehicles or vans, whether detached or attached, used electric cable reels, and used empty beverage bottles. Tariff provisions allowing for the free return of pallets as incidental to the outbound movement are not subject to regulation. Tariff rules may provide for inclusion of exempt commodities in determining the applicable weight on the regulated commodity in a mixed shipment.

EFFECTIVE DATE: This decision is effective on October 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Nancy Hurley, (202) 275-7893;

or

Mary Kelly, (202) 275-7292.

SUPPLEMENTARY INFORMATION: Notice of this declaratory order proceeding was published at 46 FR 43114, August 26, 1981. The Commission has issued a final decision in this embraced petition for declaratory order. This decision interprets the statutory exemption at 49 U.S.C. 10526(a)(11) concerning "used shipping devices" to include any item used in the shipping process. The statutory exemption includes not only items which are the products or by-products of articles whose function it is to facilitate the transportation of other commodities but those which may have multi-purpose uses as well. In specific response to the questions raised by petitioners, the Commission found that bogies, chassis, trailers, vehicles or vans, whether detached or attached, used electric cable reels, and used empty beverage bottles are exempt.

In addition, the Commission stated that tariff provisions allowing for the free return of pallets [and other items named in section 10526(a)(11)] are not subject to Commission regulation. Once a determination of exempt status is made, it extends to all aspects of the commodity's movement. Finally, the Commission decided that tariff rules may provide for inclusion of exempt commodities in determining the applicable weight on the regulated commodity in a mixed shipment.

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, Washington, DC 20424, or call 289-4357 in the DC Metropolitan area or toll free (800) 424-5403.

Decided: October 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-28681 Filed 10-20-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed 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.

Agatha L. Mergenovich,

Secretary.

MC-F-15466 filed: September 26, 1983. CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077—CONTROL—TUCKER FREIGHT LINES, INC., 1415 South Olive St., South Bend, IN 46619. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603.

Central Transport, Inc. (Central), a motor carrier, seeks authority for the acquisition of control of Tucker Freight Lines, Inc. (Tucker), through purchase of all the outstanding capital stock (1,000 shares) of Tucker; and for acquisition by CenTra, Inc., a noncarrier but sole stockholder of Central, and T. J. Moroun and M. J. Moroun, individuals who control CenTra, Inc. through majority stock ownership and management, of control of the operating rights and property through the transaction.

Tucker, a common and contract carrier pursuant to certificates and permits in No. MC-30504, is authorized, generally, to transport: general commodities, over regular routes and irregular routes, principally in IL, IN, IA, KY, MO, MN, OH, TN, WI, MI, and part of Pennsylvania; and specific named commodities, between named points in IN, MO, WI, and IL, on the one hand, and, on the other, points in the United States; and, as a contract carrier, general commodities, between points in the United States, under contract(s) with a named shipper.

Central holds certificates and permits in No. MC-19311 and subnumbers thereunder, and its wholly-owned subsidiary, Bancroft Trucking Company, is a Michigan intrastate carrier.

Notes.—(1) Authority is also sought by Central to temporarily control through management the operating rights and property of Tucker, pending determination of the control application. (2) Central Transport, Inc. is part of a carrier system, ultimately controlled by CenTra, Inc. and T. J. Moroun and M. J. Moroun, that includes C. T. Transport, Inc. (MC-141609), Port Side Transport, Inc. (MC-161151), McKinlay Transport Ltd. (MC-123282), Superior Forwarding Company, Inc. (MC-75406), and U.S. Truck Company, Inc. (MC-59336).

[FR Doc. 83-28662 Filed 10-20-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Partial Consent Decree; Cleanup of Ninth Avenue Dump Site, Gary, Indiana

In accordance with the policy of the Department of Justice, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 29, 1983, the proposed partial consent decree in *United States of America* v. *Steve Martell et al.*, Civil No. H-80-483, was lodged with the United States District Court for the Northern District of Indiana.

The proposed consent decree requires Steve Martell to undertake a full contamination investigation and cleanup of the Ninth Avenue Dump site at Gary, Indiana, and commits the defendant to full reimbursement of approximately $15,000 in EPA response and government enforcement costs.

The proposed consent decree may be examined at the Office of the United States Attorney, 312 Federal Building, 507 State Street, Hammond, Indiana 46320; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the office of the Environmental Enforcement Section, U.S. Department of Justice, Room 1521, Tenth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Acting Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, N.W., Washington, DC., 20530, and should refer to *United States of America* v. *Steve Martell* et al., D.J. Ref. 90-7-1-162.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-28650 Filing 10-20-83; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

Intent To Prepare an Environmental Impact Statement (EIS) for the Proposed Activation of the Former State Hospital at Rochester, Minnesota, for Use as a Federal Medical Center

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY:

1. *Proposed Action:* The Bureau of Prisons proposes to acquire and activate the former State Hospital in Rochester, Minnesota for use as a Federal Medical Center for the housing of persons in federal custody. The proposed site consists of 6 structures containing approximately 440,000 square feet.

The Bureau of Prisons has been, and continues to be, actively investigating ways to increase the housing capacity for medical and mental health patients incarcerated in Federal facilities. Also, the Bureau of Prisons is committed to using existing facilities whenever possible to avoid costly new construction.

The proposed Federal Medical Center would be used to house 488 inmates, and approximately 275 full-time staff who would provide 24-hour supervision.

2. *Alternatives:* Alternative courses of action considered would include but not be limited to (1) contracting for services with other State, local, or commercial agencies, (2) activating other surplus facilities for a Federal Medical Center, (3) constructing a new facility for use as a Medical Center, and (4) taking no action.

3. *Scoping Process:* On the week of August 22, 1983, the Bureau of Prisons sponsored a tour of two Federal facilities with operations similar to the Rochester proposal. Twenty-one private

citizens and local elected officials from Rochester participated in the tour, which was funded by the Bureau of Prisons.

On August 30, 1983, the Bureau of Prisons participated in a public meeting in Rochester and obtained comments from local citizens.

4. *Availability:* The Draft EIS is currently scheduled to be available in November 1983. This schedule is subject to change without notice.

5. *Responsible Official:* Loy S. Hayes, Chief, Facilities Development and Operations, Bureau of Prisons, 320 First St., NW., Washington, D.C. 20534.

Dated: October 18, 1983.

Loy Hayes,

Chief, Facilities Development and Operations.

[FR Doc. 83-28772 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-05-M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1983 aggregate production quotas.

SUMMARY: This notice establishes 1983 aggregate production quotas for controlled substances in Schedules I and II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: This order is effective October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration in accordance with Section 0.100 of Title 28 of the Code of Federal Regulations.

On July 26, 1983, a notice of the proposed revised 1983 aggregate production quotas for certain controlled substances in Schedules I and II was published in the Federal Register (48 FR 33942). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before August 25, 1983.

One comment was received from Eli Lilly and Company of Indianapolis, Indiana. Regarding dextropropoxyphene, Eli Lilly commented that the proposed revised quota for this substance was insufficient. After a review of all currently available information, DEA is changing the 1983 aggregate production quota for dextropropoxyphene to 69,102 kilograms.

DEA has received information concerning the increased need for thebaine (for conversion) for the production of certain noncontrolled substances derived from this substance. Based on this information, DEA is changing the aggregate production quota for thebaine (for conversion) to 2,500 kilograms. No other comments or objections were received.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator of the Drug Enforcement Administration by Section 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the 1983 revised aggregate production quotas be established as follows:

Basic class	Production quota [1]
Schedule I:	
2,5-Dimethoxyamphetamine	[2] 10,300,000
Schedule II:	
Amobarbital	1,646,000
Amphetamine	610,000
Codeine (for sale)	61,016,000
Desoxyephedrine	[3] 1,553,000
Dextropropoxyphene	69,102,000
Dihydrocodeine	1,489,000
Fentanyl	1,100
Hydrocodone	1,339,000
Hydromorphone	162,000
Meperidine	11,245,000
Methadone	1,675,000
Methadone Intermediate	2,094,000
Methylphenidate	1,221,000
Morphine (for sale)	1,062,000
Morphine (for conversion)	69,183,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	2,173,000
Oxycodone (for sale)	1,837,000
Oxycodone (for conversion)	1,012,000
Oxymorphone	6,000
Phenmetrazine	0
Phenylacetone	231,000
Secobarbital	3,292,000
Thebaine (for sale)	2,911,000
Thebaine (for conversion)	2,500,000

[1] Established revised 1983 aggregate production quota, expressed in grams of anhydrous acid or base.

[2] 1,353,060 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 200,000 grams for the production of methamphetamine

Dated: September 22, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-28755 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-09-M

National Institute of Justice

Solicitations

The National Institute of Justice is soliciting proposals for applied research grants in the following areas:

Program and Due Date

Performance and Productivity Measurement, November 23

Crime Control Theory and Policy, December 9

Classification, Prediction, and Methodology, December 12

Multiple awards are planned in each area. Descriptions of the programs and the application processes may be obtained from the National Criminal Justice Reference Service. Interested organizations should write to: NCJRS, P.O. Box 6000, Rockville, MD 20850, ATTN: Program Solicitations.

James K. Stewart,

Director.

[FR Doc. 83-28751 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The regular fall meetings of committees of the Business Research Advisory Council will be held on November 7 and 8, 1983.

The committees will meet in the following locations:

Price Indexes, Productivity/Foreign Labor and Wages and Industrial Relations committees, Room N-3437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C., and the Committee on Employment and Unemployment, Room 2740, General Accounting Office

Building, 441 G Street, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, November 7

10:00 a.m.—Committee on Price Indexes
1. Extension of CPI–U, X–1
2. Area Sample for the Revised CPI
3. Status Report on Consumer Expenditure Survey
4. Finding Solutions to Problems That May Arise from the Changeover to Rental Equivalency with the January 1985 CPI–W
5. Other Business

Monday, November 7

1:30 p.m.—Committee on Productivity/Foreign Labor
1. Mulifactor Productivity Measures
a. New Directions
b. Status of Measures for the Motor Vehicle and Steel Industries
2. Developments in Foreign Labor Statistics Work
3. Other Business

Tuesday, November 8

10:00 a.m.—Committee on Wages and Industrial Relations
1. Finding Solutions to Labor/Management Problems That May Arise from the Changeover to Rental Equivalency with the January 1985 CPI–W
2. Deciding on new areas for the Area Wage Surveys
3. Determining Employers' Cost Levels for Employee Benefit Data: What is Available and What is Needed
4. Review of WIR Work in Progress
5. Other Business

Tuesday, November 8

10:00 a.m.—Committee on Employment and Unemployment
1. Status of the Employment and Unemployment Statistics Programs
a. Report on Transfer of LMI Funding from the Employment and Training Administration
b. Progress and Future Plans for the 790 Modernization
c. Progress and Plans for the Current Population Survey Redesign
d. Committee Discussion of Priorities and Shortfalls
2. Examination of Discrepancy Between the CPS and 790 Estimates
3. Review of Findings of the Employer Response Analysis Survey
4. Uses of Employment Data for Productivity Measurement: Assessment
5. Status of Occupational Employment Survey Program and Matrix Development
6. Report on Quality Control in Survey Operations
7. Other Business

The meeings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, D.C. this 17th day of October 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83–28749 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–24–M

Business Research Advisory Council; Meeting

The regular fall meeting of the Business Research Advisory Council will be held at 1:00 p.m., November 8, 1983, in Room N–3437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Warren H. Bacon
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
(a) Wages and Industrial Relations
(b) Productivity/Foreign Labor
(c) Price Indexes
(d) Employment and Unemployment
4. Other Business
5. Chairman's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, D.C. this 17th day of October 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83–28750 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–7,258]

Dana Corporation, Marion, Indiana; A Further Determination

Pursuant to the U.S. Court of International Trade remand in *Abbott* v. *Secretary of Labor*, (USCIT No. 81–1–00028) concerning service workers at Dana Corporation, Marion, Indiana, the Department makes the following further determination.

After examining the issues: (1) Concerning the possibility that services are not distributed evenly throughout the Marion, Indiana plant, and (2) whether there was substantial evidence in the administrative record to support the Department's determination not to certify service workers providing ancillary and support services to the Bearing Race and Journal Cross Departments (Departments 225 and 230, respectively), the Department re-investigated the matter and found that its initial decision was correct.

The Department in some instances has certified service workers in the past; however, in order to make such a determination the Department must find that the service workers devoted a substantial amount of their activity to servicing a worker group which is already independently certified and that there was an important causal nexus between increased imports and the layoff of service workers. The Department has for six years used a 25 percent standard to define the expression, "substantial amount of their activity", namely that at least that proportion of the supporting workers' activity was directly related to the production of the import affected article(s). On further investigation, the new findings confirm the Department's initial determination that the contribution of the service workers to Departments 225 and 230 accounted for significantly less than 25 percent of their contribution to all products produced in the Marion plant. Not one of the 33 service departments at Dana contributed 25 percent or more of their activity to supporting the trade impacted articles produced in Departments 225 and 230. Further, no one individual from those service departments was employed 25 percent or more of a typical work week in providing services to Departments 225 and 230. These support activities are not substantially integrated into the production of the two import-impacted articles; consequently, increased imports did not "contribute

importantly" to layoffs among workers in the service departments.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to service workers providing ancillary and support activities to Departments 225 and 230 at the Marion, Indiana plant of Dana Corporation.

Signed at Washington, D.C., this October 14, 1983.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 83-28659 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Louisiana

This notice announces the ending of the Extended Benefit Period in the State of Louisiana, effective on October 8, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Louisiana on January 23, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on September 17, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on October 8, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on October 12, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-28658 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-120-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18016 has filed a petition to modify the application of 30 CFR 75.321 (stoppage of fans; plans) to its Mine No. 51 (I.D. No. 36-00959) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator adopt a specific plan which provides for appropriate action when any mine fan stops.

2. The mine is ventilated by 3 fans moving a total of 590,000 cfm of air. Petitioner plans to install a small "bleeder assist" ventilation fan to help ventilate the mined out area of its 3 Northeast section, called the Hustava Borehole. The Hustava Borehole will move a total of approximately 5,000 cfm of air and will affect the ventilation of the 3 Northeast section only.

3. As an alternate method, petitioner proposes that:

a. If Hustava Borehole fan is inoperable for more than 15 minutes, all power to 3 Northeast will be deenergized and employees working in that area will be removed to other areas of the mine not affected by Hustava Borehole;

b. Appropriate MSHA officials will be notified if Hustava Borehole fan remains inoperable longer than 24 hours;

c. The remainder of the mine not affected by Hustava Borehole fan be allowed to continue operating in a normal manner.

4. Petitioner states that Hustava Borehole will be equipped with a dual system of blowers and motors to assure as much as practicable that this area remains operable at all times.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28664 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-105-C]

Inland Steel Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Inland Steel Coal Co., R.R. #5, McLeansboro, Illinois 62859 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No.

2 (I.D. No. 11–02387) located in Hamilton County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the use of keyed locks inserted through brackets to secure the battery nips of the mine's scoops.

2. Petitioner states that these locks have proven hard to keep on the scoops.

3. As an alternate method, petitioner proposes to put a bracket on the battery with a set screw-type arrangement to lock it down.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comment. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28667 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-22-M]

Latrobe Construction Co.; Petition for Modification of Application of Mandatory Safety Standard

Latrobe Construction Company, P.O. Box 150, Latrobe, Pennsylvania 15650 has filed a petition to modify the application of 30 CFR 57.4–53 (liquefied petroleum gas) to its Blue Stone Quarry (I.D. No. 36–00131) located in Westmoreland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the use of liquefied petroleum gas be limited to maintenance work.

2. Petitioner states that manual scaling of loose stone by means of a basket at the mine has resulted in several accidents and numerous injuries to mining personnel. Petitioner uses two gradall scaling machines but needs additional lights for the miners on these machines.

3. Petitioner proposes to use propane to operate two generators to power 2,000 watt lights which are installed on pickup trucks to accompany the gradall machines. Each motor generator holds a maximum of eight gallons of propane. These light-equipped pickup trucks are used to provide sufficient lighting for the safe operation of the two gradall machines. During the scaling operation, two employees work as a team, one person on the gradall scaling machine and one on the light truck.

4. Petitioner further states that both pickup trucks are maintained by mechanics at the mine. The light generators are regularly overhauled and kept tuned. The tanks and lines are checked daily for leaks when brought out of the mine for refueling.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances

[FR Doc. 83-28663 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-97-C]

Pearl Coal Company; Petition for Modification of Application of Mandatory Safety Standard

Pearl Coal Company, P.O. Box 268, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15–13803) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 41½ to 46 inches, with an average of 43.75 inches. The main roof is sandstone and the immediate roof is four to ten feet of shale with draw rock ranging from zero to three inches. The bottom is soft shale with numerous undulations, dips and rolls.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof supports and damage suspended cables, increasing fire and shock hazards. In addition, the canopies restrict the equipment operator's visibility and cause a cramped operating compartment, forcing the operator to lean out from the canopy, exposing body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28660 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-100-C]

Red River Fuels, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Red River Fuels, Inc. Box 1018, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 15–14102) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Elkhorn No. 2 seam and ranges from 38 to 48 inches in height, with consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the mine's roof support system. The canopies also hamper the equipment operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28665 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-112-C]

Rolen Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Rolen Coal Company, Inc., Box 79, Inez, Kentucky 41224 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-12304) located in Martin County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopy knocks out the roof support. In addition, the canopy limits the equipment operator's visibility, forcing him or her to lean out from under the canopy, exposing body parts to potential injury. The canopy also damages suspended electrical cables, increasing the chances of electrical shock or injury.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28661 Filing 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-93-C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Route 3, Box 125, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Sewell No. 1-A Mine (I.D. No. 46-03859) located in Nicholas County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statement follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. A six-entry system is being developed in the four developing sections. Unstable and uncontrollable roof conditions resulting in massive roof falls have restricted the flow of air in many main entry airways. The present approved ventilation plan for each section requires curtain stoppings to be erected forming a "box" arrangement to force all air on the section to travel behind the line curtains of each entry in a sweep-type system. When each line curtain is fully extended, prior to cutting the crosscuts through, they will be about 110 feet long. With a six-entry system, a total of 660 feet of line curtain would be extended at one time, which creates tremendous air friction.

3. As an alternate method, petitioner proposes to use belt and track air for ventilating active working places. In support of this request, petitioner proposes to install an automatic fire detection system with sensors on the underground belt conveyors with specific safeguards and protective measures. The location of the sensors will be submitted for approval in the ventilation system and methane and dust control plan. In addition, petitoner proposes to construct the stoppings separating the belt haulage entry from the intake escapeway out of concrete blocks, cinder blocks, brick or tile with mortared joints. Petitioner proposes that the blocks may be stacked, providing the stoppings are plastered on both sides with a material having the same strength as mortared joints.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that affored by the standards.

Request of Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28666 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-99-C]

Thac West Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Thac West Mining, Inc., Box 3011, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 15-12472) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Cedar Grove seam and ranges from 36 to 48 inches in height, with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies strike and dislodge the roof

supports. The canopies also restrict the equipment operator's visibility and hamper the operator's seating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28666 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-110-C]

Petition for Modification of Application of Mandatory Safety Standard; Emerald Mines Corp.

Emerald Mines Corporation, c/o Amoco Minerals Company, 7000 South Yosemite Street, P.O. Box 3299, Englewood, Colorado 80155 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 1 (I.D. No. 36-05466) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on battery operated scoops and on tractors.

2. Petitioner states that there is an element of danger in having the plugs locked on such equipment in the event of a fire on such equipment. The lock could impede or diminish the petitioner's ability to combat the fire, resulting in a diminution of safety for the miners affected.

3. As an alternate method, petitioner proposes that a spring-loaded locking mechanism be used on all such equipment, present and future. This device will prevent loosening of the threaded ring and serve the same purpose as a padlock; it will not fall out of place but can easily and quickly be removed in the event of an emergency.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28662 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

Grant of Individual Exemptions

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pedency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Lee Investment Co., Money Purchase Pension Plan and Trust Agreement (the Plan) Located in San Diego, California

[Exemption Application No. D-3745; Prohibited Transaction Exemption 83-171]

Exemption

The restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the proposed loan of money by the directed individual account in the Plan of Marvin L. Krichman, a party in interest with respect to the Plan, to a purchaser of a certain parcel of real property of which Marvin L. Krichman and his wife, Rosalie Krichman are the sellers.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36694.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

Bangs, McCullen, Butler and Foye Employees' Profit Sharing Retirement Plan (the Plan) Located in Rapid City, South Dakota

[Exemption Application No. D-3755 Prohibited Transaction Exemption 83-172]

Exemption

The restrictions of section 406(a) and 406(b)(1) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation past

June 30, 1984 of a lease by the Plan of certain improved real property to Bangs, McCullen, Butler, Foye and Simmons, the sponsor of the Plan, provided that the terms of such lease are at least as favorable to the Plan as the Plan could obtain in a lease with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Friday, August 12, 1983 at 48 FR 36695.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

J.L. Kislak, Inc. Employee Profit-Sharing Plan (the plan) Located in Springfield, Massachusetts

[Exemption Application No. D-4378 Prohibited Transaction Exemption 83-173]

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of real property (the Property) by the Plan to J.L. Kislak, Inc. for a cash purchase price of $140,777.51 or the fair market value of the Property on the date of sale, whichever is higher.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33571.

For further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-fee number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fidiciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogration of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, U.S. Department of Labor.

[FR Doc. 83-28761 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Form Submitted to the Office of Management and Budget for Clearance

The following are packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Federal Credit Union Examination Process Review.

Respondents: Federal Credit Union Managers.

Subject: Application and Agreements for Insurance of Accounts.

Respondents: Federal Credit Unions.

Copies of the above information collection clearance package can be obtained by calling the Natonal Credit Union Administration, Special Projects Officer, on 202-357-1080.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503 Attn: Judith McIntosh.

Dated: October 14, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-28680 Filed 10-20-83; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music 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 Music Advisory Panel (Opera-Musical Theater Section Prescreening) to the National Council on the Arts will be held on October 24-26, 1983, from 9:00 a.m.-5:30 p.m. in room 716 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: October 19, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-28652 Filed 10-20-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1); Request for Action

Notice is hereby given that by petition dated September 27, 1983, Terry Lodge requested on behalf of Steven Sass and the Sunflower Alliance that the Director, Office of Inspection and Enforcement, appoint an independent consultant to investigate the circumstances

surrounding a crane accident at Unit 1 of the Perry Nuclear Power Plant, open the plant to inspection by the general public, and initiate proceedings to determine whether the construction permit for the plant should be revoked in light of the independent consultant's findings. The petition is being considered pursuant to 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Perry plant at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081.

Dated at Bethesda, Maryland, this 14th day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28738 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Availability of Draft Integrated Plant Safety Assessment Report for the Big Rock Point Nuclear Power Plant

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Draft Integrated Plant Safety Assessment Report related to Consumers Power Company's Big Rock Point Nuclear Power Plant, located in Charlevoix County, Michigan.

The report documents the review completed under the Systematic Evaluation Program (SEP). The SEP was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. In addition to the 137 SEP topics, this report addresses a majority of pending licensing actions for the Big Rock Point Plant, at the licensee's request, which include TMI Action Plan requirements and implementation criteria for resolved generic issues. The review has provided for (1) an assessment of the significance of differences between current technical positions on selected safety issues and those that existed when Big Rock Point was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety. Equipment and procedural changes have been identified as a result of the review.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the NRC's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and at the Charlevoix Library, 107 Clinton Street, Charlevoix, Michigan 49720 for inspection and copying. Single copies of this report (Document No. NUREG-0828) may be requested from the U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland this 6th day of October 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-28734 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Company; (Catawba Nuclear Station, Units 1 and 2) Receipt of Request for Action

Notice is hereby given that by letter dated September 14, 1983, the Government Accountability Project has requested on behalf of the Palmetto Alliance that, *inter alia*, the Commission take action to require a management audit of the Duke Power Company and an independent review of the as-built condition of the Catawba Nuclear Station, alleged design deficiencies and the quality assurance program. The letter is being treated by the Office of Inspection and Enforcement as a request for action under 10 CFR 2.206 which requires evaluation and a decision relative to that request. Accordingly, appropriate action will be taken on the request within a reasonable time.

Copies of the letter are avaiable for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Catawba Nuclear Station at the York County Library, 325 South Oakland Avenue, Rockhill, South Carolina 29730.

Dated at Bethesda, Maryland, this 14th day of October, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28735 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Company; (Turkey Point Plant Unit Nos. 3 and 4) Order for Modification of License

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power levels not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

By letter dated October 12, 1983, supplemented on October 13, 1983, the licensee requested relief from its existing technical specifications requirement to go to cold shutdown because only one residual heat removal (RHR) loop is operable.

The 4B RHR pump motor failed during routine testing at Turkey Point Unit 4 at 11:35 a.m., October 11, 1983. The failure was such that a major repair effort of the motor is required. The licensee contacted the motor vendor, and other utilities utilizing similar equipment and has determined that due to the unique design, and age of the component, no replacements or spares are available. The motor vendor has service people on-site and repairs are in progress.

The current technical specifications require that the unit be placed in hot shutdown within 24 hours of the RHR pump being out of service, and in cold shutdown within an additional 48 hours. The plant has been placed in hot shutdown as required. At issue is the subsequent requirement to go to cold shutdown. The licensee has requested emergency relief from the Turkey Point Technical Specifications, to permit extended operation in mode 4 (hot shutdown) on a one time basis while the inoperable Unit 4 RHR pump is being repaired. The requested relief is an interim requirement to allow operation with the reactor shutdown and Tavg between 350° F and 200° F for a period up to 30 days with one residual heat removal pump out of service. The staff has considered the consequences of going to cold shutdown and the potential loss of the remaining RHR loop. We have concluded that operation in hot shutdown with the reactor coolant system (RCS) average termperature less than 350° F while the inoperable pump is being repaired would be more prudent. The basis for our conclusion is

contained in our attached Safety Evaluation.

In view of the foregoing, I have determined that a temporary change in the licensee's technical specifications to require the licensee to maintain the reactor coolant system Tavg between 350° F and 200° F when one residual heat removal pump is inoperable for a period up to 30 days is required in the interest of public health and safety and, therefore, should be made effective immediately.

III

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately: Technical Specification 3.4.lb is modified as set forth in Attachment 2 of this Order.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March, 1983.

Note.—1. Safety Evaluation Report Turkey Point Units 3 and 4, One Residual Heat Removal Loop Inoperable, and

2. Revised Technical Specification, Section 3.4.lb, Page 3.4–2 are available at the NRC's Public Document Room and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-28736 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[License No. 49-19585-01 EA 83-110]

Perforating Services, Inc.; Order to Show Cause and Order Temporarily Suspending License (Effective Immediately)

I

Perforating Services, Inc., P.O. Box 912, Casper, Wyoming 82601 (the "licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commisison") pursuant to 10 CFR Part 30. The license, issued on June 4, 1981, and due to expire on June 30, 1986, authorizes the use, storage, and transfer of byproduct material as described in the licensee's application dated October 26, 1980, and letter dated May 10, 1981.

II

During an NRC inspection of the licensee on September 28 and 30, 1983, the NRC inspector was informed by the President and Vice President that since receipt and use of licensed on or about November 1981, they had not done the following: (1) Had not obtained personnel monitoring devices (film badges or TLD's); (2) had not obtained a survey meter to perform radiation surveys to assure compliance with 10 CFR Part 20 and had not conducted the surveys required in the licensee's procedures; (3) had not leak tested the sealed source; (4) had not set up a radioactive materials storage area as described in the license application; (5) had not posted documents per 10 CFR 19.11; (6) had not provided instruction to personnel per 10 CFR 19.12; (7) had not maintained any receipt records at the place of use to identify what material the licensee possessed; (8) had not complied with various requiremetns for transporting radioactive materials; and (9) had not conducted an audit to assure compliance with NRC requirements. Although the licensee's officers apparently understood NRC requirements, they had neglected to take action to ensure compliance with these requirements.

The results of this inspection indicated that the licensee had been conducting licensed activities in violation of Commission requirements since receipt and use of material as enumerated below:

1. License Condition 15 requires, in part, that sealed sources shall be tested for leakage or contamination at intervals not to exceed 6 months and that leak test records shall be maintained.

Contrary to this requirement, the sealed source used for well-logging had not been leak tested since receipt of material on or about November 1981 to September 30, 1983.

2. License Condition 17 requires, in part, that licensed activities be conducted in accordance with statements, representations, and procedures contained in the application dated October 26, 1980.

a. Contrary to Item 10 of the application, radiation survey instruments were not obtained by the licensee to perform required radiation surveys.

b. Contrary to Item 11 of the application, personnel monitoring devices were not provided to individuals working with licensed material.

c. Contrary to Item 15 of the application, the radiation protection officer did not fulfill his duties, such as to conduct audits, to assure licensed activities were being conducted in compliance with NRC requirements.

d. Contrary to Appendix A, Item 6.a. of the application, the licensee did not maintain a utilization log for the use of licensed material.

e. Contrary to Appendix A, Item 6.e, of the application, the licensee did not conduct quarterly surveys of an area where licensed material was stored.

f. Contrary to Appendix A, Item 6.g. of the application, the licensee did not conduct radiation surveys at the customer well sites where licensed material was used.

g. Contrary to Appendix B, Item 8.a, of the application, the licensee did not have a storage area for licensed material as described in the application.

3. 10 CFR 20.105(b)(2) states, in part, that no licensee shall possess, use, or transfer licensed material in such a manner as to create in any unrestricted area radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of 100 millirem in any 7 consecutive days.

Contrary to this requirement, on September 28, 1983, radiation levels existed in an unrestricted area adjacent to a radioactive materials storage location of such magnitude that if an individual were continuously present in this area, he could have received a dose of 200 millirem in 7 consecutive days.

4. 10 CFR 20.201(b) requires that each licensee make or cause to be made surveys as: (a) May be necessary for the licensee to comply with the regulations in 10 CFR Part 20, and (b) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present.

Contrary to this requirement, as of September 30, 1983, radiation surveys had not been conducted of an

unrestricted area adjacent to where curie quantities of licensed material were stored.

5. License Condition 16 requires, in part, that the licensee shall transport licensed material in accordance with Title 10, Code of Federal Regulations, Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material under Certain Conditions."

10 CFR 71.5(a) requires, in part, that no licensee shall transport any licensed material outside the confines of his plant or other place of use, or deliver any licensed material to a carrier for transport, unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation in 49 CFR Parts 170–189.

a. Contrary to 49 CFR 172.200(a), shipping papers were not provided for packages containing Type A quantities of radioactive material when transported on public highways in Wyoming.

b. Contrary to 49 CFR 172.403, the licensee stated that the shipping container used for transporting a well-logging source was not labeled with an appropriate radioactive yellow-III label when being transported on public highways in Wyoming.

c. Contrary to 49 CFR 173.425(a), the licensee did not possess the Specification 7A package certification for Type A quantities of licensed material transported on public highways in Wyoming.

d. Contrary to 49 CFR 173.476(a), the licensee did not possess the certification for Special Form Material transported on public highways in Wyoming.

e. Contrary to 49 CFR 178.350–3, the package used to transport Type A quantities of radioactive material did not have the required markings ("USA DOT 7A Type A").

6. 10 CFR 19.11 (a) and (b) requires, in part, that each licensee shall post current copies of specified regulations and the license, or a notice specifying where such documents may be examined.

Contrary to this requirement, neither the documents nor a notice were posted on September 28, 1983.

7. 10 CFR 19.12 requires, in part, that each licensee shall instruct individuals working in restricted areas of the precautions and procedures to minimize exposures to radiation and radioactive materials and in the applicable provisions of the Commission's regulations and licenses.

Contrary to this requirement, the licensee had not provided such instructions to an individual who performed as an operator where licensed material was used and stored.

8. 10 CFR 20.203(e)(1) requires that each area or room in which licensed material is used or stored and which contains any radioactive material in an amount exceeding 10 times the quantity of such material specified in Appendix C of Part 20, shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION (or DANGER) RADIOACTIVE MATERIAL.

Contrary to this requirement, on September 28, 1983, an area used for the storage of a package containing curie quantities of americium-241 was not posted with such a sign.

9. 10 CFR 30.51(a) requires each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of such byproduct material.

Contrary to this requirement, on September 28 and 30, 1983, records for receipt of licensed material were not available at the licensee's place of use for a well-logging source containing curie quantities of americium-241, and the licensee did not know if it possessed a 3-curie or a 5-curie source.

Under section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for, among other things, conditions which would warrant the Commission to refuse to grant a license on an initial application or for failure to observe the terms of the license, Commission regulations, or the Atomic Energy Act. As indicated above, the licensee's action evinced a complete and careless disregard of NRC requirements and a lack of control over its licensed operation. Had the Commission known at the time the license application was received that the licensee would not adhere to the requirements of its license and NRC regulations, no license would have been issued. The Commission can no longer rely on this licensee to comply with NRC requirements.

In sum, the licensee's actions demonstrate that it is unable and unwilling to comply with NRC requirements, including those associated with basic radiation safety. Accordingly, public health and safety require issuance of an order to show cause why the license should not be revoked.

In view of the licensee's willful disregard of the Commission's requirements and lack of control of its licensed operation, the Director, Office of Inspection and Enforcement, has determined that no prior notice is required and pursuant to 10 CFR 2.202(a)(1), License Number 49–19585–01 should be suspended effective immediately pending further order.

III

Accordingly, pursuant to sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, it is hereby ordered that:

1. Effective immediately, the licensee's authorization under License Number 49–19585–01 to receive or use byproduct material is suspended, except as permitted in Condition 2 below;

2. Effective immediately, the licensee shall place all byproduct material in its possession in licked storage or transfer such material to a person authorized to receive the material; and

3. The licensee shall show cause, in the manner hereinafter provided, why its authorization under License Number 49–19585–01 to receive, possess and use byproduct material should not be revoked.

IV

The licensee may show cause, within 25 days after issuance of this Order, as required by Section III.C, above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an Order in substantially the form proposed in this Order to Show Cause. Upon failure of the licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement, may issue without further notice an Order revoking the license as described in Section III, above.

V

The licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76100. A request for hearing shall not stay the immediate effectiveness of section III of this order.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in section II of this Order.

License No. 49–19585–01 should be revoked.

Dated at Bethesda, Maryland this 13 day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28739 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[License No. 37-21014-01 EA 83-112]

Roof Auditing Services; Order to Show Cause and Order Temporarily Suspending License Effective Immediately

I

Roof Auditing Services, P.O. Box 22, Oreland, Pennsylvania, 19075 (the "Licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission") pursuant to 10 CFR Part 30. The license, issued on June 4, 1982, and due to expire on June 30, 1987, authorizes the use, storage, and transfer of byproduct material as stated in the Licensee's application dated March 22, 1982 and letter supplementing that application dated May 27, 1982.

II

In a byproduct application dated March 22, 1982, the Licensee requested a license to possess a moisture gauge containing americium-241. By letter dated May 20, 1982, the Licensee was informed that the license could not be issued unless additional commitments and descriptions were submitted in support of the application. In a letter dated May 27, 1982, the Licensee provided the requested information. Specifically, the Licensee stated that a named individual would be the designated user of byproduct material, the named individual had completed a manufacturer's training course in the use of moisture gauges containing byproduct material, film badges would be obtained and exchanged monthly, the moisture gauge would be stored and secured in a cinder block and concrete garage located about 500 feet from where people work, and every six months leak testing of the sealed source would be accomplished by using a commercial leak test kit. License Number 37–21014–01 was subsequently issued on June 4, 1982 and incorporated these commitments as requirements by Condition 17 of the license.

In a letter dated September 9, 1983, the sole individual named on the license as authorized to use the gauge containing byproduct material informed the Commission that he was no longer employed by the Licensee. The named individual requested that his name be deleted from License Number 37–21014–01.

III

As a result of this disclosure, an NRC inspector visited the Licensee's facility at 4 Red Oak, Oreland, Pennsylvania, on October 6, 1983. An individual at this address informed the NRC inspector that the Licensee's president was not at the facility. The NRC inspector requested admittance to inspect the gauge. The individual denied the inspector admittance and stated that the moisture gauge was not at the location but was being used at a job site.

Contact with the Licensee's president was made at approximately 6:30 p.m. on October 6, 1983. Arrangements were made during a return call at 8:15 a.m. on October 7, 1983 for an inspection of the gauge and review of records at 10:30 a.m. on October 7, 1983.

The results of this inspection indicated that the moisture gauge had been in use since the departure of the sole named individual authorized to use the source. Based on an initial review of the inspection findings, the following violations have been identified:

1. License Condition 12, requires that licensed material be used by, or under the supervision and in the physical presence of, a single named individual.

Contrary to this requirement, from September 9, 1983 to October 6, 1983 licensed material was used by individuals not named on the license and the named user was not physically present and had left the employment of the licensee.

2. License Condition 17 requires, in part, that licensed material be stored in a cinder block and concrete garage located 500 feet from where people work.

Contrary to this requirement, as of October 7, 1983, the licensed material was stored in a garage that is an integral part of the residence. There is no cinder block and concrete garage located away from the facility at the storage address listed on the license.

3. License Condition 17 requires, in part, that the Licensee use film badges supplied by a specific film badge supplier.

Contrary to this requirement, as of October 7, 1983, the Licensee has not used film badges supplied by the specified supplier nor could the Licensee produce any evidence that film badges had ever been procured or used.

During the inspection, the inspector also found that the Licensee did not currently have any employees who had completed training given by the manufacturer of the gauge. The Licensee's president also stated that the cinder block and concrete garage described in the May 27, 1983 letter referenced in the license is located at a different location. Although the Licensee's president apparently understood NRC requirements, he had neglected to take action to ensure compliance with these requirements.

IV

Under Section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for a finding which would warrant the Commission to refuse to grant a license on initial application. As stated above, on October 7, 1983, the Licensee had neither the personnel nor the storage facilities described in a letter dated May 27, 1982. Had the Commission known at the time the license was applied for that the moisture gauge would be used by persons not authorized by the license and that the Licensee would not implement its license conditions, no license would have been issued. The Commission can no longer rely on this Licensee to comply with Commission requirements.

In sum, the Licensee's actions demonstrate that it is unable or unwilling to comply with Commission requirements, including those associated with basic radiation safety. Accordingly, the public health and safety requires issuance of an Order to Show Cause why the Licensee's specific license to use byproduct material should not be revoked. NRC Enforcement Policy, 10 CFR Part 2, Appendix C, IV.C.

In view of the Licensee's willful noncompliance with the Commission's requirements and current inability to come into compliance, I have determined that no prior notice is required and, pursuant to 10 CFR 2.202(f), License No. 37–21014–01 should be suspended effective immediately pending further order.

V

Accordingly, pursuant to Sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, it is hereby ordered that:

A. Effective immediately, the Licensee's authorization under License No. 37–21014–01 to receive or use byproduct material is suspended, except as permitted in Condition B below;

B. Effective immediately, the Licensee shall place all byproduct material in its possession in locked storage or transfer

such material to a person authorized to receive the material; and

C. The Licensee shall show cause, in the manner hereinafter provided, why License No. 37-21014-01 should not be revoked.

VI

The Licensee may show cause, within 25 days after issuance of this Order, as required by Section V.C., above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which the Licensee relies. The Licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an order in substantially the form proposed in this Order to Show Cause. Upon failure of the Licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement, may issue without further notice an order revoking the license.

VII

The Licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. A request for hearing shall not stay the immediate effectiveness of sections V.A and V.B of this order.

If a hearing is requested by the Licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in this Order, License No. 37-21014-01 should be revoked.

Dated at Bethesda, Maryland this 13th day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28740 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-508-OL]

Washington Public Power Supply System (WPPSS Nuclear Project No. 3); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Gary J. Edles
Howard A. Wilber.

Dated: October 14, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-28737 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program (Big Rock Point) will hold a meeting on November 7, 1983, Room 1046, 1717 H Street, NW., Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, November 7, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittee will continue discussion of the Systematic Evaluation Program and other outstanding regulatory issues pertinent to Big Rock Point with representatives of Consumers Power Company and the NRC Staff.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Subcommittee Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-28741 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 528; Docket No. A83-29]

Wendell, New Hampshire 03783 (Vivian E. Duling, Petitioner); Accepting Appeal and Establishing Procedural Schedule

Issued: October 13, 1983.

Before Commissioners: Janet D. Steiger, Chairman; John W. Crutcher, Vice-Chairman; Simeon M. Bright; James H. Duffy; Henry R. Folsom.

Docket number: A83-29.

Name of affected post office: Wendell, New Hampshire, 03783.

Name(s) of petitioner(s): Vivian E. Duling.

Type of determination: Closing.

Date of filing of appeal papers: September 29, 1983.

Categories of issues apparently raised:

1. Effect on community served by office [39 U.S.C. 404(b)(2)(A)].

2. Effective and Regular Postal Services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before October 14, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

Sept. 29, 1983	Filing of Petition.
Oct. 13, 1983	Notice and Order of Filing of Appeal.
Oct. 24, 1983	Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].
Nov. 3, 1983	Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)].
Nov. 24, 1983	Postal Service Answering Brief [see 39 CFR 3001.115(c)].
Dec. 12, 1983	Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)].
Dec. 19, 1983	Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. [see 39 CFR 3001.116].
Jan. 17, 1983	Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 83-28647 Filed 10-20-83; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-0167]

Lehigh Valley Ventures, Ltd., Application for License To Operate as a Small Business Investment Company

An Application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Lehigh Valley Ventures, Ltd., a limited partnership, located at 211 South Broad Street, Philadelphia, Pennsylvania 19107, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

Limited partnership units are being offered through a private placement offering to investors. The limited partners are not yet known. The total net partnership capital has been estimated to be $2,000,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

The following general partners will contribute $100,000 to the partnership capital:

Mr. James B. Hovis, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Mr. Joseph P. Nolan, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Mr. Aman M. Barber, Jr., 515 Linden Street, P.O. Box 1728, Allentown, PA 18105.

Lehigh Valley Venture Corporation, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Lehigh Valley Venture Corporation is owned by the following individuals:

	Percentage
Mr. Jack I. Greenblat	24.5
Mr. Irving W. Coleman	24.5
Mr. Aman M. Barber, Jr.	51.0

The applicant intends to conduct its operations principally in the State of Pennsylvania.

Matters involved in SBA's considerations of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Philadelphia, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 13, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28759 Filed 10-20-83; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee Review; Review and Solicitation of Public Comment; Proposed Modification of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences To Remove Imports of Certain Cellulose Film From Mexico From Duty-Free Eligibility

Notice is hereby given that the Trade Policy Staff Committee (TPSC) has initiated a review of the removal of films, strips and sheets of cellulose plastic material not over 0.003 inches in thickness classified under TSUS 771.30 of the Tariff Schedules of the United States Annotated, when imported from Mexico, from the list of products eligible for duty-free treatment under the U.S. Generalized System of Preferences (19 U.S.C. 2461–2465). The review is initiated pursuant to a petition filed by E. I. Du Pont de Nemours and Company. Interested parties are requested to provide written comments to the TPSC regarding the Du Pont request not later than November 30, 1983. A public hearing on the proposed modification will not be scheduled unless specifically requested by an interested party no later than November 1, 1983.

All submissions should conform to 15 CFR Part 2007 and be submitted in twenty copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee. Information submitted in connection with the proposed modification will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and each page within the document, where appropriate, that the confidential materials are included. Non-confidential summaries of all confidential material must be submitted in twenty copies in English, at the same time that confidential submissions are filed.

All communications with regard to the proposed modification should be addressed to the GSP Subcommittee, Office of the United States Trade Representative, 60 17th Street NW, Room 316, Washington, D.C. 20506. The telephone number of the GSP Subcommittee is (202) 395–6971.

Questions may also be directed to any member of the staff of the GSP Information Center.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

[FR Doc. 83-28674 Filed 10-20-83; 8:45 am]
BILLING CODE 3190-01-M

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain specialty steel and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Catherine Curtiss, United States Trade Representative (202) 395-4946.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States, pursuant to section 203 of the Trade Act of 1974. Specified steels not produced in the United States or produced in small quantities were exempted from the import relief.

Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Accordingly, the U.S. Trade Representative has determined that the quota quantities should be allocated on a country-by-country basis and that additional articles should be exempted from the application of the import relief. These articles are not produced in the United States or are produced in such small quantities that their exemption would not have an adverse impact on the U.S. industry. These changes are being made as a result of negotiations with Argentina, Austria, Canada, Japan, Poland, Spain and Sweden.

In conformity with the above, paragraph (a) of headnote 10, subpart A, part 2 of the Appendix to the TSUS is modified by deleting the period at the end thereof and substituting a semicolon therefor, and by inserting in numerical sequence the following new subparagraphs:

"(v) The term *"stainless steel of the type described in headnote 10(a)(v)"* refers to the stainless steel grades described in either subparagraph (A) or (B) below which contain, in addition to iron, each of the following elements by weight in the amounts specified:

(A)

Carbon: Not more than 0.02 percent;
Silicon: Not less than 0.2 percent nor more than 0.8 percent;
Manganese: Not less than 0.2 percent nor more than 1.0 percent;
Chromium: Not less than 19.5 percent nor more than 20.5 percent;
Nickel: Not less than 17.5 percent nor more than 18.5 percent;
Molybdenum: Not less than 6.0 percent nor more than 6.5 percent;
Nitrogen: Not less than 0.18 percent nor more than 0.22 percent;
Copper: Not less than 0.5 percent nor more than 1.0 percent;
Sulfur: Not more than 0.03 percent;
Phosphorus: Not more than 0.04 percent; or

(B)

Carbon: Not less than 0.05 percent nor more than 0.10 percent;
Silicon: Not less than 1.4 percent nor more than 2.0 percent;
Manganese: Not less than 0.2 percent nor more than 0.8 percent;
Chromium: Not less than 20.0 percent nor more than 22.0 percent;
Nickel: Not less than 10.0 percent nor more than 12.0 percent;
Nitrogen: Not less than 0.14 percent nor more than 0.20 percent;
Cerium: Not less than 0.03 percent nor more than 0.08 percent;
Sulfur: Not more than 0.03 percent;
Phosphorus: Not more than 0.04 percent;

(vi) The term *"flapper valve steel"* refers to stainless steel strip not over 0.05 inch in thickness, certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of stainless steel flapper valves for compressors;

(vii) The term *"rotor steel for hysteresis motors"* refers to tool steel strip not over 0.05 inch in thickness containing by weight not less than 0.5 percent carbon and not less than 5.5 percent tungsten, certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of rotor rings or cups for hysteresis motors;

(viii) The term *"tool steel of the type described in headnote 10(a)(viii)"* refers to the alloy tool steel grades described in any one of the subparagraphs (A) through (F) below which contain, in addition to iron, each of the following elements by weight in the amount specified:

(A)

Carbon: Not less than 0.65 percent nor more than 1.05 percent;
Manganese: Not less than 0.95 percent nor more than 1.75 percent;
Sulfur: Less than 0.03 percent;
Phosphorus: Less than 0.03 percent;
Silicon: Not less than 0.45 percent nor more than 0.90 percent;
Chromium: Not less than 0.90 percent nor more than 1.80 percent;
Nickel: Less than 0.35 percent;
Copper: Less than 0.35 percent;
Molybdenum: Less than 0.10 percent;

(B)

Carbon: Not less than 0.95 percent; nor more than 1.05 percent;
Manganese: Not less than 0.95 percent; nor more than 1.25 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.45 percent; nor more than 0.75 percent;
Chromium: Not less than 0.90 percent; nor more than 1.20 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not more than 0.08 percent;

(C)

Carbon: Not less than 0.85 percent; nor more than 1.00 percent;
Manganese: Not less than 1.40 percent; nor more than 1.70 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.50 percent; nor more than 0.80 percent;
Chromium: Not less than 1.40 percent; nor more than 1.80 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not more than 0.08 percent;

(D)

Carbon: Not less than 0.95 percent; nor more than 1.10 percent;
Manganese: Not less than 0.65 percent; nor more than 0.90 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.20 percent nor more than 0.35 percent;
Chromium: Not less than 1.10 percent nor more than 1.50 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;

Molybdenum: Not less than 0.20 percent nor more than 0.30 percent;

(E)

Carbon: Not less than 0.95 percent nor more than 1.10 percent;
Manganese: Not less than 1.05 percent nor more than 1.35 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.20 percent nor more than 0.35 percent;
Chromium: Not less than 1.10 percent nor more than 1.50 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not less than 0.45 percent nor more than 0.60 percent; or

(F)

Carbon: Not less than 0.92 percent nor more than 1.02 percent;
Manganese: Not less than 0.25 percent nor more than 0.40 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.25 percent nor more than 0.40 percent;
Chromium: Not less than 1.65 percent nor more than 1.95 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not less than 0.18 percent nor more than 0.40 percent;
Aluminum: Not more than 0.05 percent;

Certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of ball or roller bearings."

In addition, paragraphs (c) and (d) of headnote 10, subpart A, part 2 of the Appendix to the TSUS are modified to read as follows:

(c) *Carryover.*—Whenever the quota quantity specified for any of the individually named countries for an item has not been entered during any restraint period, entry may be made during ths subsequent restraint period of an amount up to 20 percent (10 percent in the case of shortfalls occurring in the restraint period April 20 through July 19 of any year) of the base limit for the restraint period in which the shortfall occurs, but not to exceed the difference between the quota quantity specified for such restraint period and the amount entered during that period; and such amount shall not be counted against the quota quantity therefor.

(d) *Exceeding restraint levels.*—The restraint level for any quota quantity allocated to any of the individually named countries may be exceeded by not more than 10 percent during any restraint period, except that the restraint levels for the period April 20 through July 19 for 1984, 1985, or 1986 may be exceeded by not more than 3 percent, and shall not be exceeded for that period in 1987. If a quota quantity is exceeded during a restraint period, a downward adjustment of the corresponding quota quantity for the next restraint period in the absolute amount the preceding restraint level was exceeded shall be made.

The article description in TSUS item 926.00 is modified by deleting "and" from the parenthetical phrase and by inserting after "sheet" the following:

, cold-rolled sheets of stainless steel, over 71 inches in width, stainless steel of the type described in headnote 10(a)(v), and flapper valve steel.

The article description in TSUS item 926.05 is modified by inserting after "steel" the following: "(except stainless steel of the type described in headnote 10(a)(v))".

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TSUS items 926.10 through 926.23 and the superior headings pertaining thereto are modified to read as follows:

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	"Whenever the respective aggregate quantity of articles the product of a foreign country specified below for items 926.10 through 926.23, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 9 or in item 832.00 of schedule 8), no article in such item the product of such country may be entered during the remainder of such restraint period, except as provided in headnote 10:				
	Bars of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in item 606.90, part 2B, schedule 6:				
926.10	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Argentina	1/	66	66	67
	Canada	1/	244	292	389
	Japan	1/	3,856	3,125	3,125
	Spain	1/	967	967	966
	Sweden	1/	353	353	352
	Other	1/	1,209	1,947	1,851
926.11	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Argentina	52	51	51	51
	Canada	251	251	251	251
	Japan	3,219	3,219	3,219	3,218
	Spain	1,000	999	999	999
	Sweden	309	309	309	309
	Other	2,119	2,121	2,121	2,121
	Whenever the respective aggregate quantity, etc. (con.):				
	Bars of stainless steel, etc. (con.):				
926.12	If entered during the period from July 20, 1985, through July 19, 1986, inclusive:				
	Argentina	53	53	53	52
	Canada	259	259	258	258
	Japan	3,316	3,315	3,315	3,315
	Spain	1,030	1,030	1,029	1,029
	Sweden	319	318	318	318
	Other	2,173	2,175	2,177	2,178
926.13	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Argentina	55	54	54	54
	Canada	267	266	266	266
	Japan	3,415	3,415	3,415	3,414
	Spain	1,061	1,061	1,060	1,060
	Sweden	328	328	328	327
	Other	2,249	2,251	2,252	2,234
	Wire rod of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in items 607.26 and 607.43, part 2B, schedule 6:				
926.15	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Japan	1/	1,713	1,400	1,400
	Spain	1/	402	401	401
	Sweden	1/	935	935	935
	Other	1/	1,725	2,039	2,039

1/ No individual country quota allocations were made for this quota period.

1/ No individual country quota allocations were made for this quota period.

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Wire rod of stainless steel, etc. (con.):				
926.16	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Japan	1,442	1,442	1,442	1,442
	Spain	423	423	423	422
	Sweden	902	901	901	901
	Other	2,158	2,159	2,159	2,160
926.17	If entered during the period from July 20, 1985, through July 19, 1986, inclusive:				
	Japan	1,486	1,485	1,485	1,485
	Spain	436	436	435	435
	Sweden	929	928	928	928
	Other	2,224	2,226	2,227	2,227
926.18	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Japan	1,530	1,530	1,530	1,529
	Spain	446	449	448	448
	Sweden	957	956	956	956
	Other	2,289	2,290	2,291	2,292

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Bars, wire rods, plates, sheets, and strip, all the foregoing of alloy tool steel (except chipper knife steel, hand saw steel, rotor steel for hysteresis motors, and tool steel of the type described in headnote 10(e)(viii)), provided for in items 606.95, 607.28, 607.34, 607.46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64, and round wire of high speed tool steel, provided for in item 609.45, part 2B, schedule 6:				
926.20	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Argentina	1/	67	67	69
	Austria	1/	701	702	702
	Canada	1/	350	474	537
	Japan	1/	1,190	1,020	1,020
	Poland	1/	79	79	79
	Spain	1/	54	54	54
	Sweden	1/	2,148	2,148	2,148
	Other	1/	1,009	1,056	992
926.21	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Argentina	52	52	52	52
	Austria	618	618	618	618
	Canada	361	361	360	360
	Japan	1,051	1,051	1,050	1,050
	Poland	84	84	65	65
	Spain	42	42	42	41
	Sweden	1,983	1,983	1,983	1,982
	Other	1,604	1,604	1,605	1,607

1/ No individual country quota allocations were made for this quota period.

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Item	Articles	Quota Quantity (in short tons)			
		Entered during the restraint period--			
		July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Bars, wire rods, etc. (con.):				
926.22	If entered during the period from July 20, 1985, through July 19, 1986, inclusive:				
	Argentina	54	54	53	53
	Austria	636	636	637	637
	Canada	372	371	371	371
	Japan	1,082	1,082	1,082	1,082
	Poland	66	66	66	67
	Spain	43	43	43	43
	Sweden	2,043	2,042	2,042	2,042
	Other	1,654	1,656	1,656	1,655
926.23	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Argentina	56	55	55	55
	Austria	655	656	656	656
	Canada	383	383	382	382
	Japan	1,115	1,115	1,114	1,114
	Poland	69	68	68	68
	Spain	45	44	44	44
	Sweden	2,104	2,104	2,103	2,103
	Other	1,698	1,700	1,703	1,703"

I have determined that the above allocations and other changes in the import relief are appropriate to carry out the authority granted by the President to the U.S. Trade Representative and the obligations of the United States, with due consideration to the interests of the domestic producers of such specialty steel. This action is subject to further modification.

Dated: October 19, 1983.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-28859 Filed 10-20-83; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive 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 of a meeting of the RTCA Executive Committee to be held on November 14, 1983, in salons E and D, Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia commencing at 2:00 p.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on September 23, 1983; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for September and October, 1983; (4) Review of the Future Planning Group Report; (5) Consideration of Establishing New Special Committees; (6) Review of European Organization for Civil Aviation Electronics (EUROCAE) Activities; (7) Comments and Reports by Representatives from International Associates; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 14, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-28895 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Workshop for Modeling Human Kinematics and Vehicle Structural Responses; Public Meetings

The NHTSA intends to hold a workshop for modeling human kinematics and vehicle structural responses. The program will be structured to permit professionals from government, industry and academia to make informal presentations of their modeling activities in the area of human motions and impacts during vehicle crashes.

The workshop intends to address modeling techniques and the use of models with emphasis on the following topics:

1. Human kinematic simulations, such as single and multiple mass models, 2-D and 3-D lumped mass simulations, etc., employed to assess human responses in a dynamic crash environment.

2. Mathematical simulations of human body segments and vehicle components which are employed in the study of impact responses of specific body areas.

3. Mathematical simulations of vehicle crash events.

4. Data collection, display methods, and visual aids.

The presentations will be informal and structured to encourage a free exchange of current scientific knowledge. The session format will depend on the number of presentations. Due to anticipated large participation and to keep the workshop to a most constructive format, only those who have advised NHTSA in writing of their desire to participate will be invited to comment. The printed proceedings of the workshop will include papers of only those authors who provide a prepared manuscript at the time of the meeting and request in writing its printing.

The workshop is planned to be held in Washington, D.C., on January 11-13, 1984. The workshop will convene at 2:30 p.m., Wednesday, January 11, 1984, following the regular NHTSA/Industry quarterly meeting. Those interested in participating in these proceedings should send their names, institutional affiliations, address, title(s) and abstract(s) of their presentations(s) on or before November 15, 1983, to S. Backaitis, NRM-12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590. Each registrant subsequently will be notified of the precise location of the meeting.

Issued in Washington, D.C. on October 17, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28873 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 205
Friday, October 21, 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

	Items
Federal Communications Commission	1, 2
Federal Elections Commission	3
Federal Home Loan Mortgage Corporation	4
Federal Reserve System	5, 6
Securities and Exchange Commission	7

1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 19th Closed Meeting.

October 18, 1983.

The following item has been deleted from the list of agenda items scheduled for consideration at the October 19, 1983, Closed Meeting and previously listed in the Commission's Notice of October 12, 1983.

Agenda, Item No, and Subject

General—1—Administrative Federal Tort Claim of the estate of Conrad B. Lahser, III.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1484-83 Filed 10-19-83; 12:29 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 19th Open Meeting

October 18, 1983.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the October 19, 1983, Open Meeting and previously listed in the Commission's Notice of October 12, 1983.

Agenda, Item No. and Subject

Video—1—Petition for Expedited Special Relief and Declaratory Ruling (CSR-2347) filed on May 18, 1983, by Earth Satellite Communications, Inc. (ESC).

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1483-83 Filed 10-19-83; 12:29 pm]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, October 27, 1983, 10 a.m.

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 of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion 1983-26: J. Curtis Berge on behalf of NCPAC
Routine Administrative matters

* * * * *

DATE AND TIME: Thursday, October 27, 1983 immediately following close of open session.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1482-83 Filed 10-19-83; 10:13 am]

BILLING CODE 6715-01-M

4

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: October 25, 1983, 2:30 p.m.

PLACE: 1776 G Street NW., Washington, D.C., Conference Room 4-G.

STATUS: Open/closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street NW., P.O. Box 37248, Washington, D.C. 20013; (202) 789-4763.

MATTERS TO BE CONSIDERED:

Open: Adoption of Corporate Logo and Insignia
Closed: Minutes of September 21, 1983, Board of Directors' Meeting Minute Entry
Closed: President's Report
Closed: Financial Report Minute Entry

Dated: October 18, 1983.

[S-1480-83 Filed 10-18-83; 4:25 pm]

BILLING CODE 6720-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m, Wednesday, October 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, asignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Conte, Assistant to the Board (202) 452-3204.

Dated: October 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1481-83 Filed 10-19-83 10:10 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, October 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1487-83 Filed 10-19-83; 4:34 pm]

BILLING CODE 6210-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 24, 1983, at 450 5th Street NW., Washington, D.C.

Closed meetings will be held on Tuesday, October 25, 1983, at 1 p.m. and on Thursday, October 27, 1983, at 9 a.m. Open meetings will be held on October 27, 1983, at 10 a.m., 2:30 p.m. and 3 p.m. in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 25, 1983, at 1 p.m., will be:

Settlement of administrative proceedings of an enforcement nature
Institution of administrative proceedings of an enforcement nature
Institution of injunctive actions
Litigation matter

The subject matter of the closed meeting scheduled for Thursday, October 27, 1983, at 9 a.m. will be:

Regulatory matter regarding financial institutions

The subject matter of the open meeting scheduled for Thursday, October 27, 1983, at 10 a.m. will be:

1. Consideration of: (i) Whether the broker-dealer registration requirements of Section 15(a) of the Securities Exchange Act of 1934 (the "Exchange Act") are applicable to banks that engage in certain securities activities, and (ii) whether banks and savings and loan associations that enter into "networking" arrangements with registered broker-dealers should be required to register separately as broker-dealers. For further information, please contact Ardith Eymann at (202) 272–2844.

2. Consideration of whether the Division of Investment Management should decline to respond to a request for interpretive or no-action advice made on behalf of certain savings and loan associations ("S&L") which argue that they are "banks" as that term is used or defined in certain provisions of the federal securities laws and, instead, prepares an advance notice of proposed Commission action which would seek public comment on whether the Commission should propose: (a) To adopt rules that would exempt: (i) Certain S&Ls from the definition of investment adviser in the Investment Advisers Act of 1940 and (ii) common and collective trust funds maintained by an S&L from the registration requirements of the Investment Company Act of 1940, the Securities Act of 1933 (the "1933 Act"), and the registration, reporting and proxy requirements of the Securities Exchange Act of 1934 (the "1934 Act"); (b) to adopt rules defining the term "bank" in the Investment Company Act of 1940 and the Investment Advisers Act of 1940 (the "1940 Acts") and Section 3(a)(12) and 12(g)(2)(H) of the 1934 Act to include S&Ls which perform specified functions which are substantially equivalent to those performed by banks; (c) to adopt an interpretation of the term "bank" for purposes of the 1940 Acts and the 1933 Act and 1934 Act that would include S&Ls which perform certain functions; and (d) to develop a legislative proposal to amend the 1934 and 1940 Acts to include, for certain purposes, S&Ls that perform functions substantially similar to those of banks within the definitions of "bank" contained in those Acts. For further information, please contact Jeffrey Steele, at (202) 272–2039 or Kathleen A. Jackson at (202) 272–2751.

3. Consideration of a release proposing amendments to Rule 134a under the Securities Act of 1933. The rule provides a safe harbor from registration under the Securities Act for certain written communications describing the nature of options and options trading. The rule presently applies only to instructional or educational materials. The proposed amendments would extend the rule's coverage to options products and would modify the conditions to the rule's availability. For further information, please contact Alan L. Dye at (202) 272–2573.

The subject matter of the open meeting scheduled for Thursday, October 27, 1983, at 2:30 p.m. will be:

Oral argument on an appeal by Thomas J. Furnari, who was associated with the broker-dealer firms of Blyth, Eastman, Dillon and Company, and its successor, Paine, Webber, Jackson and Curtis, Inc., from the decision of an administrative law judge.

The subject matter of the open meeting scheduled for Thursday, October 27, 1983 at 3:00 p.m. will be:

Oral argument on an appeal by Jesse Rosemblum, doing business as Harbine Financial Service, a registered investment adviser, from the initial decision of an administrative law judge.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Lipsher at (202) 272–3195.

October 18, 1983.

[S–1485–83 Filed 10–19–83; 1:00 pm]

BILLING CODE 8010–01–M

Federal Register

Friday
October 21, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication to the **Federal Register** are listed with each State.

Arkansas: AR83–4069	Sept. 16, 1983.
District of Columbia: DC82–3031	Nov. 12, 1982.
North Dakota: ND81–5131	July 6, 1981.
New Jersey:	
NJ83–3015	June 17, 1983.
NJ83–3016	Do.
NJ83–3026	July 29, 1983.
Pennsylvania:	
PA83–3001	Aug. 19, 1983.
PA82–3028	Sept. 10, 1982.
Texas:	
TX83–4005	Jan. 7, 1983.
TX83–4061	Aug. 26, 1983.
Utah: UT 83–5120	Sept. 30, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision number are in parentheses following the numbers of the decisions being superseded.

Louisiana: LA83–4001 (LA83–4076)	Jan. 7, 1983.
Oklahoma:	
OK79–4016 (OK83–4072)	Feb. 23, 1979.
OK79–4058 (OK83–4073)	Mar. 30, 1979.
New Mexico: NM83–4036 (NM83–4074)	May 13, 1983.
Texas:	
TX81–4007 (TX83–4075)	Jan. 6, 1981.
TX83–4004 (TX83–4077)	Jan. 7, 1983.
TX83–4002 (TX83–4078)	Do.
TX82–4042 (TX83–4079)	Aug. 20, 1982.
TX82–4025 (TX83–4080)	June 18, 1982.
TX83–4006 (TX83–4081)	Jan. 7, 1983.
TX83–4026 (TX83–4082)	Apr. 8, 1983.

Signed in Washington, D.C. this 14th day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. DC82-3031- MOD. # 16 (47 FR 51304-NOVEMBER 12, 1982)	Basic Hourly Rates	Fringe Benefits
District of Columbia;Maryland Montgomery & Prince Georges Counties;DC Training School;Virginia-Independent City of Alexandria; Arlington & Fairfax Ctys.		
OMIT:		
ALL LABORERS (EXCEPT HEAVY CONSTRUCTION)		
ADD:		
LABORERS (EXCLUDING HEAVY CONSTRUCTION)		
LIGHT COMMERCIAL MASONRY WORK:		
(NEW BUILDINGS & ADDITIONS LIMITED TO 50,000 SQ. FT. IN FLOOR SPACE & NOT TO EXCEED FOUR STORIES IN HEIGHT ABOVE GROUND. WAREHOUSES,SHOOPING MALLS EXCLUDING ALL STORES OVER 50,000 SW. FT. IN FLOOR SPACE.		
WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY, MD. ARLINGTON & FAIRFAX, VA.		
MASON TENDER	$9.00	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OP.	9.50	1.73
COMMERCIAL MASONRY WORK:		
WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY MD.		
MASON TENDER	10.42	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OPERATOR	11.00	1.73
ARLINGTON & FAIRFAX CTYS.		
MASON TENDER	9.50	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OP.	10.50	1.73
ALL CONSTRUCTION (EXCLUDING HEAVY)		
WASHINGTON D.C. & PRINCE GEORGES,MONTGOMERY MD.		
TRUCKCHECKER	8.50	1.73
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP (INCLUDING CONCRETE CLEANUP), SWEEPERS,WATER PERSON & STAKE JUMPER,LANDSCAPE LABORERS,MAINTENANCE CLEANUP,CARPET LAYER TENDER	9.25	1.73
CONSTRUCTION LABORERS-CARPENTER TENDER,CEMENT MASONS TENDER,WATER SPRAYING CONCRETE (CURING), TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	10.42	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER-POTMAN, POWER TOOL OPERATOR, SMALL MACHINE OP.,CONCRETE LABOR,SIGNALMAN,LASER BEAM OP.WATERPROOFER, OPEN CAISSON,TEST PIT, UNDERPINNING,PIER HOLE & DITCHES,LAGGERS & OVERHEAD STRIPPERS,OPERATOR OF H & DERRICKS,VIBRATOR OP.,PIPELAYERS,OR TILE LAYERS,JACKHAMMERS,PAVING BREAKERS,SPADERS OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK,SCAFFORD BUILDERS, OP. OF TOWNMASTERS,SCOOTCRETES,BUGGYMOBILES & OTHER MACHINES OF SIMILIAR CHARACTER,OP. OF TAMPERS & RAMMERS, & OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK,WHETER POWERED BY AIR,ELECTRIC, OR GASOLINE,BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER HIGH & SAND BLASTERS, POWER & CHAIN SAW OPERATORS USED IN CLEARING, INSTALLERS OF WELL POINTS WAGON DRILL OP.,ACETYLENE BURNERS & LICENSED POWERMEN	11.53	1.73
ARLINGTON & FAIRFAX		
TRUCKCHECKER	7.80	1.73
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP(INCLUDING CONCRETE CLEANUP), SWEEPERS,WATER PERSON & STAKE JUMPER,LANDSCAPE LABORERS,MAINTENANCE CLEANUP,CARPET LAYER TENDER	8.50	1.73
CONSTRUCTION LABORERS-CARPENTER TENDER,CEMENT MASONS TENDER,WATER SPRAYING CONCRETE (CURING)		

DC82-3031 Mod. #16 cont't	Basic Hourly Rates	Fringe Benefits
TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	$9.50	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER:POTMAN, POWER TOOL OP.,SMALL MACHINE OP.,CONCRETE LABOR, SIGNALMEN,LASER BEAM OP. WATERPROOFER,OPEN CAISSON, TEST PIT,UNDERPINNING, PIER HOLE & DITCHES,LAGGERS & OVERHEAD STRIPPERS, OPERATOR OF H & DERRICKS,VIBRATOR OP.,PIPELAYERS, OR TILE LAYERS,JACKHAMMERS, PAVING BREAKERS,SPADERS OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK, SCAFFORD BUILDERS,OP. OF TOWMASTERS,SCOOTCRETES,BUGGYMOBILES & OTHER MACHINES OF SIMILAR CHARACTER,OP. OF TAMPERS & RAMMERS, & OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK, WHETHER POWERED BY AIR, ELECTRIC OR GASOLINE,BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER NIGH & SAND BLASTERS,POWER CHAIN SAW OP. USED IN CLEARING,INSTALLERS OF WELL POINTS,WAGON DRILL OP. ACETYLENE BURNERS & LICENSED POWERMEN	10.50	1.73
ALL CONSTRUCTION(EXCLUDING HEAVY)		
WASHINGTON D.C.,PRINCE GEORGES & MONTGOMERY CTYS. MARYLAND & ARLINGTON & FAIRFAX CTYS, VIRGINIA		
PLUMBER'S LABORERS	11.60	1.73
PLASTERER TENDERS	11.04	1.73
OPERATORS OF SCOOTCRETES, BOGGYMOBILES, & MIXER OPERATORS NOT IN CONJUNCTION WITH PLASTERING MACHINE (ON PLASTERING WORK)	11.35	1.73
MIXER OPERATOR IN CONJUNCTION WITH PLASTERING MACHINE	11.66	1.73
DEMOLITION LABORERS:		
BOBCAT	8.00	1.73
BURNER'S WORK	7.50	1.73
POWER TOOL OPERATORS	7.15	1.73
OTHER DEMOLITION WORK	7.00	1.73

DECISION #AR83-4069 - MOD. #3 (48 FR 41695 - Sept. 16, 1983) Pulaski and Jefferson Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
Change:		
ELECTRICIANS:		
Electricians	$14.70	3%%+ 2.90
Cable Splicers	14.82	3%%+ 2.90

DECISION NO. ND81-5131 - Mod. #6
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits
Change:		
Sheet Metal Workers: Area 2	$14.88	$1.90

DECISION NO. NJ83-3015 - MOD. #8 (48 FR 27991 - June 17, 1983) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION, AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONEMASONS:		
ZONE 5	15.16	3.25
ZONE 6	15.67	2.84
ZONE 10	15.78	2.84
ZONE 11	15.85	2.67
CARPENTERS, INSULATORS AND MILLWRIGHTS:		
ZONE 6		
Carpenters & Insulators	16.63	15.5%
Millwights	17.13	15.5%
IRONWORKERS:		
ZONE 1	18.45	3.70
ROOFERS:		
ZONE 1		
Composition	17.30	3.90
PAINTERS:		
ZONE 3		
Group 1	13.80	2.43
Group 2	12.70	2.43
Group 3	13.30	2.43
Group 4	13.95	2.43
Group 5	12.85	2.43
Group 6	14.40	2.43
ADD:		
PAINTERS:		
ZONE 3		
Group 7	14.30	2.43
PAINTERS, AREA, GROUP & ZONE DESCRIPTIONS:		
ZONE 3		
Group 7		
Paperhangers		

DECISION NO. NJ83-3016 - MOD. #9 (48 FR 28003 - June 17, 1983) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
MOD. #7 dated 9-30-83 in 48 FR 44988 to read MOD. #8		
ASBESTOS WORKERS:		
ZONE 1	18.06	4.12
PAINTERS:		
ZONE 1		
New Construction & Major Alterations	13.80	2.43
Repaint-New-Construction & Major Alterations	12.70	2.43
Exterior over stories and steel	13.95	2.43
Repaint Steel	12.85	2.43
Bridges, TV Towers	14.40	2.43
Paperhangers	14.30	2.43

DECISION NO. NJ83-3026 - MOD. #3 (48 FR 34624 - July 29, 1983) Bergen, Essex, Hudson, and Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
ZONE 1	18.06	4.12
PAINTERS:		
ZONE 2:		
(West half of County)		
Counties:		
Group 1	13.80	2.43
Group 2	12.70	2.43
Group 3	13.30	2.43
Group 4	13.95	2.43
Group 5	12.85	2.43
Group 6	14.40	2.43
ADD:		
PAINTERS:		
ZONE 3		
GROUP 7	14.30	2.43
PAINTERS, AREA, GROUP & ZONE DESCRIPTIONS:		
ZONE 3		
GROUP 7		
PAPERHANGERS		

	Basic Hourly Rates	Fringe Benefits

DECISION NO. PA83-3001 - MOD. #3 (48 FR 37805 - August 19, 1983)	Basic Hourly Rates	Fringe Benefits
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties, Pennsylvania		
CHANGE:		
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION		
Group 1	13.57	25.6%
Group 2	12.73	25.6%
Group 3	12.22	25.6%
Group 4	11.78	25.6%
Group 5	11.23	25.6%
Group 6	13.82	25.6%
Group 6-A	14.07	25.6%
Group 6-B	14.32	25.6%

DECISION NO. PA82-3028 - MOD. #6 (47 FR 39972 - Sept. 10, 1982)	Basic Hourly Rates	Fringe Benefits
Elk, Forest, McKean & Warren County, PA.		
CHANGE:		
BRICKLAYERS, CEMENT MASONS & STONEMASONS:		
Elk, McKean and Warren Cos.	15.34	2.60
Forest County	16.80	2.35
CARPENTERS & SOFT FLOOR LAYERS:		
Elk, Forest, all of McKean County Except Kane and Bradford	15.00	25%
McKean County: Townships of Kane & Bradford: Warren County In Its Entirety	13.83	27½%

DECISION NO. PA82-3028 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Common laborers, carpenters tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and mover, scaffold and runways, building materials handlers (Loading and Unloading), concrete pitman, puddler, mason tender	13.00	20%
Mechanical tampers (power) powered wheelbarrows and work worklifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (Includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner-cutting torch, carryayable pumps, chain saw op., pipe layers all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine		

DECISION NO. PA82-3028 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tool)	13.25	20%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	13.80	20%
Wrecking Laborers	13.00	20%
Low Burner	13.25	20%
Jackhammer Operator	13.25	20%
High Burner	14.05	20%
High Burner Helper	13.75	20%
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.64	.65+ 3 3/8%
Winch truck operators	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
POWER EQUIPMENT OPERATORS:		
CLASS 1	15.795	3.47
CLASS 1-A	16.045	3.47
CLASS 1-B	16.295	3.47
CLASS 1-C	16.545	3.47
CLASS 1-D	17.795	3.47
CLASS 2	15.645	3.47
CLASS 3	13.37	3.47
CLASS 3-A	13.87	3.47
CLASS 4	12.67	3.47
CLASS 5	11.62	3.47
CLASS 6	11.92	3.47
CLASS 6-A	12.02	3.47
CLASS 6-B	12.17	3.47
CLASS 6-C	12.92	3.47

DECISION NO. TX83-4005 - MOD. #6 (48 FR 934 - 1/7/83) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Structural, ornamental & reinforcing	$13.50	2.95
All ironworkers on jobs 30 miles or more from the city of Lubbock	13.625	2.95

DECISION NO. TX83-4061 - MOD. #1 (48 FR 38966 - 8/26/83) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	12.75	2.95

DECISION NO. UT83-5120 - Mod. #2 (48 FR 44992 - September 30, 1983) Statewide, Utah	Basic Hourly Rates	Fringe Benefits
Change:		
Power Equipment Operators:		
Heavy and Highway Construction:		
Group 1	15.72	18.72
Group 2	16.07	19.07
Group 3	16.25	19.25
Group 4	16.36	19.36
Group 5	16.82	19.82
Group 6	16.97	19.97
Group 6-A	17.08	20.08
Group 7	17.38	20.38
Group 7-A	17.44	20.44
Group 8	17.50	20.50
Group 9	17.66	20.66
Group 10	18.10	21.10
Group 10-A	19.06	22.06
Group 10-B	19.51	22.51
Group 11	19.67	22.67
FRINGE BENEFITS: $5.87		

Basic Hourly Rates	Fringe Benefits

STATE: Louisiana PARISHES: ZONE 1-Jefferson & Orleans; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu; ZONE 4-Beauregard, Cameron, & Jefferson Davis; ZONE 5-Allen; ZONE 6-Plaquemines; ZONE 7-St. Bernard; ZONE 8-St. Charles

DECISION NO. LA83-4076 DATE: Date of Publication

Supersedes Decision No. LA83-4001, dated 1/7/83 in 48 FR 928.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONE-MASONS:		
ZONES 1, 6, 7 & 8	14.50	2.04
ZONE 2	12.30	1.70
ZONES 3, 4 & 5	16.10	2.32
CARPENTERS & PILE-DRIVERMEN:		
ZONE 1	14.51	2.36
ZONE 2	13.02	1.78
ZONE 3	14.56	1.75
ZONE 4	9.11	1.60
ZONE 5	11.19	1.60
ZONE 6	11.19	2.40
ZONES 7 & 8	12.48	2.16
CEMENT MASONS:		
ZONE 1	13.22	1.68
ZONE 2	12.65	.85
ZONE 3	14.94	
ZONE 4	8.07	
ZONE 5	10.15	
ZONE 6	10.15	1.68
ZONES 7 & 8	11.42	1.68
ELECTRICIANS:		
ZONES 1, 6, 7 & 8:		
Electricians	15.65	1.58 +9%
Cable Splicers	15.65	1.58 +9%
ZONE 2:		
Electricians	15.25	2.40 +4%
Cable Splicers	15.75	2.40 +4%
ZONES 3, 4 & 5:		
Electricians	17.70	2.00+ 3-5/10%
Cable Splicers	18.20	"
IRONWORKERS:		
ZONE 1	14.89	2.08
ZONE 2	13.15	2.36
ZONE 3	15.10	1.62
ZONE 4	9.11	2.22
ZONE 5	11.19	2.22
ZONE 6	11.19	2.08
ZONES 7 & 8	12.48	2.08

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
ZONE 1 - GROUP 1	9.57	1.08
GROUP 2	9.77	1.08
GROUP 3	10.17	1.08
GROUP 4	10.42	1.08
ZONE 2 - GROUP 1	8.68	.80
GROUP 2	8.78	.80
GROUP 3	9.23	.80
GROUP 4	9.48	.80
ZONE 3 - GROUP 1	10.25	.94
GROUP 2	10.49	.94
GROUP 3	10.84	.94
GROUP 4	11.09	.94
ZONE 4 - GROUP 1	5.99	.94
GROUP 2	6.19	.94
GROUP 3	6.59	.94
GROUP 4	6.74	.94
ZONE 5 - GROUP 1	7.55	.94
GROUP 2	7.75	.94
GROUP 3	8.15	.94
GROUP 4	8.40	.94
ZONES 6 & 8 - GROUP 1	7.55	1.08
GROUP 2	7.65	1.08
GROUP 3	8.10	1.08
GROUP 4	8.30	1.08
ZONE 7 - GROUP 1	8.24	1.08
GROUP 2	8.44	1.08
GROUP 3	8.84	1.08
GROUP 4	9.09	1.08
LINE CONSTRUCTION:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Linemen	15.65	1.58 +9%
GROUP 2 Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.58 +9%
GROUP 3 Op. using hole truck & trailer or pole hauling & setting truck not in energized lines	65%JR	1.58 +9%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont'd):		
GROUP 4 - Op. Using truck without winch	45%JR	1.58 +9%
GROUP 5 - Groundmen	50%JR	1.58 +9%
ZONE 2:		
GROUP 1 - Linemen; ops.	15.25	2.40+ 3-3/4%
GROUP 2 - Cable Splicer	15.75	*
GROUP 3 - Groundmen	12.65	*
ZONES 3, 4 & 5:		
GROUP 1 - Linemen; ops.	17.70	2.00+ 3-1/10%
GROUP 2 - Cable Splicer	18.20	*
GROUP 3 - Groundmen	15.70	*
PAINTERS:		
ZONE 1, 6, 7 & 8:		
GROUP 1 - Painters	13.235	2.115
GROUP 2 - Spray	13.61	2.115
GROUP 3 - Industrial	15.535	2.115
ZONE 2 - All Painters	11.25	1.25
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - New Work	16.01	.55
GROUP 2 - Repaint	14.50	.55
GROUP 3 - Bridges	18.30	.55
Allen Par. (northeast most corner, north of Rt. 10):		
GROUP 1 - Painters	10.75	
GROUP 2 - Spray	11.60	
GROUP 3 - Industrial	12.10	
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6, 7 & 8	16.80	2.43
ZONE 2	15.19	3.09
ZONES 3, 4 & 5	18.98	2.00
POWER EQUIPMENT OPERATORS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.35
GROUP 2	13.23	2.35
GROUP 3	12.73	2.35
GROUP 4	10.61	2.35
GROUP 5	9.55	2.35
GROUP 6	7.96	2.35
GROUP 7	10.61	2.35
GROUP 8	10.86	2.35
GROUP 9	8.21	2.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd):		
Other Work:		
GROUP 1	14.71	2.35
GROUP 2	14.96	2.35
GROUP 3	14.46	2.35
GROUP 4	11.59	2.35
GROUP 5	10.16	2.35
GROUP 6	8.53	2.35
GROUP 7	11.64	2.35
GROUP 8	11.89	2.35
GROUP 9	8.78	2.35
ZONE 2 - GROUP 1	13.33	2.20
GROUP 2	13.58	2.20
GROUP 3	13.06	2.20
GROUP 4	10.87	2.20
GROUP 5	9.49	2.20
GROUP 6	8.47	2.20
GROUP 7	11.25	2.20
GROUP 8	11.50	2.20
GROUP 9	8.72	2.20
ZONE 3 - GROUP 1	14.91	2.35
GROUP 2	15.16	2.35
GROUP 3	14.66	2.35
GROUP 4	12.08	2.35
GROUP 5	10.60	2.35
GROUP 6	8.37	2.35
GROUP 7	12.44	2.35
GROUP 8	12.69	2.35
GROUP 9	8.62	2.35
ZONE 4 - GROUP 1	9.38	2.35
GROUP 2	9.63	2.35
GROUP 3	9.11	2.35
GROUP 4	7.76	2.35
GROUP 5	6.88	2.35
GROUP 6	5.89	2.35
GROUP 7	7.82	2.35
GROUP 8	8.07	2.35
GROUP 9	6.15	2.35
ZONES 5 & 6		
GROUP 1	11.46	2.35
GROUP 2	11.71	2.35
GROUP 3	11.19	2.35
GROUP 4	9.58	2.35
GROUP 5	8.49	2.35
GROUP 6	7.24	2.35
GROUP 7	9.63	2.35
GROUP 8	9.90	2.35
GROUP 9	7.50	2.35
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.35
GROUP 2	13.23	2.35
GROUP 3	12.73	2.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPS. (Cont'd):		
ZONE 7 (cont'd):		
Asphalt or overlay projects:		
GROUP 4	10.61	2.35
GROUP 5	9.55	2.35
GROUP 6	7.96	2.35
GROUP 7	10.61	2.35
GROUP 8	10.86	2.35
GROUP 9	8.21	2.35
Other Work:		
GROUP 1	12.75	2.35
GROUP 2	13.02	2.35
GROUP 3	12.48	2.35
GROUP 4	10.68	2.35
GROUP 5	9.45	2.35
GROUP 6	8.08	2.35
GROUP 7	10.73	2.35
GROUP 8	11.00	2.35
GROUP 9	8.34	2.35
ZONE 8:		
GROUP 1	12.75	2.35
GROUP 2	13.02	2.35
GROUP 3	12.48	2.35
GROUP 4	10.68	2.35
GROUP 5	9.45	2.35
GROUP 6	8.08	2.35
GROUP 7	10.73	2.35
GROUP 8	11.00	2.35
GROUP 9	8.34	2.35
SHEET METAL WORKERS:		
ZONES 1, 6, 7 & 8	14.25	2.32+3%
ZONE 2	13.72	1.78+3%
ZONES 3, 4 & 5	17.28	3.12+3%
TRUCK DRIVERS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20
GROUP 4	8.65	1.20
GROUP 5	8.84	1.20
Other Work:		
GROUP 1	10.13	.70
GROUP 2	10.26	.70
GROUP 3	10.32	.70
GROUP 4	10.40	.70
GROUP 5	10.59	.70

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (Cont'd):		
ZONE 2 - GROUP 1	10.14	
GROUP 2	10.19	
GROUP 3	10.43	
GROUPS 4 & 5	11.05	
ZONE 3 - GROUP 1	10.85	.70
GROUPS 2,3, 4 & 5	11.37	.70
ZONE 4	7.03	.70
ZONES 5 & 6	9.11	.70
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20
GROUP 4	8.65	1.20
GROUP 5	8.84	1.20
Other Work	10.36	.70
ZONE 8	10.36	.70
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental		

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Laborers, including but not limited to foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op., jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tenders, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - 60 ton crane & over, crane with 125 ft. boom
GROUP 2 - Crane with 175 ft. boom
GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubbertired or track other than farmtype; scoopmobiles; motor patrol; gradall, rollers on hot mix; asphalt paving machines, front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; piledrivers; sideboom cats
GROUP 4 - 2 drums & single drum stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; 2 tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill, bituminous distributor on surface treatment & equivalent equipment; bullfloats & equivalent equipment; job grease man; unit op.; work boats not requiring licensed ops.; inboard-outboard motored crew boats; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equipment; fork lifts 10 ton capacity & under
GROUP 5 - Batch plant operator
GROUP 6 - Oiler
GROUP 7 - Firemen
GROUP 8 - Fireman operating steam valve
GROUP 9 - Oiler on crane using air to drive piles

TRUCK DRIVERS CLASSIFICATION DEFINITIONS
GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A).

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Creek, Hughes, McIntosh, Okmulgee, Pawnee, Seminole, Okfuskee and Osage

DECISION NO. OK83-4072

DATE: Date of Publication

Supersedes Decision No. OK79-4016 dated February 23, 1979 in 44 FR 10933.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$10.35	
BRICKLAYERS	10.31	
CARPENTERS	7.02	
CEMENT MASONS	8.73	
DRYWALL INSTALLERS/FINISHERS	8.09	
ELECTRICIANS	8.31	
INSULATION INSTALLERS	5.92	
IRONWORKERS	7.50	
LABORERS	5.04	
PAINTERS	6.77	
PLUMBERS & PIPEFITTERS	8.86	
ROOFERS	7.26	
SHEET METAL WORKERS	7.76	
SOFT FLOOR LAYERS	5.26	
TILE SETTERS	5.50	
TRUCK DRIVERS	6.50	
POWER EQUIPMENT OPERATORS:		
Backhoe Operator	8.31	
Bulldozers	8.23	
Trencher Operator	5.75	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Lincoln, Payne and Pottawatomie

DECISION NO. OK83-4073 DATE: Date of Publication

Supersedes Decision No. OK79-4058 dated March 30, 1979 44 FR 19099

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$8.00	
CARPENTERS	6.35	
CEMENT MASONS	8.73	
DRYWALL INSTALLERS	10.00	
ELECTRICIANS	8.61	
INSULATION INSTALLERS	5.58	
IRONWORKERS (Reinforcing)	7.50	
LABORERS:		
Laborers, General	4.88	
Mason Tenders	6.00	
PAINTERS, BRUSH	6.95	
PLUMBERS & PIPEFITTERS	7.90	
ROOFERS	7.00	
SHEET METAL WORKERS	5.80	
SOFT FLOOR LAYERS	5.50	
TILE SETTERS	5.50	
TRUCK DRIVERS	6.50	
POWER EQUIPMENT OPERATORS:		
Backhoe Operator	6.36	
Blade Operator	5.95	
Bulldozer Operator	5.95	
Scraper	5.95	
Trenching Machine Operator	5.75	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5(a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE

DECISION NO. NM83-4074 DATE: Date of Publication

SUPERSEDES DECISION NO. NM83-4036 dated May 13, 1983 in 48 FR 21788

DESCRIPTION OF WORK: STREETS, HIGHWAY, UTILITY AND LIGHT ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athletic fields, highway bridges, median channels and grade separations involving highways; parks, golf courses, viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling telephone and electrical transmission lines and site preparations which are part of streets, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as ligt stations, inlets, manholes, sewer lagoons, septic tanks and service outlets (stubouts), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$ 7.74	.44
CEMENT MASONS	7.09	.26
IRONWORKERS:		
Reinforcing	7.48	.50
Structural	8.00	1.29
LABORERS:		
Group I	4.92	.35
Group II	5.32	.35
Group III	5.72	.35
Group IV	5.62	.35
COMMERCIAL LINE WORK-AREA A		
LINEMEN-TECHNICIANS		
Zone I	16.45	P
Zone II	17.95	P
Zone III	18.92	P
Zone IV	20.73	P
CABLE SPLICERS		
Zone I	18.10	P
Zone II	19.58	P
Zone III	20.57	P
Zone IV	22.38	P
EQUIPMENT OPRS.(Includes Helicopter Operator)		
Zone I	15.62	P
Zone II	17.10	P
Zone III	18.09	P
Zone IV	19.90	P
EQUIPMENT MECHANIC (Includes Helicopter Mechanic & POWDMAN		
Zone I	14.31	P
Zone II	15.79	P
Zone III	16.78	P
Zone IV	18.59	P
COMMERCIAL LINE WORK-AREA B		
LINEMEN-TECHNICIAN		
Zone I	10.15	3%+.60
Zone II	11.60	3%+.60
CABLE SPLICERS		
Zone I	10.40	3%+.60
Zone II	11.85	3%+.60
EQUIPMENT OP.(Includes Helicopter operators		
Zone I	9.64	3%+.60
Zone II	11.02	3%+.60
EQUIPMENT MECHANIC (Includes Helicopter Mechanic and POWDFMAN		
Zone I	8.93	3%+.60
Zone II	10.21	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.31	3%+.60
Zone II	8.24	3%+.60
COMMERCIAL LINE WORK-AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3%+.60
Zone II	15.15	3%+.60
Zone III	15.30	3%+.60
Zone IV	15.55	3%+.60

COMMERCIAL LINE WORK--AREA C (CONT'D)	Basic Hourly Rates	Fringe Benefits
CABLE SPLICERS		
Zone I	$15.05	3%+.60
Zone II	15.50	3%+.60
Zone III	15.65	3%+.60
Zone IV	15.90	3%+.60
EQUIPMENT OPRS.(Includes Helicopter Operator)		
Zone I	13.28	3%+.60
Zone II	13.68	3%+.60
Zone III	13.83	3%+.60
Zone IV	14.08	3%+.60
EQUIPMENT MECHANIC (Includes Helicopter mechanic)		
Zone I	13.68	3%+.60
Zone II	13.68	3%+.60
Zone III	13.83	3%+.60
Zone IV	13.62	3%+.60
POWDERMAN		
Zone I	13.23	3%+.60
Zone II	13.23	3%+.60
Zone III	13.38	3%+.60
Zone IV	13.62	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3%+.60
Zone II	10.89	3%+.60
Zone III	11.04	3%+.60
Zone IV	11.29	3%+.60
LINE CONSTRUCTION-UTILITY FOR ELECTRIC AND TELEPHONE UTILITIES RHA CO-OPS, RAILROADS AND MUNICIPALITIES		
Linemen-Technician	13.90	3%+1.30
Cable splicers	14.67	3%+1.30
Equipment op. (includes helicopter operator)	12.10	3%+1.30
Equipment mechanic (includes helicopter mech.)	12.10	3%+1.30
Powderman	11.68	3%+1.30
Groundman-Jackhammer op.	9.50	3%+1.30
PAINTERS:		
Brush	7.96	.44
Spray	7.74	.20
POWER EQUIPMENT OPERATORS:		
Group I	7.13	.26
Group II	7.33	.26
Group III	7.91	.26
Group IV	7.93	.26
Group V	7.93	.26
Group VI	8.08	.26
Group VII	8.13	.26
Group VIII	8.28	.26
Group IX	8.78	.26
Group X	9.58	.26

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits
Distributor (asphalt)	$6.21	.26
Dump or batch trucks:		
Under 8 CY	5.81	.26
8 CY and under 16 CY	6.01	.26
Diesel-powered transport	6.41	.26
Flat bed, 1½ton	5.81	.26
Flat bed, over 1½ ton	6.01	.26
Lowboy, heavy equipment	6.41	.26
Lowboy, light equipment	6.21	.26
Off-highway hauler	6.21	.26
Pick-up truck 3/4 ton or under	5.81	.26
Trailer or semi-trailer dump and transit-mix and warehousemen	5.81	.26

WELDERS---receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

CLASSIFICATION AREA AND ZONE DEFINITIONS

LABORERS:

GROUP I - Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers

GROUP II - Wagon, air track, drill and diamond drillers' tender (outside)

GROUP III - Air and power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain saw man; concrete touch-up man; concrete saw man; curbing machine; asphalt or cement; cutting torch-man; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman; scaler; vibrator compactor (hand type); vibrator man (hand type); concrete power buggyman, wagon, air track drill and diamond drillers (outside)

GROUP IV - Gunite pumpcreteman and nozzleman; multiplate setter; pipelayer; manhole builder; powderman-blaster-make-up

COMMERCIAL LINE WORK

AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, Debaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico

ZONE I

Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 6 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Pojoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone I.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone I.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone I.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone only, Zone 2 shall extend up to 10 miles beyond zone 1, zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone I

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

COMMERCIAL LINE WORK (cont'd)

AREA B - Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Cos., exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I - That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the Post Office in Alamogordo, New Mexico.

ZONE II - All other areas of the jurisdiction except those specified in one (1).

AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from the main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0 to 12 miles ZONE II - 12 to 22 miles

ZONE III - 22 to 40 miles ZONE IV - 40 miles and beyond

POWER EQUIPMENT OPERATORS:

GROUP I - Concrete paving curing machine

GROUP II - Belt type conveyors (material and concrete); broom (self-propelled; fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); industrial locomotive brake-man; front end loader (2 CY or less); fireman; oiler screedman; roller (pull type); mulching machine; roller (self-propelled)

GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub-grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV - Bulldozer (including self-propelled roller with dozer attachment); batch or continuous mix plant (concrete soil-cement or asphalt); roller (steel wheel); front end loader (2 CY thru 10 CY); scraper operator; motor grader

GROUP V - Asphalt distributor; asphalt paving or laydown machine; asphalt retort header; mixer, heavy duty; asphalt or soil cement; trenching; clam type shaft mucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 CY); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM and over); crushing screening washing plants; drilling machine (cable core or rotary); mixer, concrete (1 CF and less); pump (6" intake or over); winch truck; hoist (50 drawbar HP or over)

GROUP VI - Concrete paver mixer; hoist (2 drum and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 CF to 3 CY); cranes (crawler or mobile) 20 tons to 40 tons; front-end loader (over 10 CY); mixer, concrete (over 1 CY); mechanic and/or welder)

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

POWER EQUIPMENT OPERATORS (cont'd)

GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concrete paving logitodinal float; gunite machine; refrigerator; jumbo former drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons

GROUP IX - Belt loader (CMI types) operator; derrick cableway

GROUP X - Pipemobile operator; mole operator

WELDERS---receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1)(ii).

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Ector & Midland
DECISION NO.: TX83-4075 DATE: Date of Publication
Supersedes Decision No. TX81-4007, dated 1/6/81 in 46 FR 1548.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving & Utilities Incidental to Building Construction.)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS	$13.67	$ .33
CARPENTERS	14.30	.15
CEMENT MASONS	8.00	
ELECTRICIANS	14.90	.80+3-1/10%
GLAZIERS	11.51	1.55
IRONWORKERS:		
Ironworkers	13.50	2.95
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	13.625	2.95
LABORERS:		
Unskilled	5.41	
Mason Tenders	6.00	
LATHERS	13.75	
PAINTERS	10.78	
PLASTERERS	13.00	
PLUMBERS & PIPEFITTERS	14.40	1.34
ROOFERS	8.29	
SHEET METAL WORKERS	13.25	1.86
TILE SETTERS	12.00	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A).		

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX83-4077 DATE: Date of Publication
Supersedes Decision No. TX83-4004, dated 1-7-83 in 48 FR 936.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction for Galveston (excluding Galveston Island) & Harris Cos.) (DOES NOT APPLY TO ANY WORK ON TREATMENT PLANT SITES IN HARRIS CO.)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.19	3.23
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	16.45	2.25
CARPENTERS:		
Carpenters	16.25	2.27
Piledrivermen	16.25	2.27
Millwrights	16.635	2.27
CEMENT MASONS:		
Galveston County	15.85	2.05
Harris County	15.80	2.18
ELECTRICIANS:		
Galveston County:		
Electricians	18.38	1.10 + 12%
Cable splicers	19.38	"
Harris County	17.98	1.60+ 12%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	3.50
LABORERS:		
GROUP 1 - Laborers	11.91	1.81
GROUP 2 -All laborers wrapping pipe or handling creosoted or treated material, liquid acid or like material when injurious to health	12.085	1.81
LATHERS(Harris Co. only)	15.62	1.08
LINE CONSTRUCTION:		
ZONE 1-Galveston Co. & that part of Harris Co. from Loop 610 east to State Hwy. 59,north on State Hwy. 59,Hwy. 1960 west on Hwy 1960 to Hwy. 6,south on Hwy. 6 to State Hwy. 59, southeast on State Hwy. 59 to Loop 610 around Loop 610 to State Hwy. 59 North:		
Linemen & cable splicer	$18.88	.80+3%
Groundman	10.95	.80+3%
ZONE 2 - Remainder of Harris Co.:		
Linemen & cable splicer	18.48	.80+3%
Groundman	10.72	.80+3%
MARBLE, TILE & TERRAZZO WORKERS: Galveston Co.	15.41	
Harris Co.	16.42	1.75
MARBLE, TILE & TERRAZZO FINISHERS	9.70	1.05
PAINTERS:		
EAST HARRIS COUNTY:		
GROUP 1-All brush,hand rolling & all other work other than that below	18.33	
GROUP 2-All pneumatic & elec. tools & steam cleaning	18.685	
GROUP 3-All tape & float on drywall	18.425	
GROUP 4-All paper & vinyl hanging	18.58	
GROUP 5 - All spray, sand-blasting & water-blasting	18.725	
GROUP 6-Steeple jack work,hot materials	18.99	
REMAINDER OF HARRIS CO.:		
GROUP 1-All brush,hand roller,steam cleaning, all pneumatic tools	15.535	2.725
GROUP 2-All spray,sand-blasting,waterblasting	15.91	2.725
GROUP 3-Tape,float & drywall	15.66	2.725
GROUP 4-Steeple jack work,hot materials	16.16	2.725

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
GALVESTON COUNTY:		
GROUP 1 - Painters on new work	$14.945	3.06
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	15.245	3.06
GROUP 3 - Painters on rework & repaint	14.19	3.06
PIPEFITTERS	18.25	2.53
PLASTERERS	15.20	1.69
PLUMBERS	19.72	1.75
ROOFERS:		
Composition	13.86	2.08
Slate & tile	14.61	2.08
Kettlemen	12.90	2.08
SHEET METAL WORKERS	17.44	2.09+3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	3.23

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
GROUP 1 - Under 1½ tons	$10.79	
GROUP 2 - 1½ thru 2½ tons;dump less 7 yds.	11.21	
GROUP 3 - Over 2½ tons	11.61	
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.39	2.39
GROUP 2	14.53	2.39
GROUP 3	13.90	2.39
GROUP 4	13.69	3.39

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)(A)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 5%; over 5 yrs. - 8% of basic hourly rate. Also Seven Paid Holidays A thru G

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;blade grader,self-propelled;bull clam;Back filler;derrick-powered(all types);clamshell;draglines;push cat;bulldozer & all types cat tractors;cableway;backhoe;shovel,power operated;crane,power operated(all types);elevating grader,self-propelled;hoist,motor-driven,two drums or more;mixmobile;water well drilling machines, used on construction; building elevator, used on construction;tug boat op.,assigned to construction; winch truck;locomotive crane;concrete mixer, 14 cu. ft. or more;paving mixer(all types);piledriver;scraper,heavy type,over 3 cu. yds.; trenching machine(all sizes);gradall;high-lift;foundation boring machine;gasoline or diesel-driven welding machines,7 or more;pumpcrete machine;turnapulls; DW-10 Catergillar,S-18 euclid & similar tractors;asphalt plant mixer on job;crusher op. on job;scoopmobiles;forklift used on construction (not including warehousing);well point pump;concrete batch plant;pneumatic rollers, self-propelled
GROUP 2 - Air compressors;blade grader,towed;flex plane;form grader;concrete mixer,less than 14 cu. ft.;pumps;pulsometer;truck crane driver;gasoline or diesel driven welding machines(on 3 or more, up to 6 machines);hoist,single drum;scraper,3 cu. yd. or less;wagon drill;conveyor;generator gasoline or diesel driven, over 1500 watts;rubber tired farm tractor with attachment; a light equipment op. may run 1 or 2 150 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX83-4078 DATE: Date of Publication
Supersedes Decision No. TX83-4002, dated 1/7/83, in 48 FR 931
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current Heavy & highway general wage determination for paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.37
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	11.00	1.00
CARPENTERS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Carpenters	14.45	.81
Millwrights	14.80	.81
ZONE 2 - Childress Co.:		
Carpenters	13.45	2.08
Millwrights	13.95	2.08
CEMENT MASONS	14.60	
ELECTRICIANS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Electricians	14.48	1.90+ 3+1/2%
Cable Splicers	15.93	1.90+ 3-1/2%
ZONE 2 - Childress Co.:		
Electricians	14.30	.80 + 3+1/10%
Cable splicers	14.55	.80 + 3+1/10%

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth; Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchison, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	$13.90	3.00
ZONE 2 - Childress Co. (southeastern 1/4)	12.625	2.95
LABORERS:		
GROUP 1 - General or construction laborers	8.25	1.35
GROUP 2 - Air or electric tool ops., jackhammers, vibrator tampers, chipping hammers, pipe wrappers, asphalt rakers, sand blasterers, riprap stone pavers, cutting torch op. (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader & placer, chuck tenders, timberman, collapsible form setters, concrete buggy ops.; carpenter tenders, pipe layers; main, sewer & drainage; make-up man, powderman & blasters; gunite op or concrete operators	8.40	1.35
LATHERS	16.36	

DECISION NO. TX83-4078

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
ZONE 1-Childress Co.:		
Lineman; Operators	$14.30	.80+3½%
Cable splicers	14.55	.80+3½%
Groundman	70%JR	.80+3½%
ZONE 2 - Armstrong,Carson, Castro,Collingsworth, Dallam,Deaf Smith,Donley,Gray,Hansford,Hartley,Hemphill,Hutchinson, Lipscomb,Moore,Ochiltree,Oldham,Potter,Randall,Roberts,Sherman, Swisher & Wheeler Cos.:		
Linemen	14.48	1.90+3½%
Cable splicers	15.93	"
Groundmen	9.57	1.70+3½%
Operator-hole digger, line truck	11.15	1.76+3½%
Flat bed truck driver	8.40	1.65+3½%

	Basic Hourly Rates	Fringe Benefits
MARBLE MASONS (EXTERIOR)	$11.00	1.00
PAINTERS:		
GROUP 1 - Brush & roller, paperhanger;perfa-taper	12.75	.50
GROUP 2 - Structural steel;swinging stage or chair below 60 ft.	12.87	.50
GROUP 3 - Spray & sand-blasters	13.50	.50
PLASTERERS	16.35	.01
PLUMBERS & PIPEFITTERS	14.80	2.91
POWER EQUIPMENT OPERATOR:		
GROUP 1	13.85	1.30
GROUP 2	13.35	1.30
GROUP 3	11.40	1.30
ROOFERS	8.00	
SHEET METAL WORKERS	15.20	1.84+3%
SPRINKLER FITTERS	16.17	3.23

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated (all types); Air compressors, pumps, welding machines & light plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving mixers, all types; Piledrivers; Scrapers; Bulldozers; Side boom; Cherry pickers - 12-1/2 tons & over; Shovels; Heavy duty mechanic; All welders; All tractors with power attachments; Ditching machines - crawler type; Farm-type tractor (loader, 1 yd. & over) with backhoe

GROUP 2 - Air compressors, pumps, welding machines, throttle valves, light plants (3 to 6 machines); Cherry pickers - under 12-1/2 tons; Ditch witch - J30 & under; Farm-type tractor (loader under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air compressor and one tugger Boilers, 2 or more; Winch trucks; Front end scoopmobile, loader, payloader; Blade grader, towed; Elevators, building; Fork lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu ft.; Rollers; Screening plants; Crushing plants; Tractors - wheel type except when hauling material

GROUP 3 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

SUPERSEDES DECISION

STATE: Texas
COUNTY: Bowie
DECISION NO.: TX83-4079
DATE: Date of Publication
Supersedes Decision No.TX82-4042, dated 8/20/82 in 47 FR 36522.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for paving & utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.71	2.935
BOILERMAKERS	16.40	2.645
BRICKLAYERS	8.15	.79
CARPENTERS:		
Carpenters	12.20	.05
Millwrights	15.15	.05
Piledrivermen	13.25	.05
CEMENT MASONS	6.82	
ELECTRICIANS	14.52	1.30+3½%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.025	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	5.30	
IRONWORKERS	13.60	2.36
LABORERS, UNSKILLED	3.70	
LINE CONSTRUCTION:		
Linemen	15.20	3.5%
Cable splicers	15.66	3.5%
Hole digger op.,heavy equip. ops. (or pole cat equivalent); powderman	13.83	3.5%
Line truck driver (winch op.)	12.46	3.5%
Jackhammer man	11.40	3.5%
Groundman	10.18	3.5%
Truck driver (flat bed, ton & half & under)	10.79	3.5%

	Basic Hourly Rates	Fringe Benefits
PAINTERS	$ 5.50	
PLUMBERS & PIPEFITTERS:	14.60	1.85
ROOFERS	5.71	
SHEET METAL WORKERS	5.99	
SOFT FLOOR LAYERS	7.50	
SPRINKLER FITTERS	16.17	3.23
TRUCK DRIVERS	5.00	
POWER EQUIPMENT OPERATORS:		
GROUP 1	7.265	2.30
GROUP 2	15.17	2.30
GROUP 3	15.57	2.30

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate. Also following 7 Paid Holidays: New Years' Day,Memorial Day; Independence Day;Labor Day;Thanksgiving Day;the Friday after Thanksgiving Day;Christmas Day

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air compressor,Pumps,Welding Machines,Throttle Valves,Light Plants;Conveyor;Wagon Drill,Elevators Building;Form Graders;Hoist,Single Drum;Ford Tractor including blade & mower on rear;Mixers,less than 14 cu. ft.;Screening Plants;Crushing Plants;Fork Lifts(short under 25 ft.);Concrete Pumps(all types);Bobcat type equipment

GROUP 3 - Ford Tractor or like with any attachment(except blade & mower on rear);Drilling Machine(all types);Scoopmobile;Hoist,two drums or more;Forklifts(over 25 ft.);Winch truck; Six Wheel Truck, when used continously for 5 days;Mixermobile;Locomotives;Mixer,14 cu. ft. or over;Blade Graders,self-propelled;Cableways;Crane-power operated to 100 ft.;Derricks, power operated(all types);Gradall;Hy-Ho;Hop-To;Paving Mixers(all types);Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.;Bulldozers;Loaders,Tractovators;Scrapers & Pulls; Welders;Trenching Machines;Roller,ten tons or over;Air Compressors & Air Tugger;Boilers, two or more fired by one man

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

STATE: Texas COUNTY: Brazos
DECISION NO.: TX83-4080 DATE: Date of Publication
Supersedes Decision No. TX82-4025, dated 6/18/82 in 47 FR 26550.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.19	3.23
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	16.45	2.25
CARPENTERS:		
Carpenters	12.80	
Millwrights	15.285	
CEMENT MASONS	15.80	2.18
ELECTRICIANS	16.18	1.60+ 12%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	3.50
LABORERS:		
GROUP 1	6.30	1.00
GROUP 2	6.40	1.00
GROUP 3	6.50	1.00
GROUP 4	6.45	1.00
GROUP 5	6.55	1.00
GROUP 6	6.70	1.00
LINE CONSTRUCTION:		
Linemen & cable splicers	16.91	.80+3½%
Groundmen	9.81	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS	16.42	1.75
PAINTERS:		
GROUP 1 - All brush, hand roller, steam cleaning, all pneumatic tools	15.535	2.725
GROUP 2 - All spray, sand-blasting, waterblasting	15.91	2.725
GROUP 3 - Tape, float & drywall	15.66	2.725
GROUP 4 - Steeple jack work, hot materials	16.16	2.725
PIPEFITTERS	18.25	2.53
PLASTERERS	15.20	2.69
PLUMBERS	19.72	1.75
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.39	2.39
GROUP 2	14.53	2.39
GROUP 3	13.90	2.39
GROUP 4	13.69	2.39
SHEET METAL WORKERS	$17.44	2.09+ 3%
SOFT FLOOR LAYERS	14.90	2.06
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate; Seven Paid Holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pump crete pipe (handling & laying) & all building construction labor excepting that hereinafter classified;carpenters tender, cement masons tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster, powder man; gunnite worker
GROUP 6 - Gunnite nozzleman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick - power operated (all types); clam shell; dragline; push cat; bulldozer & all types cat tractor; cable-way; backhoe; shovel, power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cu. ft. or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cu. yds.; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine; turnapulls; DW-10 Caterpillar, S-18 euclid & similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant; pneumatic rollers, self-propelled
GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cu. ft.; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cu. yds. or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Travis
DECISION NO: TX83-4081 DATE: Date of Publication
Supersedes Decision No. TX83-4006, dated 1/7/83 in 48 FR 933.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.60	3.24
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	15.04	2.21
CARPENTERS:		
Carpenters	14.36	2.08+
Millwrights	14.61	2.08
CEMENT MASONS	13.94	1.30
ELECTRICIANS & CABLE SPLICERS	15.60	.80+ 8-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.74	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.06	1.37
IRONWORKERS	15.00	2.97
LABORERS:		
GROUP 1 - General laborer & pier hole men	9.18	.75
GROUP 2 - Mason tender; Pipelayer (concr. & clay); Cement finisher tender; Scaffold builder; Gunnite & cement work mixer & power tool op.	9.33	.75
GROUP 3 - Plaster tender; hod carrier; Mortar mixer; lather tender	9.505	.75
GROUP 4 - Gunnite over 1 - 1/2" thick; Nozzlemen; Machine op.; Powderman, Sandblaster, & Blaster	9.58	.75
LATHERS	14.36	2.08
LINE CONSTRUCTION:		
Linemen	16.39	.80 + 3-1/2%
Groundmen	9.01	"
MARBLE, TILE & TERRAZZO WORKERS	12.75	1.35
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile, terrazzo	8.62	.67
Floor machine operator	8.82	.67
Base machine operator	8.97	.67
PAINTERS:		
GROUP 1 - Journeyman painters, taping & floating of Sheetrock	$13.55	
GROUP 2 - Spray; sand-blasting swing stage	14.05	
PLASTERERS	14.79	1.61
PLUMBERS & PIPEFITTERS	17.40	1.27
ROOFERS:		
Roofers; deckmen	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	15.95	2.31+ 3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	3.23
POWER EQUIPMENT OPERATORS:		
GROUP 1	14.75	.95
GROUP 2	13.50	.95
GROUP 3	12.15	.95
GROUP 4	12.05	.95
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; Crawler dozers or loaders; derricks, power operated (all types); Dragline; cableway; backhoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts and loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machines (all sizes); gradall; foundation boring machine; scoopmobile; shovel power operated; pump crete machine; rock crusher operated on job; well points including installations; riding compactor; forklift over 1500 lbs. capacity; flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)
GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; conventional truck crane driver and oiler; combination man; hoist, single drum; pneumatic roller; high-lifts and loaders, 1/3 cu. yd. or less; forklift 1500 lbs. capacity or less
GROUP 3 - Fireman
GROUP 4 - Oiler

STATE: TEXAS COUNTIES: Jefferson & Orange
DECISION NO.: TX83-4082 DATE: Date of Publication
Supersedes Decision No. TX83-4026, dated 4/8/83 in 48 FR 15425.
DESCRIPTION OF WORK: Building (including Residential) Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers:		
Jefferson County	$18.19	3.23
Orange County	17.28	3.12+3%
Boilermakers	16.40	2.645
Bricklayers & Stonemasons	19.08	2.20
Carpenters:		
Carpenters - Commercial	16.97	2.615
Carpenters - Residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	15.74	2.615
Millwrights	17.325	2.50
Piledrivermen	17.21	2.45
Cement Masons	18.02	
Electricians	19.63	1.135 +3%
Elevator Constructors:		
Mechanics	16.755	2.69 +a
Helpers	70%JR	2.69 +a
Helpers (Prob.)	50%JR	
Glaziers:		
Northern 1/2 Jefferson Co.	15.53	1.29
Southern 1/2 Jefferson & all of Orange Co.:		
Commercial	16.89	1.29
Residential	11.95	.65
Ironworkers	16.95	2.95
Laborers:		
Group 1	10.66	1.50
Group 2	10.86	1.50
Group 3	10.96	1.50
Group 4	11.11	1.50
Lathers	16.97	2.615
Line Construction:		
Linemen & cable splicers	21.77	.80+ 3-1/2%
Groundmen	15.89	.80+ 3-1/2%

	Basic Hourly Rates	Fringe Benefits
Painters:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
Commercial:		
Group 1 - Brush, steel wool & wallpaperhanger	$16.89	1.29
Group 2 - Spray, roller, sandblaster, power cleaning, all time spent rigging; hot paint or creosote brush	17.34	1.29
Group 3 - Hot paint or creosote spray or roller	17.69	1.19
Residential:		
Brush	11.95	.65
Paperhanger	12.20	.65
Spray	12.47	.65
Sandblaster, power cleaning	12.21	.65
North 1/2 Jefferson Co.:		
Brush	15.53	1.29
Drywall	15.53	1.29
Spray	15.95	1.29
Paper & vinyl	15.78	1.29
Sign	15.95	1.29
Hand cleaning operation	15.53	1.29
Power tool operations	15.95	1.29
$.25 per hour above the prevailing wage rate when working on window sills or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications		
Pipefitters	18.32	2.02
Plasterers	15.20	1.69
Plumbers	18.71	1.09
Power Equipment Operators:		
Group 1	17.985	1.65
Group 2	15.21	1.65
Group 3	13.99	1.65
Group 4	13.74	1.65

	Basic Hourly Rates	Fringe Benefits
Roofers:		
Composition	13.86	2.08
Slate & tile	14.61	2.08
Kettlemen	12.90	2.08
Sheet Metal Workers:		
Commercial	17.43	2.96+3%
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	11.33	2.96+3%
Sprinkler Fitters	16.17	3.23

	Basic Hourly Rates	Fringe Benefits
Tile Setters	17.57	2.20
Truck Drivers:		
Group 1 - Under 1-1/2 ton	13.99	1.25
Group 2 - 1-1/2 tons thru 2-1/2 tons	14.78	1.25
Group 3 - Dump truck less than 7 yds.	15.07	1.25
Group 4 - Over 2-1/2 tons; euclids (not self-loading)	15.25	1.25

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS
Group 1 - All hand digging & dirt work; backfilling; loading & unloading of material to & from hoist or cages; loading & unloading of tools & equip.; handling of lumber, steel, cement; distribution of materials; wrecking & razing of bldgs. & Struc.; storing materials & tools in & out of receiving lots & sheds; dumper; spotter; carpenter tender & all construction work not hereinafter classified
Group 2 - Air power tool op.; cutting torch op.; gunnite rebound man; machine ops.; power buggy; sandblaster (potmen); drill tenders; concrete grademen; wagon drill op.; metal pan & steel form men
Group 3 - Conc. burner; cement mason tender; hod carrier, mortar mixers, plaster tenders & brick mason tenders; pipelayer, pumpcrete nozzlemen; scaffold builder; water pump op.; tank cleaning; all pipe cleaning & wrapping; mortar & plaster mixing machines, grout machines; pumpcrete machines; gunnite mixing machines, incl. placing & cleaning of all pipe & conduits used in placing of conc.
Group 4 - Powdermen & blasters; sandblaster; gunnite workers; terrazzo grinders

DECISION NO. TX83-4082 PAGE 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Heavy duty mechanic;Blade grade,self-propelled;Bullclam;Backfiller; Derrick,power operated,all types;Dragline;Push cat;Bulldozer & all types of cat tractors;Cableway;Backhoe;Shovel;Cranes,power operated,all types; Elevating grader,self-propelled;Hoist-motor driven,two drum or more; Mix-mobile;Winch truck;Locomotive crane;Mixer, 14 cu. ft. or more;Paving mixer, all sizes;Piledrivers;Scraper-heavy type,over 3 cu. yds.;Trench machine,all sizes;Gradeall;High-lift;Foundation boring machines;Gasoline or diesel driven welding machines - 7 to 12 machines;Pumpcrete machine;Drill op. - Water well;DW-10 euclid;Tournapulls;Asphalt plants;crushing machine & Batch plants;Scoopmobiles;Fingerlift op.; Elevator when used to haul men or material on const. work; Well point system & operation of similar dewatering devices

Group - Air compressor;Blade grade-towed;Flex plane;Formgrader;Mixer,less than 14 cu. ft.;Pump,Pulsometer;Truck crane driver;Gasoline or diesel welding mach., 3 to 6 machs.;Hoist,single drum;Scraper,3 cu. yds. or less;Conveyors, power op.

Group 3 - Fireman

Group 4 - Oiler

[FR Doc. 83-28480 Filed 10-20-83; 8:45 am]

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Federal Register

Friday
October 21, 1983

Part III

Department of the Interior

Bureau of Land Management

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Lease; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[Circular No. 2538]

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revises Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases No. 6 (NTL-6) and redesignates it as Onshore Oil and Gas Order No. 1 under 43 CFR 3164.1. The Order supplements requirements of 43 CFR Part 3160 relating to the approval of oil and gas well operations. The rulemaking will lessen the regulatory burden by eliminating or modifying the provisions of NTL-6, thereby minimizing costs and delays in the processing of applications for permit to drill without adversely affecting the ability of the Federal Government to protect the environment. The final Order also reflects changes resulting from the consolidation of all onshore mineral leasing and operational functions in the Bureau of Land Management.

DATE: Effective November 21, 1983.

ADDRESS: Director (500), Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels (202) 653-2134, or Mr. Stephen H. Spector (202) 653-2147.

SUPPLEMENTARY INFORMATION: The Minerals Management Service (MMS) published the Order as proposed rulemaking on December 3, 1982 (47 FR 54462). Comments were invited for 60 days, ending February 1, 1983. There were over 40 separate comments received, including 19 from oil and gas operators, 2 from oil and gas associations, 1 from a State government, 1 from an organization representing several Indian tribes, 1 from an environmental interest group on behalf of 7 environmental groups, and the remainder from various Federal Agencies and from other offices within the Department of the Interior.

The Secretary of the Interior has transferred to the Bureau of Land Management (BLM) all duties related to Federal and Indian mineral leases formerly exercised by MMS, except for those related to revenue accountability (see Secretarial Order No. 3087, December 3, 1982, as amended February 7, 1983, and published in the **Federal Register** of March 2, 1983, 48 FR 8983). As part of the implementation of S. O. 3087, the applicable portions of the operating regulations formerly in Title 30 have been transferred to Title 43 of the Code of Federal Regulations (48 FR 36582).

This rulemaking is to convert the current NTL-6, which was issued in 1976 (41 FR 18116), to an Order promulgated under the authority of 43 CFR 3164.1 formerly 30 CFR 221.14 and, at the same time, to redefine and to describe more clearly the requirements for filing and processing applications for permits to drill (APD). The major changes include some modifications in the previously required content of the supporting documentation to accompany the APD, the inclusion of alternative procedures by which industry may initiate the APD process, and a reduction in the processing and review time now required in most instances. The result will be to minimize costs and delays in the processing of most APD's for both the Government and industry through the elimination of unnecessary, burdensome, and counterproductive portions of NTL-6, while assuring that the objectives of the National Environmental Policy Act of 1969 and other applicable laws and regulations are met. To this end, the comments received as a result of the proposed rulemaking and the Notice of Intent, published April 16, 1982 (47 FR 16426), as well as several studies made of the existing APD processing procedures over the past 2 years have been analyzed.

It should be noted that the basic requirements for approval and the time frame for processing are not established by this Order. The factors which must be addressed by the applicant and the safety, health, and environmental concerns to be considered by the Government, as established by NTL-6, basically remain unchanged. The time frame for APD processing was established by 43 CFR 3162.3-1, formerly 30 CFR 221.23, which became effective November 26, 1982 (47 FR 47758). The purpose of this Order is to supplement established requirements and to provide lessees and operators with sufficient guidance to enable preparation of APD's. This will also enable the Bureau of Land Management to consider the APD's more expeditiously.

The comments received as a result of the publication of the proposed rulemaking ranged from overall support for the proposed modifications of NTL-6 to basic disagreement with changes included in the proposed rule as well as with the earlier final rulemaking covering 30 CFR Part 221 in its entirety, redesignated as 43 CFR Part 3160. A number of commenters proposed several additional modifications, and, where these suggestions improved clarity while not adversely affecting the intended result, the recommendations were adopted.

Two commenters requested that the Order be republished as proposed rulemaking to reflect the merger of all onshore minerals operational responsibilities into BLM. In reviewing these requests, the Department weighed the extent to which the proposed Order required modification due to the merger against the need for completion of the rulemaking process. It was concluded that these operational responsibilities, although now residing in a different organizational entity, remain basically unchanged by the merger and, moreover, that the merger will enhance the opportunity of fulfilling the objective of streamlining the procedures for the processing of APD's. Therefore, delaying final implementation by republication is considered unnecessary.

A second general comment concerned the publication of this and subsequent Orders in the annual Code of Federal Regulations (CFR). In the effort to design a system to replace the existing NTL's, one option considered when the operating regulations were revised last year was to expand the regulations to include all instructions that the NTL's currently provide. This approach was rejected because the basic policy guidelines are contained in the regulations, while the nature and complexity of supplemental instructive material contained in NTL's must be revised from time to time to reflect changed circumstances. A decision was also made at that time to convert all nationwide NTL's to Orders. However, it was recognized that a complete listing of all such Orders should be available to lessees and operators for convenient reference. Therefore, it was determined to include in the operating regulations at 43 CFR 3164.1(b) a table of all onshore Orders with information as to the subject matter, effective date, **Federal Register** reference, and the predecessor document(s). This provides easy reference, while not making the operating regulations unduly cumbersome. The table will be updated as each final Order is issued.

A third general comment concerned the failure to provide specific procedures for review and approval of APD's by both State agencies and Indian lessors. With regard to the various States, it is common practice for most to require the filing and approval

of APD's, without regard to mineral ownership status. However, where appropriate, the States also will be given an opportunity for input into the Federal APD process. With regard to exploration and development of Indian tribal and allotted lands, the leasing regulations contained in Title 25 of the CFR provide for approval by the "supervisor," who is the predecessor of the authorized officer contained in this Order. Any requirement for additional approval of operations by or on behalf of the Indian lessor will be addressed by the Bureau of Indian Affairs (BIA) as a part of the APD review process. In addition, the proposed Order contained a provision under section VII which called for the operator to obtain agreement from an Indian or other private surface owner as to surface protection and rehabilitation and/or damages. That provision is retained in the final Order. A provision is inserted which allows approval of operations upon the posting of a bond when surface owner agreement cannot be obtained. In response to the comments received, a change has been made to the Surveying and Staking section (III. A.) to also require the lessee/operator to make arrangements with BIA and the Indian owner prior to entry upon the land for the purpose of surveying and staking.

The following specific comments and responses thereto are listed under the section of the proposed Order to which they relate. Sections which received no comments or only editorial suggestions are not listed.

Accountability (Section I)

The State, which provided comments on behalf of several of its agencies, recommended that this section be modified to include conformance with applicable State laws. The section is modified to include conformance with State and local laws, where applicable. In addition, a sentence has been added to clearly indicate that the lessee and operator are responsible for obtaining any other Federal, State, or Indian approval which may be required prior to commencing operations.

Special Situations (Section II)

A few commenters thought that the exceptions to the prior approval requirement for surveying and staking well locations were too limited. They argued that nonsurface disturbing activities such as "archaeological surveys" should be permitted prior to approval. This concept has been accepted. However, instead of the recommended language the phrase "cultural resource inventories" has been used because it more correctly describes the excepted activity. Several commenters also stated that the requirement for a surface use plan, in those cases where Federal or Indian lands are to be crossed by access roads, appeared to be too broad. They suggested that plans submitted should cover only the Federal or Indian portion of the access road and be provided only in the case of new construction, or reconstruction. As proposed, the provision could have been interpreted as broadly as the commenters suggested; therefore, it has been revised.

Drilling Operations (Section III)—Surveying and Staking (A)

In response to comments by the Department of Defense Task Force for Development of Mineral Leasing Policy on Defense Lands, this section has been modified to exclude lands under Defense jurisdiction from those that may be surveyed and staked without advance approval. This change is made primarily for safety and security reasons. In addition, language has been added to strongly encourage applicants to notify the appropriate office of the involved surface managing agency in advance of surveying and staking; specific examples are cited of conditions that could delay the process if early notification does not occur.

One industry commenter suggested that BIA should be included as a party to be contacted for access arrangements on Indian lands. This change has been made. Commenters thought that the surveying and staking provisions required either too much or too little detail. One operator considered the specifics required to be burdensome. However, this comment was not prevalent. The Order provides the minimum staking requirements necessary to permit a proper evaluation of potential impacts of subsequent surface disturbing activities without being unduly burdensome. In contrast, some of the Government commenters thought operators should be required to stake all potential cuts and fills along access roads. The proposed Order required only that the center line of new access roads be staked. No change was made, since it was concluded that the potential cuts and fills should be evident during the onsite inspection. The final Order does require, however, that cuts and fills on the proposed location be staked.

A few commenters expressed concern that the present practice of using a Preliminary Environmental Review (PER) had not been included in the proposed Order. While the PER is not retained by name as a separate and distinct process, the concept has been utilized in designing the Notice of Staking (NOS) option. This process should prove more efficient for both industry and the Government while utilizing significant features of the prior PER procedure. Operators are strongly encouraged to notify surface managers at the earliest possible stage, and no significant surface disturbing activities will be allowed prior to appropriate authorization.

Material To Be Filed (B)—Notice of Staking (1)

The NOS option was developed from an industry proposal. Thus, there was considerable support for its use. Some commenters suggested it should be used to the exclusion of the existing APD process. However, because the Order provides for two alternative procedures for submission of the required information, operators can utilize the process best suited to their needs.

Several commenters recommended that the provision concerning surface access for surveying and staking should be expanded to include archeological surveys. This concern is addressed under "Special Situations" above. To avoid confusion and duplication, it has been removed from this section. Another commenter recommended incorporating the issuance of rights-of-way not a part of the APD and other special use permits into the Order No. 1 process. The regulations governing the issuance of these other permits are contained in different parts of the rules of the various surface management agencies (SMA). They are beyond the scope of this rulemaking. However, with regard to BLM-administered lands, every effort will continue to be made to coordinate processing and to issue all needed approvals and permits concurrently.

One commenter suggested the inclusion of specific language prohibiting motorized vehicles from sensitive areas. This suggestion has not been adopted, since the use of motorized vehicles would be the appropriate, preferred method of entry in most instances. The language of the Order provides the authorized officer with the necessary authority to take all appropriate steps to protect resource values.

Application for Permit To Drill (2)

The majority of the commenters addressing this provision expressed support for the process. One commenter did express concern that the 30-day time period was insufficient to allow "* * * adequate consideration of environmental values or the public's right to participate in the permitting

decisions." This is not the fact. Public participation begins during the planning process when the initial decision to consider leasing for mineral development and the inclusion of developmental controls are made. In addition, the Order and controlling regulations (43 CFR 3162.3–1 and 3162.5–1, formerly 30 CFR 221.23 and 221.30) require processing in 30 days but do not require the approval of all APD's in that time frame. In fact, the Order cites examples of circumstances where a decision within 30 days is unlikely. In all probability the vast majority of APD's can be processed within 30 days while assuring adequate consideration of environmental values and public participation.

Commenters offered both strong support and opposition for the inclusion of language relating to APD's filed just prior to the lease expiration date. These so-called "eleventh-hour filings" have been and remain a fairly common occurrence. The specific language proposed in this regard (see the last full paragraph of 47 FR 54467) has been deleted, since it apparently caused confusion and could have been interpreted as actually encouraging late filings. The BLM will attempt to accommodate requests for expedited processing due to factors such as an imminent lease expiration date, availability of drilling equipment, or other reasonable factors, but operators must realize that applications normally will be processed in the order received. The primary controlling consideration in determining whether a late-filed application can be accorded a higher priority is, generally, whether the current workload of the involved office will permit the processing to occur within the remaining time available. The extent of the review required to ensure that all technical, administrative, and environmental concerns have been satisfied may preclude a final decision on an application prior to the end of a lease term if the operator fails to allow sufficient lead time for that purpose. The operator has the burden of showing why the filing could not have been made within the normal time frame and thus should be processed prior to previously filed applications.

Conferences and Inspection (C)

The majority of the comments concerning this item addressed the timing of the onsite inspection and the participants. Several commenters, representing "other interested parties," requested specific modification of the Order to include their notification and invitation to the onsite inspection. The Order has been modified to require that operators furnish the name, address, and phone number of all private surface owners and to require that BLM notify such owners and provide an opportunity to participate in the onsite inspection. This includes BIA, if the involved lands are held in trust for Indians. The Order was not modified to make notification of State agencies mandatory; however, State agencies will be notified, when appropriate. No change was made in the requirement that the operator's principal dirt and drilling contractors attend these onsite inspections. While the operator is responsible for all actions of such contractors, past experience has shown that inadvertent miscommunication of requirements can occur when information in that regard is passed on second and third hand. Generally, once actions such as the construction of drill pads or access roads have been improperly executed, the correction thereof can result in the delays of actual drilling operations and additional expenditures to correct the identified errors. BLM seeks to avoid these occurrences by requiring that the operator's principal contractors participate in the onsite inspections. With regard to scheduling and conducting onsite inspections within 15 days, one commenter did not believe enough time was provided to allow for proper public participation. In the vast majority of instances, an onsite inspection that includes all interested parties can be accomplished within 15 days. Moreover, in order to meet the total 30-day processing time frame, the onsite inspection must be held within 15 days. It should be noted that the section of the Order on "Processing Time Frames" does clearly indicate that a processing time longer than 30 days generally will be required in sensitive areas (see item D. below).

The provision relating to in-fill wells received numerous comments of both support and concern. While some commenters thought no inspection should be performed for such wells, others stated that all proposed in-fill wells should be inspected. As finalized, the Order provides the needed flexibility to inspect any in-fill well location where there are site specific concerns that have not been addressed previously by an appropriate environmental assessment. Where the identified concerns have been addressed previously, it is expected that a joint inspection with the involved surface management agency will not be required.

Processing Time Frames (D)

A significant number of commenters expressed support for this section as written and thought that it would greatly enhance the effort to streamline the processing of APD's. One commenter believed that the 30-day processing time frame would cause areas of special environmental concern to be ignored. While the proposed rule, as written, indicated that approval of APD's would not always occur within 30 days and enumerated specific areas in which additional time generally would be required, editorial changes have been made in the provision for clarity. In addition, the list of sensitive areas likely to require more than 30 days of necessary time has been expanded from six to nine, while continuing to indicate that others may be identified later. A few commenters stated that some of the past processing delays occurred because of administrative problems in coordination between involved agencies. This problem was one of the main reasons for the Secretary's decision to merge all onshore mineral leasing and regulatory functions of the Department into BLM. Since the majority of the drilling applications are for wells on lands under BLM's jurisdiction, the number of administrative delays should be greatly reduced in the future.

Cultural Resources Clearance (E)

Several commenters stated that this provision was unclear in several respects. In response to these comments, the entire provision has been rewritten for clarity. The Order now provides a separate cultural resources clearance requirement for privately owned surface. It also has been modified to encourage the lessee or operator to contact other involved Federal SMA's prior to submission of any material to BLM. These early contacts will allow quicker identification of potential problems involving cultural resources and the determination of whether a cultural resources inventory and report will be required. No change was made with regard to the cultural resources clearance requirement for in-fill wells, since surface conditions may vary greatly on various portions of the same leased area. However, if a previous report covered the proposed new well location and is referenced in the application, no new report will be required.

Threatened and Endangered Species Clearance and Other Critical Environmental Concerns (F)

One commenter interpreted the provision as allowing drilling sites to be located in areas of special environmental concern, without

appropriate consideration of those concerns. This interpretation is not correct. BLM or other surface managing agencies will identify and consider all significant environmental concerns during the review process. BLM will ensure that all other appropriate organizational entities are consulted, as required by applicable law and regulation. However, it is neither necessary nor appropriate to detail all such existing consultation procedures in the Order.

Components of a Complete Application for Permit To Drill (G)—Complete Application (1)

Although no comments were received on this provision, it has been modified to recognize the authority of the Environmental Protection Agency (EPA) and the States which gain primacy from EPA in relation to those wells which a lessee or operator proposes to drill for injection purposes (disposal or production enhancement) on Federal or Indian lands. The language added advises that, in these circumstances, the lessee or operator must also obtain an underground injection permit from EPA or the involved State, where the State has achieved primacy. In addition, language has been added to advise lessees and operators that any information supplied to the State or EPA in support of obtaining the injection permit will be accepted by BLM to the extent that it satisfies the information submittal requirements of this Order. Similar language has been added in section IV. (Subsequent Operations) to address those situations where a lessee or operator proposes to convert an existing well on Federal or Indian lands for injection purposes.

Commenters requested clarification of the meaning intended by the use of the term "certified plat" in provision 3.a. The provision has been modified to clearly state that the plat must be prepared by a registered surveyor and that the surveyor must certify on the plat that the site has been staked as shown. An additional sentence also has been added, for clarity, to provision 3.e. (cementing).

Form 3160-3, Formerly 9-331 C (3)

Lessees and operators are advised that all forms referenced in the Order will be revised slightly and will be renumbered in accordance with the BLM system of numbering forms. BLM form numbers correspond to the number of the controlling regulations. This form conversion process has just begun since the nonroyalty portions of the operating regulations (formerly 30 CFR Part 221) have been transferred to Title 43 CFR Part 3160. In addition, the agency and approving official's title will be changed. Until this occurs, however, all approved forms currently in use will remain valid.

Drilling Plan (4)

One commenter requested that the provision relating to the protection of proprietary data be modified to more closely parallel the procedures followed for wells drilled offshore. While the specific change requested has not been adopted, the language has been modified to indicate clearly that any information identified by the applicant as proprietary, pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, will be deleted from all informational copies that BLM supplies to other parties.

Another commenter requested a modification to indicate that pertinent data will be provided to the involved surface managing agency. This suggestion has been adopted. Language also has been added to provide applicants with information regarding the standards that BLM and other involved agencies utilize in evaluating the technical competency of the proposed drilling and surface use programs. In addition, a provision has been added to clarify the Department's position on reclamation of privately owned surface, which is, basically, that reclamation on such lands is a matter to be resolved between the lessee or operator and the private surface owner. However, BLM may require that information about such arrangements be submitted when it is determined that Federal or Indian surface could be significantly affected by a proposed well site or access road on nearby private surface (see section VII., Privately Owned Surface.).

Guidelines for Preparing Drilling Program (a)

One commenter stated that item (6), on testing, logging, and coring, was confusing. In response to that comment, the language has been modified for clarity.

Guidelines for Preparing Surface Use Program (b)

These guidelines received extensive comment and are discussed by individual item. Some of the BLM field office commenters thought the Order should strictly require a standard map size. This suggestion has not been adopted, as it would be unduly burdensome not to provide some flexibility. Item (1) has been modified to require the maintenance of existing roads pursuant to SMA standards. One commenter objected to the requirement in item (3) that all wells within a 1-mile radius of the proposed location be listed. This provision has not been modified because the information is needed for the proper evaluation of each proposal. It should be noted that the existing NTL-6 requires such information for a 2-mile radius around proposed exploratory wells.

Item (4), relating to the location of existing and proposed facilities should a well be productive, elicited considerable comment. One commenter suggested that specific information in this regard may not be known when an exploratory well is first proposed. Thus, precise information, such as the nature and placement of storage and treating facilities, can only be determined after a discovery has occurred and the nature and extent thereof is known. The provision has been modified to allow the filing of a request for the subsequent approval of any production facility not known or contemplated at the time an APD is initially filed. However, the requirement that such information, to the extent known or contemplated, shall be included in the initial filing, has been retained. This information is necessary for planning purposes and could expedite the approval of new or modified facilities at a later date.

In addition, matters other than surface disturbance (e.g., other authorized uses of the surface) can be affected by the siting and areal extent of production facility layouts and thus must be considered as early as possible by the involved SMA. This item was also modified by removing certain informational requirements relating to subsequent operations and placing those in section IV. of the Order. Item (6) was clarified to conform to recent amendments to the controlling regulations.

Some commenters thought item (9) should be deleted, since most drilling rig layouts are similar. However, others stated that the provision should be expanded to include additional detail so that potential impacts could be fully evaluated. The provision has not been revised because it provides for the receipt of all essential information without being unnecessarily burdensome.

One commenter observed that the information required by item (10) duplicated other items of the Order. BLM concurs in this observation and has consolidated, to the maximum extent practicable, all references to surface reclamation plans in this provision. Additionally, the words "rehabilitation" and "restoration" have been replaced with the more comprehensive term of "reclamation."

Item (11) was revised and the title changed in response to the comments received. It now specifically requires the submission of information on the surface ownership at the well site and for all roads to be constructed or reconstructed. If privately owned surface is involved, the name, address and phone number of such person is to be provided also. To encourage lessees and operators to submit other useful data, a new item (12) has been added, and item (12), as proposed, has been renumbered as (13).

Subsequent Operations (Section IV)

Eleven commenters specifically addressed this section of the proposed Order. A few of the comments were directed to the controlling regulation (43 CFR 3162.3–2, formerly 30 CFR 221.27) and thus were beyond the scope of the rulemaking. Most of the other commenters found the proposed item unclear. The entire provision has been rewritten for clarity and to conform the language to that of the controlling regulations. As stated in both the regulation and the Order, routine operations will require prior approval only if additional surface disturbance is involved. Additionally, language has been added to recognize the authority of EPA or a primacy State with respect to underground injection control. Thus, lessees and operators are advised that a permit must also be obtained from EPA or the State whenever it is proposed to convert an existing well on Federal or Indian lands for injection purposes. Information submitted to EPA or the State in support of obtaining such a permit will be accepted by BLM to the extent that it satisfies the information submission requirements of the Order.

Well Abandonment (Section V)

In response to the comments received, this section has been revised specifically to provide that, when appropriate, additional reclamation requirements may be imposed upon abandonment of an operational site on Federal or Indian surface.

Privately Owned Surface (Section VII)

Several commenters questioned both this section, as proposed, and references to operations on privately owned surface contained elsewhere in the proposed Order. This section has been rewritten to consolidate these references under this provision and to clarify, with respect to privately owned surface, surface protection, cultural resources, surface reclamation, and/or payment in lieu thereof, that all are matters to be settled between the lessee/operator and the private surface owner. The BLM will only become involved in these arrangements if it is determined that adjacent Federal or Indian surface could be adversely affected by construction or operational activities on the privately owned surface or if an agreement cannot be reached. Commenters generally favored the concept that a copy of any such agreement need not be submitted if such adjacent Federal and Indian surface will not be affected adversely.

Reports and Activities Required After Well Completion (Section VIII)

Several operators commenting on this provision found the references to required submissions either unnecessary, in light of the controlling regulations, or inconsistent with the recently enacted Federal Oil and Gas Royalty Management Act of 1982. In response to this comment the section has been rewritten to conform to the regulations and the Act.

The only substantive comment relating to the attachments to the Order was that the operator's phone number should be provided on the optional NOS. This change has been made. The attachments are provided to expedite the review and processing of the application. However, approved form 3160–3, formerly 9–331C, and the attachments thereto constitute the basic filing requirement specified by this Order.

The principal authors of this final rulemaking are Mr. Lynn Rust, Cheyenne, Wyoming; Mr. Raymond W. Vinyard, Tulsa, Oklahoma; Messrs. Paul Petty and Gregory P. Shoop, Division of Fluid Mineral Leasing; and Messrs. Sie Ling Chiang, Frederick S. Crafts, Gerald R. Daniels, Gerald J. Richard, Stephen H. Spector, William J. Weber, and Eddie R. Wyatt, Division of Fluid Mineral Operations, assisted by staff members of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management. Significant guidance and input also was provided by personnel of the Office of the Solicitor, the Department of the Interior, and the Forest Service, Department of Agriculture.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

Regulatory Flexibility Act

The Department has also determined that the rulemaking will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

National Environmental Policy Act of 1969

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

The optional Notice of Staking (NOS) is an industry proposal for expediting the review and processing of the approved Application for Permit to Drill form (3160–3), and when this optional notice is used, it will always be followed by the required, approved form. The information that may be supplied in the notice is identical to information that is required by the Application for Permit to Drill, which information collection requirement has already been cleared. Any supporting documents accompanying the notice need not be resubmitted with the application form unless a significant change has occurred since the submission of the notice. The sample format is provided to assist applicants in the preparation of the notice. This method of collecting information does not impose any additional burden on the affected public and as such, the Office of Management and Budget has agreed to incorporate the NOS into the clearance for the Application for Permit to Drill, 1004–0136. The collection of all information required by this Order has been approved by OMB under 44 U.S.C. 3507 and assigned the following clearance numbers: 1004–0134—The specific provisions of the regulations in 43 CFR Part 3160, formerly 30 CFR Part 221, 1004–0135—Sundry Notice and Report of Wells (3160–5, formerly 9–331), 1004–0136—Application for Permit to Drill, Deepen, or Plug Back (3160–3, formerly 9–331C), and 1004–0137—Well Completion or Recompletion Report and Log (3160–4, formerly 9–330).

List of Subjects in 43 CFR Part 3160

Government contracts, Oil and gas exploration, Public lands, Mineral resources, Reporting requirements.

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226), and Executive Order 12291 (46 FR 13193), Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: September 21, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Section 3164.1(b) is amended by adding the following table:

§ 3164.1 Onshore Oil and Gas Orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	Federal Register reference	Supersedes
1	Approval of Operations	Nov. 21, 1983	48 FR—	NTL-6.

Appendix—Text of Oil and Gas Order

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

Contents

Onshore Order

Introduction

I. Accountability
II. Special Situations
III. Drilling Operations
  A. Surveying and Staking
  B. Material to be Filed
    1. Notice of Staking
    2. Application for Permit to Drill
  C. Conferences and Inspections
  D. Processing Time Frames
  E. Cultural Resources Clearance
  F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns
  G. Components of a Complete Application for Permit to Drill
IV. Subsequent Operations
  A. Production Facilities
  B. Other Operations
  C. Emergency Repairs
  D. Environmental Review
V. Well-Abandonment
VI. Water Well Conversion
VII. Privately Owned Surface
VIII. Reports and Activities Required After Well Completion

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases

Order No. 1

Effective: November 21, 1983.

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160, formerly 30 CFR 221. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4 and 3162.5–1, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d).

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160–3, formerly 9–331C (Application for Permit to Drill, Deepen, or Plug Back) is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3–1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD's.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160–5, formerly 9–331 (Sundry Notices and Reports On Wells), and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3, formerly 30 CFR 221.27 or 221.28, respectively.

A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on Form 3160–5, as required by 43 CFR 3162.3–4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining and other authorizations required for operations on Federal and Indian lands.

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be

altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State of fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface, refer to section VII.

III. *Drilling Operations.*

A. *Surveying and Staking.* Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

—Whether a cultural resource inventory is required;
—Presence of threatened or endangered species and/or critical habitats;
—Vehicle access restrictions; and/or
—Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, and ancillary facilities.

B. *Material to be Filed.*

1. *Notice of Staking.* Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD).* Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 working days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) Approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal dirt and drilling contractors shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the

inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for proposed in-fill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section. The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 working days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

D. *Processing Time Frames.* The following table summarizes the major time frames involved in processing most APD's:

APD OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the APD.
Requirements to be imposed when APD is approved	Developed onsite or within 5 working days thereafter.
Complete processing of APD	Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the NOS.
Requirements for inclusion in APD	Furnished onsite or within 5 working days thereafter.
Complete processing of APD	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above timeframes together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 working days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process also may be exceeded in most cases where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

E. *Cultural Resources Clearance.* Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources. If such actions are necessary, lessees and operators are encouraged to complete the work and report prior to the submission of any other material to the authorized officer of BLM but, in any event, no later than the time the complete APD is submitted. Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

F. *Threatened and Endangered Species Clearance and Other Critical Environmental Concerns.* The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g., wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided:

however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices, including a cultural resource report (if required and not already filed). The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160–3, formerly 9–331C, (Application for Permit to Drill, Deepen, or Plug Back).* This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools and associated equipment to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date. A copy of the approved Form 3160–3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. The criteria/standards set forth in the operational manual section (currently designated CDM 643.1.3E, Technical Considerations), or in effect at the time of submission of the APD, generally will be utilized in evaluating the technical adequacy of a proposed drilling plan. If the program is considered adequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. The criteria/standards set forth in the Surface Operating Standards for Oil and Gas Exploration and Development Handbook, Second Edition, August 1978, or as subsequently revised, generally shall be utilized in evaluating the adequacy of a proposed surface use plan. If the surface use program is considered inadequate, BLM

shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cut and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be requird during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the

methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoils materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date ————.
Name and Title ————.

5. *Environmental Review Requirements.*

When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal (construction and drilling) contractors. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations.* Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.* Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, formerly 30 CFR 221. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satifies the information submittal requirements of this Order.

A. *Well and Production Operations.* Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160–5 or 3160–3 , as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5 and, if the well is recompleted, a recompletion report on Form 3160–4, pursuant to 43 CFR 3162.3–2 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160–5, formerly 9–331, within 30 days of completion, pursuant to 43 CFR 3162–2.3 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Neither prior approval nor a subsequent report is required for well

clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production, treating, and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7–2, formerly 30 CFR 221.34.

B. *Surface Disturbing Operations.* Pursuant to 43 CFR 3162.3–2 and 3162.3–3, formerly 30 CFR 221.27 and 221.28, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160–5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. *Emergency Repairs.* Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. *Environmental Review.* The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment.* No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160–5, in accordance with 43 CFR Part 3160, formerly 30 CFR Part 221. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160–5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion.* The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface.*—A. *Federal oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of

Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that: (1) a good faith effort has been made by the operator to reach agreement with the surface owner; (2) adequate security is posted, in the form of a bond, escrow account or by other means, to compensate the surface owner for any damages; and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Reports and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160–4, formerly 9–330 (Well Completion or Recompletion Report and Log) to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Dated: August 9, 1983.

Jeffrey F. Zabler,

Acting Assistant Director for Fluid Leasable Minerals.

Approved:

Dated: August 17, 1983.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

BILLING CODE 4310-84-M

Attachment A

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well ☐ Gas Well ☐ Other (Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name
4. Address & Phone No. of Operator or Agent	10. Well No.
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.	11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area

15. Formation Objective(s)	16. Estimated Well Depth	13. County, Parish or Borough	14. State

17. Additional Information (as appropriate; must include surface owner's name, address, and telephone number)

18. Signed _____ Title _____ Date _____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:
a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

BILLING CODE 4310-84-C

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

Supplemental Checklist: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

a. Bonding.

b. Designation of Operator.

c. Report of Cultural Resources/ Archeology.

d. H_2S Contingency Plan.

e. Status of Plan of Development and Designation of Agent for wells in Federal units.

f. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 working days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into the complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

Attachment B

Date:— _____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No.—————
Well No.—————
Lessee—————
Operator—————
Date APD Received—————

1.—APD complete as submitted.

2.—APD is deficient in the following area(s) *and* (see items 3, 4, or 5 below):

—Designation of Operator
—Designation of Agent under—————unit agreement
—Bonding
—Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
—Form 9-331C
—Drilling Plan
—Other

(Refer to attachment(s) for any specifics)

3.—APD is retained; to be processed upon receipt of further information as noted above.

4.—APD is being processed; final action pending receipt of further information as noted above.

5.—APD is returned for the following reasons:—————

_____

_____

Note:— A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[FR Doc. 83-28642 Filed 10-20-83; 8:45 am]
BILLING CODE 4310-84-M

federal register

Friday
October 21, 1983

Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2258-8]

Standards of Performance for New Stationary Sources; VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standard would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed air oxidation facilities. These proposed standards would require, for each air oxidation process vent stream, either use of a combustion device which reduces total organic compound emissions (minus methane and ethane) by 98 weight percent or to 20 ppm by volume, whichever is less stringent, or maintenance of a total resource-effectiveness (TRE) index value greater than 2.2.

The proposed standard implements Section 111 of the Clean Air Act and is based on the Administrator's determination that the synthetic organic chemical manufacturing industry (SOCMI) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed SOCMI air oxidation facilities 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.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: Comments. Comments must be received on or before January 3, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by November 15, 1983, a public hearing will be held on December 1, 1983 beginning at 10 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at the telephone number listed under **FOR FURTHER INFORMATION CONTACT** to verify that a hearing will occur.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Attention: Docket Number A-81-22, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone requests a public hearing, it will be held at the Environmental Research Center Auditorium, corner of highway 54 and Alexandria Drive, Research Triangle Park, North Carolina.

Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 17711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standard 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 "SOCMI Air Oxidation Processes—Background Information for Proposed Standards," EPA-450/3-82-001a.

Docket. Docket Number A-81-22, containing supporting information used in developing the proposed standard, 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: Mr. Robert E. Rosensteel, (919) 541-5596, concerning technical aspects of the industry and control technologies, and Mr. Gilbert H. Wood, (919) 541-5578, concerning regulatory decisions. The address for both parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. As indicated above, please call the U.S. EPA Library for background information documents.

Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

SUPPLEMENTARY INFORMATION:

Proposed 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 Administrator has determined that for most air oxidation facilities BDT for VOC reduction is incineration, which can reduce total organic emissions (minus methane and ethane) by 98 percent by weight or to 20 ppm, by volume. Due to variations in factors such as flowrate and organics concentration, the total costs for incineration per unit VOC emission reduction would vary considerably among the different types of air oxidation facilities. The Administrator has also determined, therefore, that for some air oxidation facilities, the cost of incineration per unit of VOC reduced is unreasonably high and BDT is no control. To distinguish between those facilities for which BDT is incineration and those facilities for which BDT is no control, a means of measuring the total cost of control VOC emissions from air oxidation facilities by incineration was developed. This means of measuring the cost of control is called the total resource-effectiveness (TRE) index and is explained more fully in the section entitled "Selection of the Basis of the Proposed Standard."

The proposed standard would require each owner or operator of an affected facility to either reduce process vent stream emissions by 98 weight percent or to 20 parts per million by volume, whichever is less stringent, or to maintain a TRE index value greater than 2.2 The affected facility is designated as any individual product recovery system along with all air oxidation reactors feedings offgas into this system. Each air oxidation reactor not feeding offgas into a product recovery system would constitute a separate affected facility.

An equation is included in the regulation for determining the TRE index value of each vent stream. The process vent stream flowrate, total organic compound (minus methane and ethane) emission rate, net heating value and corrosion properties (whether or not chlorinated compounds are present) would be required to be measured according to the specified Reference Methods in order to calculate the TRE index value. These vent stream characteristics would be measured following the last product recovery device (e.g. condensers, absorbers, carbon adsorbers). The structure of the proposed standard allows an affected facility with a TRE index value of less than 2.2 to add a product recovery device or improve an existing product recovery device to change the vent stream characteristics used for

calculating the TRE index value so that the TRE index value will be above 2.2 and incineration would not be required. An owner or operator might choose to improve product recovery rather than incinerate in some cases due to the lower cost of improved product recovery. Increased product recovery would also have the advantage over incineration of less energy usage and increased retention of product.

Each owner or operator complying with the proposed standard by using an incinerator or stream generating unit (such as a boiler or process heater) with a design heat input capacity of less than 44 MW (150 million Btu/hr) would be required to continuously monitor and record the firebox operating temperature (or, if a catalytic oxidizer were used, the temperature before and after the catalyst bed). If this emission reduction requirement were achieved by use of a steam generating unit with a design capacity of 44 MW or greater, no continuous monitoring would be required. However, records (such as steam production records) would be required which would verify the periods of operation of the steam generating unit. If the VOC reduction requirement were achieved by any other means, the owner or operator would be required to provide information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Each owner or operator who seeks to demonstrate compliance with the proposed standard by maintaining a vent stream TRE index value above 2.2 would be required to maintain records of any change in the design or operation of the facility which could affect the TRE index value. Such records would include changes in the production capacity, feedstock type, or catalyst type, as well as the replacement, removal, or addition of product recovery equipment. When any such change takes place, the owner or operator of the facility is required to demonstrate that he is in compliance with the standard; that is, he is to recalculate the TRE index value to document that the facility continues to have a TRE index value above 2.2. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes. If the recalculated TRE index value for the facility is less than 2.2, the owner or operator shall demonstrate compliance with the 98 percent or 20 ppmv emission limits. Prior notice of any performance testing shall be given to EPA as required by the General Provisions. Performance testing may also be required on a case-by-case basis by the Administrator following any change to the product recovery system in order to verify the TRE index value for the facility.

In addition to maintaining records of certain operating parameters to ensure the proper operation and maintenance of combustion control equipment or product recovery devices, records of instances where the monitored values exceed allowable limitations must be maintained. In addition to maintaining these records, an owner or operator must submit a semi-annual report of the recorded exceedances, of periods when the TRE index value is recalculated and of periods when a steam generating unit is not operating. The requirement of semi-annual reporting may be waived for affected facilities in States that have been delegated authority for enforcement, provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State.

In addition to this proposed standard Reference Methods 1A, 2C, and 2D are being proposed in today's Federal Register.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts associated with the proposed standard were projected by using a national statistical profile of offgas characteristics at existing plants. The offgas parameters included were offgas flowrate, net heating value, total organics (minus methane and ethane) emission rate, and corrosion properties (presence or absence of halogenated compounds). It was assumed that the national distribution of these offgas parameters for new sources would be the same as the distribution for existing sources. Determination of these impacts was based on the use of a single VOC control technique, thermal oxidation. Thermal oxidation is the only VOC control technique universally applicable to SOCMI air oxidation processes. Some processes would employ product recovery equipment to achieve a TRE index value higher than the exemption cutoff, and, in fact, the proposed standards are structured in such a way that encourages this. Such equipment generally has lower associated costs, energy use, and emission reduction. Therefore, the environmental, energy, and economic impacts associated with the proposed standard are somewhat overstated. However, the degree of overstatement of the impacts cannot be quantified.

Under the proposed standard, approximately 19 percent of all new, modified, or reconstructed air oxidation facilities would be under the TRE cutoff. If all of these facilities used incineration to meet the standard, the projected 1986 national VOC emissions from new air oxidation process and product recovery vents would be reduced by an estimated 12,500 megagrams per year (Mg/yr). This national VOC reduction would be approximately 57 percent beyond the 22,000 Mg/yr level that would be expected under typical State implementation plans (SIP's).

Any increase in emissions of other air pollutants as a result of controlling VOC emissions would be negligible. There would be no direct solid waste impacts under the proposed standards, and impacts on noise, space requirements, and availability of resources would be negligible.

No increase in total plant wastewater is projected under the proposed standard. There is no organic wastewater effluent associated with incineration. Therefore, the only facilities which could have an associated water pollution impact are those which might use additional product recovery to achieve a total resource-effectiveness (TRE) value above the proposed 2.2 cutoff. Carbon adsorption is the only product recovery technique currently in use in the industry which has an associated organic wastewater effluent. Based on past industry experience, only three air oxidation chemical manufacturing processes are expected to employ carbon adsorption. Of these three processes only the maleic anhydride from benzene feedstock process might have a TRE value below the proposed 2.2 cutoff. However, if any new maleic anhydride facilities are built, it is projected they will utilize butane feedstock rather than benzene. The maleic anhydride from butane feedstock process would not use carbon adsorption for product recovery and therefore would have no additional wastewater.

If an existing benzene-feedstock maleic anhydride facility were modified or reconstructed (which is unlikely), such a facility might have a TRE value below the proposed cutoff. In such an event, an if additional carbon adsorption were employed in lieu of incineration or some other type of product recovery, the adsorption unit of a typical maleic anhydride facility would generate approximately 500 Mg/yr of VOC which would be sent to

wastewater treatment. The organic load of the wastewater from carbon adsorption would be less than 10 percent of the total liquid waste from such a facility. This wastewater stream could be treated along with the other plant effluent or recycled to the process. No new wastewater treatment plant or additional sewer capacity would be necessary.

The fifth year energy requirements due to VOC control under the proposed standard would be 0.77 billion megajoules per year (MJ/yr), (360 bbl oil/day). The projected national and individual plant energy impacts are considered reasonable.

The fifth year cost impacts of the proposed standards also would be reasonable. The 1986 national annualized cost for VOC control would be $10 million. The fifth year national capital cost for VOC control would be $18 million.

An economic analysis indicated that the costs of VOC control due to the proposed standard could be passed on with little or no effect on the profitability of the air oxidation chemical producing industry. Projections made by employing process-specific assumptions indicate that all air oxidation chemicals would have product cost increases due to the proposed standard of less than 5 percent of the projected product price. The price changes for the 36 chemicals that are currently produced using the air oxidation process, assuming control costs would be passed through totally, would range from 0 to a 3.1 percent increase, except for maleic anhydride produced by the benzene process, which showed an estimated 4.2 percent increase. New maleic anhydride plants are expected to employ the butane process (which showed an estimated 3.1 percent increase), instead of the benzene process, even in the absence of the proposed standard. Finally, there would be no adverse effects on employment because the proposed standard would not affect demand for the air oxidation chemicals.

It is projected that, in the absence of the proposed standards, uncontrolled VOC emissions would be reduced an average of 72 percent by State regulations. Seventy-two percent represents a weighted average of the regulations in States where new sources are projected to be built. The actual control required would vary considerably from State to State. Therefore, the impacts for individual plants would vary depending on the State where the affected facility is located. A typical air oxidation facility located in a State with a relatively stringent standard would reduce VOC emissions 1200 Mg/year beyond what the SIP would require at an incremental annualized cost of $1.4 million under the recommended standard. A typical air oxidation facility in a State with no State requirement would reduce VOC emissions by about 7400 Mg/yr at an estimated annualized cost of $2.1 million under the recommended standard.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical State implementation plan (SIP). They 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 (if any), development of associated costs, an evaluation and verification of applicable emission test methods, identification of specific emission limits achievable with alternate technologies and an economic analysis that reveals the affordability of controls.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, 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.

Moreover, this industry is rapidly evolving and growing, and the emissions include a wide range of organic compounds, some of which are currently being studied as potentially being toxic. The continuing evolution of this industry, as well as the difficulties and time required to determine with certainty adverse health effects associated with these chemical emissions, will continue to make chemical-by-chemical control of toxic emissions a costly and uncertain process. Accordingly, an effective NSPS offers benefits beyond that associated with the reduction of VOC's as oxidant precursors.

Rationale Selection of Source and Pollutant

The EPA priorty list, 40 CFR 60.16 (44 FR 49222, August 21, 1979), ranks major source categories for which NSPS are to be promulgated. This list implements the Clean Air Act and reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution. The synthetic organic chemical manufacturing industry (SOCMI) was ranked highest priority for NSPS development on the final priority list of 59 major source categories. Organic chemical plants are a major source of VOC emissions which contribute to ozone formation.

VOC is emitted from four major subcategories within SOCMI: process vents, fugitive, storage, and secondary emission sources. Standards have already been proposed for SOCMI fugitive sources, and are being developed for storage sources.

Process vent emissions of VOC are estimated to be 50 to 55 percent of the total VOC emissions from SOCMI, according to the EPA "1978 Survey and Ranking of VOC Emission Sources in SOCMI" (EPA–450/3–80–023). Process vent emissions are emissions from any of the process or associated product recovery vents in a SOCMI chemical manufacturing process. Process vent emission sources include pressure relief valves, evacuation of equipment for vacuum processing, and venting of VOC-containing inert gases. Among those sources which vent VOC-containing inert or reaction gases are air oxidation processes. An air oxidation unit process is one that uses air, or a combination of air and oxygen, as an oxygen source in combination with one or more organic reactants to produce one or more SOCMI chemicals.

Air oxidation process vent emissions are estimated to be about 110,000 Mg/yr. Air oxidation chemical-producing plants are located in 30 States and Puerto Rico, with some existing near urban population centers. An overall growth rate projection for air oxidation chemicals using a weighted-by-capacity average is 4.7 percent. Approximately 49 new air oxidation facilities are projected to be built between 1981 and 1986.

Thermal oxidation is a VOC control technology applicable to all SOCMI air oxidation processes. Therefore, because the Agency can establish standards of performance based on a control technology which is available to reduce these emissions, the Administrator is proposing such standards.

The standards cover only processes which emit any VOC's include all organic compounds except those which the Administrator has determined do not participate in atmospheric photochemical reactions. The

Administrator has determined that the following organic compounds are not photochemically reactive: methane; ethane; 1,1,1-trichloroethane; methylene chloride; trichlorofluoromethane, dichlorodifluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; chloropentafluoroethane. Even though the standards cover only those processes which emit VOC, the emission limits for processes which emit VOC are expressed in terms of total organic compounds (minus methane and ethane) rather than VOC. This is a reflection of the technology, data, and test method upon which the standards are based. This is discussed in greater detail in a later section of this preamble entitled *Compounds Used in Determining Compliance.*

Oxychlorination and ammoxidation processes have reaction, emission, and control system design characteristics sufficiently similar to the other air oxidation processes that all of these may be grouped together. For this reason, all oxidation unit processes, including ammoxidation and oxychlorination processes, that use air (or a combination of air and oxygen) have been chosen as the source for control by the proposed standard.

In addition to VOC emissions, other pollutants emitted from SOCMI air oxidation sources included carbon monoxide (CO), nitrogen oxides (NO_x) and sulfur oxides (SO_x). These other pollutants are emitted in much lower quantities than the estimated VOC emissions. VOC is the only pollutant covered by the proposed standard. Due to the size of this source category, covering other smaller pollutants at this time would have been an unmanageable task. The Agency will examine these other pollutants independently.

Selection of Regulatory Approach and Affected Facilities

Two general regulatory approaches could be used in developing standards for SOCMI. The first approach involves the chemical-by-chemical development of standards, which has historically been the most commonly used approach in developing standards of performance for new stationary sources. This approach would involve establishing standards for each specific chemical manufacturing process.

The second approach involves the development of standards on the basis of similar types of emission sources and applicable emission control techniques. The second approach is more resource-efficient than the first approach because a large number of specific chemical processes can be covered by one regulation. In addition, because of the similarity of processes regulated by a particular standard and the similarity of applicable controls, the energy and cost impacts can be adequately addressed as required by the Clean Air Act.

Air oxidation facilities currently use 36 specific reaction and equipment configurations to manufacture 36 different organic chemicals. Because of the many types of facilities and processes in the air oxidation industry, a chemical-by-chemical development of standards would require large amounts of time. Therefore, compared to the unit process approach, a chemical-by-chemical approach would result in a long delay in achieving a significant emission reduction from air oxidation processes.

Despite the large variation in reaction types used to produce air oxidation chemicals, air oxidation processes can be grouped together because they have several similar characteristics, including the need to vent to the atmosphere large quantities of VOC-containing nitrogen from the process air, the VOC content of which is too low to be further recovered with a cost savings. Therefore, air oxidation process vent streams typically have high flowrates and low VOC contents. Although further VOC recovery does not result in cost savings due to the low VOC content, technology does exist for control of these VOC emissions from all air oxidation processes. This technology is thermal oxidation. The design characteristics and, therefore, costs for thermal oxidizer control systems would be similar among air oxidation facilities and different from a typical design for control of other SOCMI process emissions such as oxygen oxidation unit processes or distillation unit operations. These similar design characteristics would be large equipment sizes, due to the relatively high air oxidation vent stream flowrates, and high supplemental fuel requirements, due to the relatively low vent stream VOC contents and heating values. Therefore, because control techniques are available for the entire industry group and because regulating the entire group would be more resource-efficient, a single regulation is being proposed for controlling process VOC emissions from all SOCMI air oxidation facilities.

The choice of the affected facility for these standards is based on the Agency's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCO, Inc v. EPA, 578 F.2d 319 (D.C. Cir. 1978)]. Under Section 111, the standards of performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which may be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA must decide which piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, an entire plant is designated as the affected facility, no part of the plant would be covered by the standard unless the replacement causes the plant as a whole to be "modified" or "reconstructed." The plant as a whole could be considered modified only if the replacement results in an increase in the aggregate emissions from the entire plant. The Agency would consider the plant as a whole to have been reconstructed only if the cost of the replacement exceeds 50 percent of the cost of an entire plant. If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated control technology at all new and modified sources (considering cost, other health and environmental effects, and energy requirements), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes either that: (a) A broader designation of the affected facility would result in greater emissions reduction than would a narrow designation; or (b) the other relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader designation.

Several air oxidation reactors may feed offgases into a common product recovery train. The characteristics of the

emissions vented into the atmosphere from the product recovery train are determined by the offgases from each of the reactors, as well as by the product recovery process from each of the reactors, as well as by the product recovery process itself. The contribution of each reactor to these emissions cannot be determined precisely. Consequently, designating each of several reactors connected to a common product recovery train as a separate affected facility was judged to be technically infeasible. Since all the reactors and their common product recovery train operating in conjunction determine the emissions from the air oxidation process, the narrowest feasible affected facility is that defined as the combination of those reactors and their common product recovery train.

It is feasible, although uncommon, for emissions from a reactor to be vented directly to the atmosphere. Since the characteristics of emissions from reactors not feeding offgases into a common product recovery train can be determined for each reactor separately, each such reactor has been designated as a separate affected facility.

Therefore, the Administrator designated the individual reactor-product recovery train consisting of an individual product recovery system (series of product recovery units) along with all air oxidation reactors feeding offgas into this system as the affected facility. Each air oxidation reactor not feeding offgas to a product recovery system would be designated as a separate affected facility. The affected facility would end at the vent at which the air oxidation reactor offgas is emitted to the atmosphere.

If two or more series of product recovery equipment units were arranged in parallel such that they shared an ultimate vent to the atmosphere, each train of recovery equipment, with its associated air oxidation reactors, would be considered a separate affected facility, as long as each reactor was piped to only one of the series of recovery equipment. Also, if a new reactor were added to an existing facility such that a modification resulted, the affected facility would include the new reactor, all recovery equipment into which the new reactor was piped, and any other reactors also piped to the same recovery equipment. Any nonair oxidation reactors feeding offgas into an affected facility's equipment train would not be considered part of that affected facility. If any or all of the air oxidation reactor offgas at any point were conducted through the equipment of any other process in the plant (other than the air oxidation product recovery train), the intervening nonair oxidation equipment would not be included as part of the affected facility. Such a diversion of air oxidation offgas might be done to provide an inert blanket for another type of reactor. Such a diversion might result in the air oxidation reactor offgas being emitted from more than one atmospheric vent. In this case, each vent, along with any product recovery equipment through which the vented air oxidation offgas would have passed, and any associated air oxidation reactors, would constitute an affected facility.

Selection of Regulatory Alternatives

Control Techniques. A variety of control devices, including condensers, absorbers, adsorbers, and incinerators, can be used to reduce VOC emissions from air oxidation unit processes. However, selecting the most applicable VOC control device for a particular chemical manufacturing process and determining the degree of control achievable would depend on the chemical composition of the waste stream and other process characteristics. The specificity and effectiveness of devices such as condensers, absorbers, adsorbers, and catalytic incinerators may be greatly affected by the vent stream flowrate and VOC concentration, the chemical and physical properties of the VOC and other contaminants, and the vent stream water content and temperatrure. As a result, none of these potential control devices would be universally applicable for reduction of VOC emissions from all air oxidation processes.

Air oxidation processes use a combination of absorption devices, condensers, or carbon adsorption units for product recovery (or for recovery of unreacted raw material). These devices are usually designed to recover only as much of the VOC as results in a cost savings and, therefore, would not be considered control devices. However, in some plants these devices are designed to remove more than that amount which results in cost savings. In this case, the devices operate both for product recovery and as control devices for emission reduction or to reduce the pollutant load on some other final control device.

Thermal oxidation is a control technique in which a mixture of gases, including a vent stream, excess combustion air, and/or fuel, is held at a sufficiently high temperature for a sufficiently long period of time to insure complete combustion of the VOC to carbon dioxide and water. If the VOC stream has a sufficiently high heating value, part of it is passed through the burner in place of part or all of the fuel. The thermal oxidizer operating temperature, chamber residence time, combustion gas mixing, and several other factors related to individual waste stream characteristics determine the exact efficiency of this reaction. Operation of a thermal oxidizer is much less dependent on process and vent stream characteristics than are other VOC control and/or product recovery devices and, consequently, is the only demonstrated VOC control technology universally applicable to SOCMI air oxidation processes. Also, data show that thermal oxidation can achieve the highest feasible VOC control level of all currently demonstrated technologies. All new incinerators can achieve at least a 98 percent VOC reduction or 20 ppmv exit concentration. This control level can be achieved for all air oxidation reaction processes by incinerator operation at conditions which include a maximum of 870°C (1600°F) and 0.75 second residence time.

Tests were performed on the destruction efficiency of incinerators operating at various temperatues [700°C (1300°F) to 800°C (1500°F)] and residence times (0.5 to 1.5 seconds). These tests showed a destruction efficiency of 98 percent to be achievable. In addition, kinetics calculations were performed which compared the tested conditions with the destruction efficiency of an incinerator operated with a residence time of 0.75 second at 870°C. This temperature is known to be achievable in existing incinerators. These calculations show that these conditions are more conductive to complete destruction than the tested conditions.

Therefore, 870°C and 0.75 second were determined to represent the achievable operating conditions which might be necessary to achieve 98 percent total organics (minus methane and ethane) destuction under the worst case conditions.

Kinetics calculations describing complex combustion reaction mechnisms point to much slower reaction rates at very low total organics concentrations. Because of these slower combustion reaction rates, maximum achievable organic compounds destruction efficiency decreases as inlet concentration decreases. Available data show that the lowest concentration achievable by combustion of inlet streams below approximately 2000 ppmv is 20 ppmv. (For air oxidation vent stream with a concentration of 2000 ppm, the incinerator combustion air introduces a dilution factor of about 2, so that the actual incinerator inlet

concentration is about 1000 ppm.) The Agency has therefore selected 20 ppmv as the limit that allows fully for the drop in achievable destruction efficiency with decreasing inlet concentration.

The data also show that the effect of compound identity on destruction efficiency increases at incineration temperatures lower than 760°C (1400°F), although precise quantitative relations could not be determined. However, at temperatues above 760°C, the identity of nonhalogenated compounds has little effect on the destruction efficiency of thermal oxidizers. Because organic compounds which contain halogens undergo complete combustion more slowly, at any given temperature, more stringent conditions are required to achieve 98 percent destruction when incinerating halogenated vent streams. The impacts of emission control were projected assuming a combustion temperature of 1100°C (2000°F) and 1.0 second residence time for halogenated vent streams. Because the incinerator outlet stream for such facilities would contain corrosive hydrogen halide, a flue gas quencher and scrubber were included in the incineration system design and considered in the projection of cost impacts.

At temperatures over 760°C (1400°F), the oxidation reaction rate is much faster than the rate at which mixing takes place. Therefore, organic compound destruction becomes more dependent upon the fluid mechnics within the oxidation chamber. Chamber design and burner and baffle configurations provide for turbulent flow for improved mixing. One practical manner of achieving good mixing and efficiency is to adjust the newly installed equipment (e.g. by changing baffle configurations) to improve performance.

Although the emission test data cited above would also support the achievability of 95 percent reduction at a thermal oxidizer operating temperature of 760°C (1400°F), this reduction efficiency was not considered as an alternative control technique. This 95 percent alternative was not considered because the additional emission reduction associated with 98 percent control at 870°C relative to 95 percent control at 760°C was judged to be large when compared to the small incremental cost and energy impacts associated with the two control levels.

In summary, thermal oxidation is the only VOC control device that is universally applicable to SOCMI air oxidation processes. Thermal oxidation can achieve a greater degree of VOC control than any other device, and requires only a limited amount of vent stream data (flowrate, heating value, and whether chlorinated compounds are present) to determine control costs.

Selection of Format for Proposed Standard and Emission Limits. Several formats could be used to implement the proposed standard. Section 111 of the Clean Air Act requires that standards of performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such standards. Because emission from air oxidation process or product recovery vents, as well as emissions from any type of combustion control equipment, can be measured, it was determined that an emission limitation (performance) standard would be appropriate. A mass emission standard, a percent reduction standard, and a concentration standard were considered.

Because of the variety in offgas flowrates and VOC contents for the many chemical reaction processes and facilities in the air oxidation source category, mass emission rates from sources using 98 percent efficient incinerators would vary considerably. Consequently, a mass emission limit based on an average source would require more than 98 percent control demonstrated technology (BDT) at some facilities and less at others. Therefore, a mass emission standard was considered inappropriate, because it would not require best demonstrated technology (BDT) at each source.

Air oxidation process vent streams have as much variation in volume percent VOC concentration as in mass emission rates. Any standard based solely on a concentration limit would require more than BDT at some facilities and less than BDT at others. Therefore, a standard based solely upon concentration was considered inappropriate. However, a concentration limit might be used in combination with another type of emission limit, if the applicablilty of the concentration limit were restricted to facilities with a limited range of offgas organics content.

A weight percent reduction standard would be feasible because the control device inlet and outlet emission rates can be measured. Furthermore, a given set of incinerator operating conditions tends to result in a given weight percent organics reduction, rather than in an absolute outlet organics concentration or emission rate. As discussed above in the section entitled *Control Techniques*, all new incinerators can achieve at least a 98 weight percent reduction in total organics (minus methane and ethane), provided that the total organic (minus methane and ethane) concentration of the process vent stream is greater than approximately 2000 ppm (volume, by compound). Therefore, a weight percentage reduction standard, based on the mass rate of organics exiting the control device versus the mass rate of organics entering the device, would be appropriate for vent streams with total organics (minus methane and ethane) concentrations above approximately 2000 ppm. For vent streams with organics concentrations below approximately 2000 ppm, it has been determined that an incinerator outlet concentration of 20 ppm (volume, by compound), or lower, is achievable by all new thermal oxidizers. Therefore, EPA concluded that the format of the proposed standard for air oxidation process vent emissions should include a combination of weight percent reduction and a volume concentration standard. The proposed emission limits would be a 98 percent total organics (minus methane and ethane) reduction, or total organics (minus methane and ethane) reduction to 20 ppm (volume, by compound), whichever would be less stringent for a given facility. The concentration limit of 20 ppmv would be based on a vent stream oxygen concentration, at the control device outlet, of 3 percent by volume.

Regulatory Analysis. As explained above, thermal oxidation is clearly the most effective control technology and is demonstrated for application at all facilities. For this reason, the Agency concluded that any regulatory alternative under the Administrator's consideration would necessarily incorporate the use of thermal oxidation. (This contrasts with the development of most other NSPS's where the Agency has examined regulatory alternatives distinguished from each other by control device.) Accordingly, each alternative would require a control efficiency of 98 weight percent or reduction to 20 ppmv exit concentration, whichever is less stringent, for those affected facilities required to control emissions.

However, because this standard would cover a variety of types of SOCMI plants, the offgas parameters which would affect the cost and energy impacts of VOC control by thermal oxidation would vary. These parameters include volume flowrate (which affects equipment size) and heating value (which affects the amount of supplemental fuel required to achieve complete combustion). Other varying offgas parameters include organics content and corrosion properties (such as the presence of chlorinated compounds, which affect control equipment structural properties). Because of this variety, control costs per weight unit emission reduction would

also vary considerably from plant to plant. Therefore, the Agency needed to decide whether thermal oxidation is the "best demonstrated technology" for all, or only a portion, of the projected affected facilities. This depends on the impacts associated with thermal oxidation control at facilities with different vent stream characteristics. Thus, as discussed in the section entitled *Identification of Regulatory Alternatives*, under each additional alternative an additional percentage of sources would be required to meet the proposed standards. (For example, under the first alternative, 7 percent of the projected affected facilities would be required to meet the standards. Under the second alternative, those 7 percent plus an additional 7 percent of projected facilities would be required to meet the standards, and so on.)

The Agency structured the regulatory alternatives so that those facilities with the lowest projected annualized cost of control, per unit of VOC destroyed, would be controlled first (i.e., under the first and all other alternatives) and those with higher costs would be controlled last (i.e., under only the latter alternatives). This method of choosing which facilities would be required to control emissions ensures that for any given regulatory alternative, the greatest national VOC emission reduction is obtained for the amount of money spent.

The following discussion and the section entitled *National Emissions Profile* describe how the Agency calculated theoretical control costs for each vent stream in order to rank vent streams by cost per unit of VOC destroyed. All new incinerators, if properly installed, adjusted, maintained, and operated, can achieve 98 percent emission control of nonhalogenated streams when operated at conditions no more stringent than a combustion chamber temperature of 870°C and residence time of 0.75 second. The impacts of each regulatory alternative were therefore projected based on the use, by each facility with nonhalogenated vent stream required to reduce emissions, of a thermal oxidizer operated at 870°C and a 0.75 second residence time. For halogenated vent streams, operating conditions of 1100°C and 1.0 second residence time were assumed. It was assumed that adjustments of the thermal oxidizer unit after start-up, in order to optimize combustion gas mixing, would be necessary. The costs of such optimization were considered in projecting the costs of control.

In order to avoid an overly conservative estimate of the cost impact of thermal incineration, it was assumed that heat recovery would be employed in all intances in which it was technically feasible, met safety requirements, and would tend to lower the projected annualized cost of control. Such employment of heat recovery equipment is standard industry practice. Use of heat recovery equipment results in lower projected energy use and energy costs, but higher projected capital costs.

The contributing factors to annualized costs include capital charges, supplemental fuel, electricity, operating labor, and maintenance labor. For offgas containing chlorinated compounds, scrubbing water, quench water, and caustic soda, as well as additional capital charges for a flue-gas scrubber, also contribute to annualized cost. Facilities with higher VOC emission rates would tend to have a lower cost, per unit of VOC destroyed, since the achievable emission reduction would be higher than for other vent streams. Under each regulatory alternative, therefore, such facilities would tend to be controlled before other streams. Vent streams with higher net heating values would tend to have lower supplemental energy requirements than other streams, and would, therefore, tend to be controlled before other streams under each regulatory alternative. Facilities with lower offgas flowrates would have relatively higher capital costs, per unit of VOC destroyed, than would streams with similar VOC concentrations and heating values, but higher flowrates. This is true because achievable emission reduction is proportional to flowrate for vent streams with similar VOC concentrations and heating values, whereas capital costs increase less rapidly as flowrate increases, due to economies of scale. Under each regulatory alternative, therefore, facilities with higher offgas flowrates would tend to be controlled before streams with similar emission rates and heating values, but lower flowrates.

National Emissions Profile. One model plant would not have been sufficient for an accurate projection of the impacts associated with each regulatory alternative. Because of the number and diversity of facilities and manufacturing processes in the air oxidation industry, a large number of model plants would have been required. If the use of many model plants had been necessary, the prospective regulatory alternative analysis would have been predicted to take so much time that the unit process approch to regulation would have had little or no advantage over a chemical-by-chemical approach. However, only a limited amount of vent stream data is required to determine incinerator costs and efficiency. The required data include offgas flowrate, net heating value, and total organics (minus methane and ethane) mass emission rate. It must also be known whether the offgas contains halogenated compounds. Therefore, although data from many types of processes are still required in order to adequately represent the air oxidation industry, the data need not consist of fully designed model plants. Rather, a national statistical profile of air oxidation processes was constructed. The national profile characterizes air oxidation processes according to national distributions of the three critical offgas parameters for halogenated and nonhalogenated vent streams. The impacts of each regulatory alternative are therefore evaluated as impacts upon the entire population of affected facilities, as represented by the national profile. The emission and production factors used to construct the data base for the statistical procedure and national profile are from existing air oxidation plants that represent about 36 percent of the total air oxidation plant population. Because there is no recognizable bias involving the four offgas parameters in this data sampling, this percentage of plants provides an adequate sample size to allow construction of a profile that is representative of the entire air oxidation segment of SOCMI. In addition, it is assumed that the overall distribution of key vent stream variables for the new air oxidation plants would be the same as that for the existing population.

The actual use of the national statistical profile assumes that the distribution of offgas flow, VOC emission rate, and stream heating value is chemical independent. Chemical identifies are not considered in the profile, nor is there claimed to be a one-to-one correspondence between any one data point of three offgas parameters and an existing or new offgas stream. It is assumed, however, that the overall proportions and distributions of the parameter values and data points are similar to those of the new population of air oxidation facilities. Thus, since the national statistical profile contains 59 data points, each data point represents 1/59 of the new population. Each data point represents a hypothetical vent stream. Therefore, the impacts of a given regulatory alternative, such as annualized cost of control, VOC emission reduction, and facility cost-effectiveness, can be associated with each data point. It is not assumed that

such individual impacts on a data point would represent impacts on any given new facility, nor are the data points used as individual impact models. Instead, each data point represents 1/59 of the overall projected new population of facilities. Therefore, the impacts of each regulatory alternative represent impacts on the projected new source population. Due to the wide variation in processes used and in the types of control devices present across the air oxidation industry, only uncontrolled emission factors and vent stream characteristics are included in the data set. Since uncontrolled emissions are subject to great uncertainty because of the difficulty in defining what is a pollution control device, all process stream data represent hypothetical uncontrolled emissions, which are considered, in this analysis, to be the process stream exiting the primary (first) product recovery device.

The hypothetical uncontrolled VOC emissions from affected facilities in the fifth year after proposal of the standards were projected to be 78,000 Mg/yr. Actual uncontrolled emissions, in the absence of SIP's, would probably be lower, because some additional degree of product or integrated energy recovery would often result in a cost savings for a facility. An average baseline emission control level was estimated as described below in the section entitled *Baseline Emission Control.*

Baseline Emission Control. The regulatory baseline was estimated as a weighted average of current SIP's except for the assumption that modified SIP's would be in force in ozone NAAQS nonattainment areas requesting extension beyond 1982. EPA assumes that modified SIP's would reflect the reasonably available control technology recommended in the SOCMI air oxidation draft control techniques guideline document. For the purpose of structuring the regulatory alternatives, the Agency estimated the baseline to be 72 percent reduction from hypothetical uncontrolled VOC emissions. However, the actual control required would vary considerably from State to State. If SIP's in ozone NAAQS nonattainment areas requesting extension beyond 1982 are not modified to reflect the reasonably available control technology recommended in the SOCMI air oxidation draft control techniques guideline document, the estimated regulatory baseline would be 66 percent reduction from uncontrolled VOC emission.

Identification of Regulatory Alternatives. Under each successive regulatory alternative, an additional percentage of projected affected facilities would be subject to the 98 percent or 20 ppmv standard. Each successive increment of sources required to meet the standards would have higher per unit control cost than the increment of sources added under the previous alternative. To develop the regulatory alternatives, the Agency ranked the data points in the national profile in order of increasing cost-effectiveness of VOC emission control by thermal oxidation. Sixty regulatory alternatives could be analyzed, one for no VOC emission control at all, plus 59 additional alternatives based upon inclusion of each successive data point. The Agency chose, however, to group the 59 data points into 6 alternatives for the purpose of analysis.

Alternative O represents the baseline level of control. Under Alternatives I through VI, the percentages of all projected facilities required to reduce emissions 98 percent to 20 ppmv would be 7, 14, 19, 27, 47, and 100, respectively. This would result in corresponding national VOC emission reductions of approximately 31, 46, 57, 66, 81, and 98 percent from the baseline level. As stated before, these alternatives are based on the use of a thermal oxidizer operated at 870°C (1600°F) with a chamber residence time of 0.75 second to achieve 98 percent emission control.

Environmental Impacts. Assuming a 72 percent baseline of control, VOC emissions in the fifth year after proposal of the standards were projected to be 22,000 Mg/yr. Table 1 shows the incremental national VOC emissions and percent emissions reductions from the baseline level for each regulatory alternative. Alternative I (31 percent national VOC reduction from baseline) would reduce national VOC emissions to 15,000 Mg/yr. The most stringent regulatory alternative, Alternative VI, would reduce national VOC emissions by 98 percent from the baseline level to 440 Mg/yr.

The generation of NO_x by the combustion process could have a negative impact on ambient air quality by contributing to ozone formation. The principal factors affecting the rate of NO_x formation are the amount of excess air available, the peak flame temperature, the length of time that the combustion gases are at peak temperature, and the rate of cooling of the combustion products. Because of the relatively low combustion temperatures and relatively short residence times associated with control of VOC using thermal incinerators, the rate of NO_x formation is expected to be low.

TABLE 1. SUMMARY OF ENVIRONMENTAL, ENERGY, AND ECONOMIC IMPACTS OF EACH REGULATORY ALTERNATIVE

Regulatory Alternative	Cutoff TRE Index	Range of Facility Cost Effectiveness Values ($/Mg)[a]	Percent of Sources Affected	National Emissions (1000 Mg/yr)	Percent Emissions Reduction from Baseline	National Annualized Cost (Million $/yr)	Average Cost Effectiveness ($/Mg)[b]	Average Cost Effectiveness ($/Mg)[c]	Average Cost Effectiveness (for Facilities Not Covered by Previous Alternative ($/Mg)[c]	National Capital Cost (Million $)
Baseline	-	-	0	21.8	0	0	-	-	-	0
I	.74	270 -660	7	15.2	31	3.0	130	450	450	6.1
II	1.5	1,100 -1,300	14	11.9	46	7.0	190	680	1,200	13
III	2.2	1,400 -1,900	19	9.4	57	10.3	230	830	1,400	18
IV	3.1	1,900 -2,700	27	7.5	66	14.7	280	1,000	2,200	26
V	6.2	2,700 -5,500	47	4.3	81	27.6	440	1,600	4,000	42
VI	6,000	5,700 -5,400,000	100	0.44	98	66.5	860	3,100	10,000	87

[a] Lowest and highest project cost-effectiveness values for facilities reducing emissions by 98 percent under the given regulatory alternative, but not reducing under the previous alternative. These cost-effectiveness values calculated with respect to baseline emissions.

[b] Calculated with respect to uncontrolled emissions.

[c] Calculated with respect to baseline emisisons.

Uncontrolled Emissions = 78,000 Mg/yr

Baseline Emissions = 22,000 Mg/yr

Thermal oxidizer outlet concentrations of NO_x were measured in seven sets of thermal oxidizer tests conducted at three air oxidation plants. The test results indicate that NO_x outlet concentrations range from 8 to 200 ppmv (0.015 to 0.37 g/scm).

Although there are conflicting data, some studies report that incineration of vent streams containing high levels of nitrogen-containing compounds also may cause increases in NO_x emissions. The maximum outlet NO_x concentration of 200 ppmv was measured at an acrylonitrile plant. The vent stream of this plant does not contain nitrogenous compounds. The NO_x outlet concentrations measured at the other two plants, whose vent streams do not contain nitrogenous compounds, range from 8 to 30 ppm (0.015 to 0.056 g/scm).

Acrylonitrile manufacture is the only air oxidation process expected to have NO_x emissions much higher that the detectable limit if controlled by thermal oxidation. However, according to the national profile, the achievable VOC emission reduction for acrylonitrile facilities would be about one to two orders of magnitude greater than the increase in NO_x emissions due to control. For this reason, the Administrator determined that the acrylonitrile process should not be exempt from the proposed standard. Control of the acrylonitrile process has one of the lowest costs per unit VOC reduction of any air oxidation process. Therefore, acrylonitrile facilities would be controlled under each of the six regulatory alternatives more stringent than the baseline alternative. There is, therefore, no significant incremental increase in NO_x emissions associated with the various regulatory alternatives.

In addition to generation of NO_x, the control of VOC emissions from halogenated vent streams by thermal oxidation may result in the release of chlorinated combustion products to the environment. However, flue gas quenching and scrubbing could be used to remove these compounds from the incinerator outlet stream. Current industry practice among air oxidation facilities with chlorinated vent streams which employ combustion devices is to employ flue gas scrubbing. The capital and operation costs associated with flue gas quenching and scrubbing were taken into account in projecting the cost impacts.

Control of VOC emissions using thermal oxidation would not result in any significant increase in waste water discharge by air oxidation unit processes. No water effluents are generated by thermal oxidizers themselves.

Use of an incinerator/scrubber system for control of VOC emissions from oxychlorination vent streams would result in increased water consumption. The increase in total plant waste water would be relatively small and would not affect plant waste treatment or sewer capacity. However, if the scrubbed hydrochloric acid is not recovered, it may be necessary to adjust the pH of the scrubber effluent by treatment with

caustic (NaOH) before it is released into the plant waste water system. The salt (NaCl) formed by the caustic treatment must be purged from the system and properly disposed of. Acceptable methods of disposal include direct waste water discharge or deep well disposal. The increased water consumption and caustic (NaOH) costs were included in the projected operating costs for those data vectors in the national profile representing halogenated vent streams. Costs associated with disposal of NaCl were not believed to be significant and, therefore, were not included in the projected impacts.

There are not expected to be any differences among the regulatory alternatives in cost and energy impacts due to the special additional control equipment and resource use associated with control of chlorinated vent streams. Only one air oxidation process, ethylene dichloride manufacture, has offgas containing chlorinated compounds. This process has a new negative total resource use (net total resource credit) per unit VOC destroyed, associated with the use of incineration. Therefore, the ethylene dichloride process would be controlled under even the least stringent regulatory alternative.

Energy Impacts. The projection of energy impacts for each regulatory alternative was based on the use of thermal oxidation to control VOC emissions from air oxidation process vents. Maintenance of the required thermal oxidizer operating conditions requires supplemental fuel, commonly in the form of natural gas. The amount of supplemental fuel needed depends on vent stream temperature and net heating value, flowrate, incineration temperature, and type of heat recovery used. Due to the use of heat recovery techniques, combustion of some air oxidation waste streams would result in a net production of energy even though supplemental fuel would be necessary for flame stability. Up to 70 percent waste heat recovery could be expected using techniques currently in wide use in the air oxidation industry. In addition to supplemental fuel, electricity requirements for equipment such as pumps, blowers, and instrumentation contribute to the total energy use for VOC control. Total electrical needs are relatively small compared to energy requirements in the form of supplemental fuel for thermal oxidation. The fifth year national energy use would increase from 0.23 billion MJ/yr (110 bbl oil/day) for Alternative I (31 percent national VOC reduction from baseline) to 6.0 billion MJ/yr (2,800 bbl oil/day) for Alternative VI (98 percent national VOC reduction from baseline).

Economic Feasibility and Costs. Both capital and annualized operating costs were used to determine total national costs for each regulatory alternative. These national impacts are summarized in Table 1. The fifth year total national annualized cost would increase from $3 million per year for Alternative I to $67 million per year for Alternative VI. The fifth year total national installed capital cost would increase from $6.1 million for Alternative I to $87 million for Alternative VI.

An economic analysis was performed to determine if control of VOC emissions from individual air oxidation processes would be economically feasible. Control by thermal oxidation was considered to be economically feasible if the following criteria were met: (1) The projected product cost increase due to control remains below 5 percent of the projected product price, (2) the net present value of new plants does not become negative (indicating that they have become an unprofitable investment), (3) the capital costs for control do not exceed 20 percent of the uncontrolled plant fixed investment costs, and (4) new plants do not experience substantial adverse impacts due to foreign competition.

The first step in the economic analysis was performed using a worst-case set of assumptions. One worst-case assumption was that the vent stream contained no oxygen, which led to maximum projected equipment sizes and larger supplemental fuel requirements. A second worst-case assumption was that no waste-heat boiler would be used for any stream not containing halogenated compounds, which led to maximum projected supplemental fuel requirements. A third worst-case assumption was that the lowest capacity and lowest flowrate of any plant using a given manufacturing process was assumed in projecting product percent price increases due to control. This assumption led to higher estimates of percent price increase, due to economies of scale in control equipment capital costs for facilities with higher capacities and flowrates. In addition, as analysis was conducted of the sensitivity of percent product price increase to fluctuations in discount rates, natural gas prices, and offgas flowrates around expected values. Those specific chemical production processes which exceeded any of the economic feasibility criteria under the worst-case assumptions or under the sensitivity analysis were reanalyzed using a set of assumptions more representative of the characteristics of those processes. The results of the final economic analysis were that for each of the regulatory alternatives, none of the chemical production processes exceeded any of the economic feasibility criteria. No chemicals are expected to have a price increase which in the worst-case would exceed 5 percent. The price changes of the 36 chemicals, assuming control costs would be passed through totally, would range from 0 to a 3.1 percent increase except for maleic anhydride (benzene process), which showed an estimated 4.2 percent increase. New maleic anhydride plants are expected to employ the butane process (which showed an estimated 3.1 percent increase), instead of the benzene process, even in the absence of the proposed standard. Therefore, regardless of which alternative was selected as the basis for the proposed standard, it was determined that the costs of controls would be economically feasible for all chemicals covered by the proposed standard.

Selection of Basis for the Proposed Standard

The Clean Air Act requires that standards of performance be based on the best system of continuous emission reduction, considering costs, energy usage, and nonair health and environmental impacts ("best demonstrated technology" or BDT). As stated above, each regulatory alternative represents a distinct percentage of sources that would be required to reduce total organic (minus methane and ethane) emissions by 98 percentage or to 20 ppmv (limits reflecting use of thermal oxidation). By selecting one alternative, the Administrator selects the portion of projected new sources for which control by thermal incineration (under the conditions explained above) is BDT. For the remaining portion of projected new sources it is the Administrator's determination that BDT is no organic emission reduction from the baseline emission level.

As explained previously, none of these regulatory alternatives would either result in unreasonable energy or nonair environmental impacts or cause any of the chemical production processes to exceed any of the economic feasibility criteria. However, because the emission reduction achievable by applying incineration to sources is different under each of the alternatives, the Administrator undertook further analysis before selecting an alternative. This further analysis was undertaken to assure that the cost of the alternative

selected as the basis for the standard is reasonable, not only in terms of economic impacts, but also in terms of the emission reduction which would result. In this further analysis, the data presented in Table 1 were first considered. As shown in the table, those air oxidation facilities required to reduce VOC emissions under Alternative VI that would not have been controlled under Alternative V had a control cost per megagram of VOC reduced ranging from $5700 to $5,400,000. Those facilities controlled by Alternatives V and IV were also examined in a similar manner and showed control costs per megagram of VOC reduced in the ranges of $2700 to $5500 and $1900 to $2700, respectively. (These costs do not represent the actual amounts of money spent for any particular air oxidation facility. Rather, the costs are estimates which represent facilities likely to be built. The cost of VOC emission reduction systems will vary according to the chemical being produced, production equipment, plant layout, geographic location, and company preferences and policies.) However, the Administrator concluded that the cost of requiring control of any facility above the $1,900/Mg cutoff shown in Table 1 is unreasonably high compared to the emission reduction achieved. In the past, the maximum estimated cost per megagram of pollutant material removed (VOC, particulate matter, SO_2) has ranged from somewhat less than $1000 to more than $2000. This package has a maximum estimated cost per megagram of $1900. In prior source categories for which NSPS have been developed, VOC maximum estimated control costs have generally not exceeded $1000 per megagram. In this case, because of the presence of potentially toxic constituents in the discharge streams and the "worst case" character of the cost calculations, EPA believes the proposed standards are reasonable.

The maximum estimated cost in this package will not be viewed as a precedent for future actions. Instead, in the future, EPA will continue to evaluate each package on an individual basis.

Those air oxidation facilities required to reduce VOC emissions by 98 percent under Alternative III, that would not have been controlled under Alternative II, had a control cost per megagram of VOC reduced ranging from $1,400 to $1,900. Alternatives I and II would be less expensive than Alternative III, but would result in less emission reduction. Since the costs per unit emission reduction of Alternative III were judged to be reasonable, and since there were no other statutory factors, such as adverse economic impacts or adverse environmental impacts, for rejecting Alternative III, there was no reason to select Alternative I or II, either of which would result in less emission reduction.

In selecting Alternative III, the Agency noted that its average cost is only about $830 per megagram of VOC reduced. The Agency also considered that SOCMI is the largest stationary emission source of VOC and air oxidation is a major VOC emitting segment of SOCMI. Also, as detailed in the section entitled *TRE Index*, the costs shown in Table 1 do not take into account the ability of facilities to control emissions through adding product recovery and, in certain cases, to thereby avoid incineration costs. Due to this ability, the upper end of the cost per Mg emission reduction of Alternative III could be overstated by as much as $600/Mg. It is unlikely, therefore, that any air oxidation facility would have to spend the maximum cutoff cost per megagram of $1,900/Mg.

The Chemical Manufacturers' Association (CMA) presented, at a meeting of the National Air Pollution Control Techniques Advisory Committee on September 23, 1981, an analysis of the impacts of Alternative III, based on a set of assumptions concerning the rate of growth in the number of air oxidation sources which differs from those used by EPA. In projecting the number of new sources, CMA assumed that the number of affected facilities in the fifth year would be only those facilities for which construction or expansion had already been publicly announced. In general, CMA's projection leads to fewer new facilities, but with larger capacities and larger uncontrolled VOC emission rates. All other assumptions used in the CMA analysis (concerning the costs of equipment, operation and maintenance requirements, and related factors) were essentially the same as those used in the EPA evaluation of regulatory alternatives. The Agency examined CMA's analysis to determine if their results would alter the regulatory alternative selected as the basis for the standard. The annualized cost estimated by CMA's analysis of $22 million is greater than the $10 million annualized cost estimated by EPA. However, the projected emission reduction of 23,000 Mg/yr according to CMA's analysis is also larger than the 12,500 Mg/yr projected by the Agency. The economic impacts, such as price increases and impact of foreign competition, projected by EPA are independent of the alternative selected and would not be impacted by CMA's assumptions. CMA's analysis shows the average cost of incineration per unit of VOC destroyed to be $900/Mg, which is essentially the same as the average cost of incineration per unit of VOC destroyed estimated by EPA ($830/Mg). The highest cost to incinerate per Mg VOC destroyed for either analysis would be $1,900. The selection of Alternative III was not directly influenced by the number of sources which may be affected. Rather, the selection was based on the concept that there is a range of source characteristics within which costs, emission reductions, and other factors lead to the conclusion that control is reasonable. In other words, the CMA analysis would not have altered the selection of Alternative III as the basis for the proposed standard. The impacts of the proposed standard are judged to be reasonable based on either set of assumptions.

TRE Index. After selecting Alternative III as the basis of the proposed standard, it was necessary to develop a method for identifying those facilities covered by Alternative III which would be required to reduce emissions by 98 percent or to 20 ppmv, and those facilities not included in Alternative III, for which no emission reduction beyond product recovery would be required. The Agency, therefore, has included an equation in the regulation to calculate an index which is used to determine which affected facilities are required to reduce emissions by 98 percent or 20 ppmv. This index is termed total resource effectiveness (TRE). The equation includes the parameters used in calculating the costs considered in selecting Alternative III. These parameters are the offgas characteristics of flowrate, net heating value, total organics (minus methane and ethane) emission rate and corrosion properties (presence of chlorinated compounds). These parameters can be easily and objectively measured. The TRE value calculation allows the owner or operator of an affected facility to determine if that facility would be required to reduce emissions 98 percent or to 20 ppmv. The standardized calculation allows objective enforcement since all TRE values would be calculated based on the same parameters and calculated by the same method.

The TRE index of a process vent stream is calculated according to the following equation:

$$TRE = \frac{1}{E_{TOC}} \times [a + b(Q_s)^{0.88} + c(Q_s) + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(H_T)^{0.88}]$$

where:

TRE = Total resource-effectiveness index value.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy of per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s.

E_{TOC} = Hourly emissions of total organic compounds (minus methane and ethane) reported in kg/hr measured at full operating flowrate.

a, b, c, d, e, and f are coefficients.

The set of coefficients which apply to a process vent stream can be obtained from Table 1 of the regulation. These coefficients were derived directly from the cost and emission reduction equations associated with control of VOC emissions from air oxidation facilities by thermal oxidation. Table 1 of the regulation is divided into the five design categories for control equipment. These design categories differ in the amount of heat recovery achieved, in the type of heat recovery equipment used, and in the use of flue gas scrubbing for offgas containing chlorinated compounds. The amount and type of heat recovery used depends upon the offgas heating value.

The vent stream of an affected facility is considered "chlorinated" under the proposed standard if it is determined to contain a concentration of 20 ppmv (by compound) or greater of chlorinated compounds. This low 20 ppmv chlorination cutoff was chosen to avoid control cost and TRE underestimates. Even small amounts of chlorinated compounds may be corrosive, as well as difficult enough to incinerate that a temperature greater than 870°C is necessary to achieve 98 percent control. Therefore, it was judged essential to set a low cutoff, so that control cost and TRE would not be underestimated for any facility. The ethylene dichloride process is the only current air oxidation process with chlorinated vent streams. Because this process may have affected facilities subject to the proposed standards, the Administrator decided to set the chlorination cutoff at 10 percent of the lowest known total chlorinated compound concentration for any existing ethylene dichloride facility, or 20 ppmv.

Under each design category listed in Table 1 of the regulation, there are several intervals of offgas flowrate. Each flowrate interval is associated with a different set of coefficients. The first flowrate smaller than that corresponding to the smallest control equipment system easily available without special custom design. The remaining flowrate interval in each design category applies to vent streams with a flowrate intervals in each design category apply to vent streams which would be expected to use one, two, three, four, or five sets of control equipment, respectively. These flowrate intervals are distinguished from one another because of limits to prefabricated equipment sizes.

The TRE index cutoff value associated with Alternative III as calculated by the above equation is 2.2. Affected air oxidation facilities with a TRE index of less than or equal to 2.2 would be required to reduce emissions by 98 percent or to 20 ppmv, while affected facilities with a TRE index above 2.2 would not be required to combust VOC emissions.

The use of a TRE index cutoff value will also encourge the use of product recovery techniques or process modification in an effort to raise the TRE index value above the 2.2 cutoff. The parameters used to calculate the TRE index are measured at the outlet of the final piece of product recovery equipment. Additional product recovery can be used to change the values of the parameters (e.g., decrease the emission rate) and increase the TRE index value. The total cost to a facility of improved product recovery to exceed the TRE index cutoff would probably be much lower than the total cost of thermal oxidation to achieve 98 percent reduction. It would, therefore, be economically advantageous for such a facility to choose to improve product recovery. However, the necessary reduction in emission rate to exceed the TRE index cutoff might also be less than 98 percent. Therefore, the actual cost per metric ton for some facilities choosing to improve product recovery might exceed the projected cost per metric ton of thermal oxidation. Nevertheless, such a facility would probably choose to improve product recovery rather than incinerate due to the lower costs.

Compounds Used in Determining Compliance. The proposed standards are 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 standards are designed to reflect the performance of BDT. The best demonstrated technologies applicable to air oxidation processes do not selectively control VOC (that is, the proportion of the organics that is regarded as photochemically reactive), but rather these technologies control all organic compounds.

Moreover, the test methods applicable for determining compliance with standards based on those technologies measure total organic compounds, minus methane and ethane. Also, the Agency derived the emission limits for distillation operations from data gathered using test procedures that measure total organic compounds, minus methane and ethane.

To reflect accurately the performance of the technologies selected as BDT and to make the emission limits consistent with the data and test methods from which the limits were derived, the Agency has expressed the standards in terms of total organic compounds, minus methane and ethane. For the same reason, the test procedure in the proposed standards prescribes measurement of total organic compounds, excluding methane and ethane. In short, EPA is relying on control of total organic compounds, minus methane and ethane, as the best demonstrated surrogate for controlling volatile organic compounds, which react to form ozone in the atmosphere.

Modification/Reconstruction Consideration

The proposed standard would apply to all affected facilities, which commenced construction, reconstruction, or modification after the date of proposal of the NSPS. Modification is defined in 40 CFR 60.14 as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility, or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted." (Section 60.14 lists a few cases which would not be considered modifications even if emissions increased.) Reconstruction, as defined in 40 CFR 60.15, occurs when components of an existing facility are replaced to such an extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the

fixed capital cost that would be required to construct a comparable entirely new facility, and (2) it is technologically and economically feasible to meet the applicable standards.

Potential modifications involving SOCMI air oxidation processes include catalyst substitution, process equipment changes, and combinations of these changes.

Catalyst substitutions can be made to improve product mix, reduce operating costs, or increase conversion rates. A change in catalysts may cause significant changes in the quantity of VOC emissions. In addition, these changes could require major modifications in the reactor system and auxiliary process equipment.

Changes in air oxidation process equipment could result in increased VOC emissions and, if so, could constitute a modification. Examples include an increase in the size of the reactor, addition of a reactor, and a change in the product recovery system from an absorber to a condenser. However, any changes in product recovery equipment would be intended to increase product recovery, and, therefore, VOC emissions would be expected to decrease.

In many cases, a combination of changes would be chosen based on the most advantageous economics. One example of such a modification would be the simultaneous change of the reactor conditions and catalyst.

These type of changes are real alternatives for many air oxidation chemical manufacturing industries. However, they generally involve substantial changes in catalyst, reactor conditions, or product separation/purification equipment. Because the expected type of changes would be so substantial, potential modifications would probably be infeasible due to the costs involved. Although much effort will be directed toward identifying cheaper, more readily available feedstocks, chemical manufacturers probably would choose to build new facilities to use the cheaper feeds rather than go to the expense of radically modifying existing facilities. Therefore, there would probably be very few air oxidation facilities which would become subject to the proposed standard as a result of the types of changes discussed above.

No existing facility is expected to undergo sufficient replacement of components to be considered a reconstructed facility. Reactors and pieces of product recovery equipment within an affected facility would, in general, have different ages as well as different lifetimes. Moreover, such types of equipment are rarely replaced. Therefore, it is likely that a considerable interval of time would separate replacements of individual reactors or product recovery devices. For reasons stated in the preamble to the proposed standard for metallic minerals which was proposed on August 24, 1982 (47 FR 36867), if the cumulative fixed capital cost of replacements commenced within any 2-year period exceeded 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, such replacements could constitute reconstruction, as defined in that section (see § 60.616(a) of this proposed standard).

Selection of Monitoring Requirements and Test Methods

98 percent/20 ppmv Emission Limit. Numerous methods exist for the measurement of organic emissions. Among these methods are gas chromatography (GC), direct flame ionization detection (FID), and EPA Reference Method 25 (EPA 25)—Determination of Total Gaseous Non-Methane Organic Emissions as Carbon. Each method has advantages and disadvantages. Of the three procedures, GC has the distinct advantage of identifying and quantifying the individual compounds present in the emissions. The major disadvantages with this procedure are that GC systems are expensive and determination of the column required and analysis of samples can be time consuming.

The direct FID technique is the simplest procedure. However, the FID alone responds differently to various organic compounds and can yield highly biased results depending upon the compounds involved. Another disadvantage of the FID alone is that a separate methane measurement is required to determine nonmethane organics. The direct FID procedure alone does not identify or quantify individual compounds.

Method 25 sampling and analysis provides a single nonmethane organic measurement on a carbon basis: this is convenient for establishing control device efficiencies on a consistent basis. However, this method does not provide any qualitative or quantitative information on individual compounds present. For this reason, Method 25 was rejected as the Reference Method for determining compliance with the proposed standard.

The combined GC/FID is the proposed required test procedure for determining thermal or catalytic oxidizer control efficiency for air oxidation processes. A general GC/FID procedure (Method 18) is being promulgated with the SOCMI fugitive NSPS. Methane and ethane are measured separately by Method 18. Details concerning the use of this methodology, including sampling, analysis, preparation of standards, calibration procedures, and reporting of results are discussed in Method 18, Measurement of Gaseous Organic Compound Emissions by Gas Chromatography.

The owner or operator of a facility using any combustion device (other than steam generating units, such as boilers or process heaters, with a design capacity of 44MW or greater) to comply with the proposed emission limit would be required to determine compliance according to Reference Method 18 during any performance test. Reference Method 1 or 1A would be required as appropriate to be used for selection of the sampling site. The control device inlet sampling site for determination of reduction efficiency would be required to be prior to the inlet of any combustion device and after all product recovery units.

If any nonair-oxidation offgas steam were normally routed through the product recovery train or directly to the control device of the affected facility, the proposed standards would permit such a stream to be routed normally during any performance test to determine compliance with the proposed reduction requirement. The Agency considered requiring such streams to be rerouted or turned off, in order to assure that 98 percent reduction, or reduction to 20 ppmv, would be achieved for the air oxidation stream itself. However, the Agency determined that if a performance test conducted on such a facility while routing its nonair-oxidation offgas normally showed compliance with the proposed emission limit, that limit would also be achieved by the combustion device when only the air oxidation process stream is routed through it, provided that the combustion device operating parameters, such as temperature, remained unchanged. Therefore, the Agency concluded that requiring the nonair-oxidation stream to be rerouted or turned off during a performance test would be unnecessary.

The air oxidation offgas stream of an affected facility might be normally routed through nonair-oxidation process equipment, as a result of which its composition or flowrate might be altered. In such a case, the proposed standards would permit the air oxidation stream to be routed normally during any performance test to determine compliance with the proposed emission limit. The Agency considered

requiring that such equipment be bypassed during a performance test, in order to assure that the proposed emission limit would be achieved for the unaltered air oxidation stream itself. However, the Agency determined that if a performance test conducted on such a facility while routing its air oxidation offgas normally showed compliance with the proposed emission limit, that limit would also be achieved by the combustion deviced if the nonair-oxidation equipment were bypassed, provided that the combustion device operating parameters, such as temperature, remained unchanged. Therefore, the Agency concluded that such a requirement would be unnecessary.

Steam generating units, such as boilers, or process heaters might be used for combustion of the VOC in an air oxidation process stream. The Agency believes that steam generating units with a design heat input capacity of 44 MW or greater achieve a reduction efficiency of 98 percent or reduction to 20 ppmv. Therefore, the Agency believes that an initial measurement of control efficiency would not be necessary. As explained previously in the discussion of combustion kinetics given in the section entitled *Control Techniques*, a firebox temperature of 1100°C and 1 second residence time represent the conditions that might in the worst case be necessary to achieve 98 percent reduction, even if the VOC were chlorinated. Steam generating units with a design capacity of 44 MW or greater are operated at temperatures and residence times greater than 1100°C and 1 second, respectively. Other than an adequately high temperature and residence time, the two primary conditions necessary for high combustion device control efficiency are stable flow rate and adequate mixing of gases. It is to the economic advantage of the owners of facilities using such large steam generating units to design and operate them with stable flowrates to avoid upsets. For the same reason, such devices would be designed and operated with adequate mixing of gases to maximize the amount of combustion, thereby maximizing the steam generation rate. For these reasons, the Administrator has decided that installing a steam generating unit, with a design heat input capacity of 44 MW or greater, to control VOC emissions from an air oxidation process, is an acceptable means of demonstrating compliance with the proposed standards. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on such devices.

The control equipment used to comply with the proposed emission limit needs to be properly maintained and operated if 98 percent reduction, or reduction to 20 ppm are to be achieved on a lasting basis. Monitoring requirements are generally used to ensure such proper operation and maintenance. Three methods of monitoring to ensure such proper operation and maintenance of control equipment used to comply with the proposed VOC emission limit were considered. These methods were continuous emission monitoring, a combination of biannual performance testing and biannual inspection and maintenance, and continuous measurement of important combustion control device parameters, such as combustion temperature or vent stream flowrate.

Continuous combustion control device inlet and outlet emission monitoring would be the preferred method of monitoring, because it would be a continuous, direct measure of actual emissions. However, since this would require two monitors, it would be relatively expensive.

Biannual performance testing would provide a periodic, direct measure of actual emissions. The associated biannual inspection and maintenance program would catch drops in combustion device performance due to existing or impending equipment failures. However, repeated, biannual performance testing with biannual equipment inspection and maintenance would be expensive with an estimated cost of $25,000 per test. Therefore, the Administrator has decided not to require biannual performance testing with an associated biannual inspection and maintenance program.

Provided that combustion parameters which accurately reflect the level of combustion device efficiency can be identified and continuously monitored, monitoring of such parameters alone would have several advantages, such as low cost and high reliability. However, a disadvantage of combustion parameter monitoring alone is that the correlation of the parameters with the numerical emission limit is not exact. However, exact correlation is not necessary if the parameter monitored would demonstrate proper operation and maintenance of the control device.

The combustion device operating parameters that affect incinerator performance were analyzed. These variables are temperature, mixing, type of compound, residence time, inlet concentration, and flow regime. Of these variables, the last two were judged to have only a small impact on incinerator performance. Residence time is essentially set after oxidizer construction unless the vent stream flowrate is changed. At temperatures above 760°C, the compound type has little effect on combustion efficiency. The two remaining variables were then analyzed in more detail to define their impact on performance and the ability to monitor them.

Temperature was analyzed first. Test results and theoretical calculations show that lower temperatures can cause significant decreases in control device efficiency. Test results also indicate that temperature increases can also adversely affect control device efficiency, apparently by decreasing the thoroughness of mixing of offgas, burner gases and combustion air. In terms of cost, temperature monitors are inexpensive, costing less than $5,000 installed with strip charts, and are easily and cheaply operated. Given the large effect of temperature on efficiency and the low cost of temperature monitors, this variable is clearly an effective parameter to monitor.

Mixing of process offgas, combustion air, and hot exhaust products from the burner was the next combustion control device parameter to be analyzed. The most likely item to affect mixing, given a constant temperature and an already constructed incinerator, would be flow. No direct field data is available on the effect of flow on mixing efficiency. However, it is recognized that the flow rate of vent streams will vary with process conditions, from zero, when the process is down, to some maximum value. The Agency considered requiring process records be kept which would relate vent stream flow rates to acceptable combustion device parameters. However, the Agency was unable to identify a meaningful relationship between flow rate and VOC destruction efficiency. Furthermore, based on engineering judgment, flow rate would not be expected to have much affect on the large combustion devices likely to be encountered in air-oxidation processes.

Because of the resource burden associated with the other two alternatives (comtinuous VOC monitoring and biannual performance testing), and since temperature was identified as a combustion parameter which can be cheaply and reliably monitored, this third alternative was chosen. Temperature would be required to be measured during the original (or most recent) performance test. Temperature would then be monitored

to determine if it deviated from the values measured during the performance test. The proposed standard would, therefore, require the owner or operator of an affected facility using a combustion device (except for a stream generating unit with a design heat capacity of 44 MW or greater) to comply with the proposed VOC emission limit to install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device. This device would be required to be equipped with a continuous recorder and have an accuracy of one percent of the temperature being measured, expressed in degrees Celsius, or ±2.5°C, whichever is greater. If a thermal incinerator or stream generating unit were used, the device would be required to be installed in the firebox. If a catalytic oxidizer were used, the temperature measuring device would be required to installed in the gas stream immediately before and after the catalyst bed.

Monitoring of temperature would not be required for steam generating units with a design heat capacity of 44 MW or greater. These devices always operate at high temperatures (<1100°C) and stable flowrates to avoid upsets and to maximize the steam generation rate. The maintenance of records would be required, however, which would indicate the periods of operation of the steam generating unit. The nature of the records to be kept to comply with this requirement are left to the discretion of the owner or operator of the facility, but they must be readily available for inspection.

TRE Cutoff. Calculation of the total resource-effectiveness (TRE) index value for an affected facility is dependent upon measurement of the offgas volumetric flowrate, net heating value, total organic (minus methane and ethane) emission rate, and corrosion properties (presence or absence of chlorinated compounds). These measured values are used to select the corresponding coefficients and then inserted into an equation specified in the proposed standard for calculation of the TRE index. Reference Method 1 or 1A would be required as appropriate to be used for selection of the site for measuring the offgas flowrate and molar composition. The sampling site would be required to be prior to any post-reactor dilution of the stream with air, prior to any post-reactor introduction of chlorinated compounds into the stream, and also prior to the inlet of any combustion device. Subject to the requirements just mentioned, the sampling site would also be required to be dowstream of all product recovery equipment. The volumetric flowrate would be required to be determined according to Reference Method 2, 2A, 2C, or 2D as appropriate. The molar composition of the offgas stream, including the total molar concentration of chlorinated compounds, would be required to be calculated according to Method 18, Measurement of Gaseous Organic Compound Emission by Gas Chromatography. Reference Method 10 would be required to be used for measurement of carbon monoxide concentration. This measured carbon monoxide concentration would be required to be converted from a dry basis to a wet basis by use of an equation specified in the proposed regulation. The water vapor concentration of the vent stream would be required to be calculated according to Reference Method 4 for inclusion in the carbon monoxide concentration correction equation.

The net heating value of the process vent stream (25°C, 760 mm Hg) would be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Method 4, Method 10, and Method 18. The net heat of combustion of each offgas component would be required to be determined using ASTM D2382–76 if published values are not available or cannot be calculated. This method of determining net heating value was chosen because it would not require a separate test procedure from that required for determination of VOC reduction efficiency and offgas chlorination. Moreover, the Agency believes that the proposed method for determining net heating value would be more accurate than any available direct experimental measure, such as bomb calorimetry.

The total organic (minus methane and ethane) mass emission rate of the process vent stream would also be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Method 18, and of the volumetric flowrate, as measured by Method 2. The reasons for the choice of Method 18 for determination of organic compounds emission rate are discussed above in the section entitled *98 Percent 20 ppmv Emission Limit.*

A nonair-oxidation offgas stream might be normally routed through the product recovery train of the affected facility. Such a stream would be required by the proposed standards to be rerouted or turned off during any performance test conducted to determine compliance with the TRE cutoff requirement, until the measurements for determining offgas flowrate and molar composition had been made. This requirement is included in the proposed standards to assure that the TRE index value of the air oxidation stream only is calculated. The equation for calculating the TRE index value has been developed based on air oxidation streams and the 2.2 TRE index value cutoff included in the standards was selected based on air oxidation streams. Using flowrates and molar compositions of nonair-oxidation streams would distort the calculated TRE index value.

The air oxidation offgas stream of an affected facility might be normally routed through nonair-oxidation process equipment. In such a case, the proposed standards would require that such monair-oxidation process equipment be bypased by the air oxidation vent stream during any performance test conducted to determine compliance with the TRE cutoff requirement, until the measurements for determining offgas flowrate and molar composition had been made. This requirement has been included in the proposed standards to assure that the TRE index value is calculated for an air oxidation stream that has not been altered by routing it through nonair-oxidation process equipment. As discussed previously, the TRE equation for calculating the TRE index value has been developed based on air oxidation streams and the 2.2 TRE index value cutoff included in the proposed standards was selected based on air oxidation streams. Using flowrates and molar compositions that have been altered by nonair-oxidation process equipment would distort the calculated TRE index value.

After an initial performance test is conducted to determine compliance with the proposed TRE cutoff value, process modifications or improper operation or maintenance of product recovery equipment could lead to higher emissions and a true TRE value not in compliance with the cutoff. Therefore, three methods of monitoring for facilities using product recovery to meet the proposed standards were considered. These methods were continuous vent stream molar composition and flowrate monitoring, a combination of biannual performance testing of the TRE index value of the facility with continuous monitoring of selected operating parameters of the final piece of product recovery equipment in the affected facility train , and continuous monitoring of operating parameters only.

Continuous monitoring of the vent stream flowrate and molar composition would be the preferred method if feasible, because it would be a continuous, direct measure of proper operation of the product recovery device. However, because of the many different VOC compounds in air oxidation vent streams, no continuous offgas molar composition monitor has been demonstrated. Current offgas molar composition monitoring systems are not simple and automated, but extremely complex and labor-intensive. Therefore, the EPA has determined that continuous monitoring of offgas molar composition and flowrate for determination of proper operation and maintenance is infeasible.

Biannual performance testing would provide a periodic, direct measure of compliance with the TRE cutoff provision of the prosposed standard. However, biannual testing, particularly the offgas molar composition monitoring measurement, would be expensive, with an estimated cost of $25,000 per test. Therefore, the Administrator has determined that the cost of biannual performance testing is not reasonable, considering other reliable options which are less expensive.

Provided that product recovery equipment operating parameters which accurately reflect the level of product recovery device efficiency and, therefore, the offgas molar composition could be identified and continuously monitored, monitoring of such parameters alone would be preferable.

Therefore, the operating parameters of the three types of product recovery equipment commonly used in air oxidation processes were analyzed for correlation with product recovery device efficiency. The three commonly used types of product recovery equipment are absorbers, condensers, and carbon adsorbers.

For an absorber, two operating parameters were identified as the primary determinants of product recovery efficiency: absorbing liquid temperature and specific gravity (or some other parameter used by a facility to measure absorbing liquid saturation). In the absence of the proposed standard, facilities employing an absorber for product recovery would, in general, continuously monitor some parameter related to the degree of saturation of absorbing liquid with recovered material. Specific gravity is one such parameter which is frequently monitored. Absorbing liquid temperature monitors and specific gravity measurement devices are available at a reasonable cost. The estimated one-time combined capital investment for such equipment is $8,000. These absorption parameters would be required to be measured during each performance test. (If approved by the enforcing Agency, an alternative parameter which would indicate the degree of absorbing liquid saturation could be measured during each performance test.) These absorption parameters would then be monitored to determine if any value had changed since the performance test. This monitoring would indicate whether the absorber were being properly operated and maintained. Therefore, an operator of an affected facility for which an absorber was the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specification an absorbing liquid temperature monitor and specific gravity measurement device (or an alternate device which would measure the degree of absorbing liquid saturation, if approved by the enforcing agency), each equipped with a continuous recorder.

For a condenser, the exit (product side) temperature was identified as the primary determinant of product recovery efficiency. Condenser temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $3,000. The condenser exit (product side) temperature would be required to be measured during each performance test. The temperature would then be monitored to determine if the value had changed since the most recent performance test. This monitoring would indicate whether the condenser were being properly operated and maintained. Therefore, an operator of an affected facility for which a condenser were the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications a condenser temperature monitor equipped with a continuous recorder.

For a carbon adsorber the carbon bed temperature (after regeneration and completion of any cooling cycles), as well as the amount of steam used to regenerate the adsorption bed, were identified as indicators of product recovery efficiency. Steam flow meters which indicate the quantity of steam used over a period of time, and bed temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $10,000. These adsorption parameters would be required to be measured during each performance test. These adsorption parameters would then be monitored to determine if either value had changed since the most recent performance test. This monitoring would indicate whether the carbon adsorption unit were being properly operated and maintained. Therefore, an operator of an affected facility for which a carbon adsorber is the final unit of the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications an integrating steam flow meter, and a carbon bed temperature measurement device, each equipped with a continuous recorder. Some new carbon adsorbers may include vent stream VOC concentration monitors in order to guide operators in maximizing recovery of raw material or products. No widely accepted performance specifications have been developed for such organics concentration monitors and therefore these devices are not being required at the present time. However, such devices may be approved by the Administrator on a case-by-case basis. If an organics concentration measuring device is used, but a recording device is not installed so that a permanent time record of the measurement is produced, then the vent stream must be sampled at the end of the adsorption cycle (at least once during every four hours of operation) and the concentration recorded.

Certain facilities, as discussed previously, would be required to reroute or turn off nonair-oxidation streams before measuring the appropriate parameters for calculating the TRE index value. However, the value of the parameter(s) to be monitored could vary significantly depending on whether the nonair-oxidation streams are routed through the product recovery device. Therefore, the facility would be required to return to normal routing of these nonair-oxidation streams after the parameter(s) for calculating the TRE index value have been measured but before making the performance test measurement of the parameter(s) to be monitored continuously. The value(s) of the parameter(s) to be monitored continuously would be indicative of proper operation and maintenance during normal operation of the product recovery device. It is therefore the most appropriate reference value against which to compare results of post-performance test continuous parameter monitoring.

The same procedure would be followed for facilities that are required to bypass nonair/oxidation process equipment during the performance test. Before making the initial measurement of the parameter(s) to be monitored, the facility would be required to return to normal routing of the air oxidation

stream through any nonair/oxidation process equipment. This value of the parameter(s) to be monitored would be indicative of proper operation and maintenance during normal operation of the product recovery device.

The enforcement agency would specify on a case by case basis appropriate monitoring procedures or requirements where the owner or operator of an affected facility uses emission control or product recovery techniques other than those specified to comply with the proposed standard.

Selection of Reporting and Recordkeeping Requirements

The General Provisions of Part 60 require submittal of several one-time notifications for occurrences such as construction, modification, reconstruction, scheduled dates for performance tests, and performance test results. Owners and operators of steam generating units with a design heat capacity of 44 MW or greater would not report performance test results, since the proposed standard would waive the requirement of such a test. Instead, operators would be required to file an initial report stating the design heat input capacity of the steam generating unit to be used.

The proposed standards exempt air oxidation facilities from the quarterly reports required by the General Provisions. However, records of startup, shutdown, and malfunction would still be required. Also, records indicating whether control equipment is being properly operated and maintained would be required.

Records indicating proper operation and maintenance would be based on the monitoring of control device or product recovery device parameters discussed in the previous section. Two types of records would be required. The first would be the monitoring results themselves. This information can be automatically recorded, and, therefore, essentially the only labor necessary for keeping these records would consist of filing automatically recorded parameters. The second type of record would be a tabulation of periods when the measurements of these automatically recorded parameters significantly deviated from measurements of the same parameters during the most recent performance test. Although this requires more effort, it is a necessary step for both the owner or operator and enforcement agency to ensure that the control equipment is being properly operated and maintained. This information would be necessary for the owner or operator to know when to make necessary corrections to the control equipment. For this second type of record, it would be necessary for the owner or operator to record control device or recovery equipment operating parameters, as appropriate, during all performance tests and keep these records for purposes of comparison. The owner or operator would not be required to record all deviations from these measurements, but only the deviations listed below for the different types of control devices.

Where a combustion system is used to comply with the proposed numerical emission limit, the proposed standards would require recording of the following information regarding periods of operation during which the parameter boundaries established during the most recent performance test are exceeded: (1) For a thermal oxidizer or steam generation unit with a design heat input capacity of less than 44 MW, all 3-hour periods during which the average firebox temperature was more than 28°C (50°F) below the average firebox temperature measured during the most recent performance test; (2) for a catalytic oxidizer, all 3-hour periods of operation during which the average temperature before the catalyst bed was more than 28°C (50°F— below the average temperature of the device during the most recent performance test, and all 3-hour periods of operation during which the average temperature difference across the catalyst bed was less than 80 percent of the average temperature difference measured during the most recent performance test; and (3) for steam generating units with a design heat input capacity greater than 44 NW, all periods of operation of the stream generating unit. All records would be required to be kept up to date, and in readily accessible files for 2 years. The parameter boundaries discussed above would allow for normal fluctuations in operation of the equipment monitored. The reduction efficiency of the control device would not be affected by such normal fluctuations.

Where a product recovery system is used to comply with the proposed TRE index value, the proposed standards would require recording of two types of information. The first requirement would be to maintain records of any change in production capacity, feedstock type or catalyst type, or of the replacement, removal, of addition of product recovery equipment. When any such change occurs, the TRE index value would be recalculated based on the best engineering estimates of the effects of the change or on emission test data. A record shall be maintained of the recalculated TRE index value. If the recalculated TRE index value for the facility is less than 2.2, the owner or operator shall demonstrate compliance with the 98 percent or 20 ppmv emission limits. Notice of any performance test shall be given to EPA as required by the General Provisions.

The second provision would require recording of the following information regarding periods of operation during which the operating parameter boundaries established during the most recent performance test for the final product recovery unit are exceeded: (1) Where an absorber was the final unit in the product recovery system, all 3-hour periods of operation during which the average absorbing liquid termperature was more than 11°C (20°F) above that measured in the most recent performance test, and all 3-hour periods of operation in which the absorbing liquid specific gravity was more than 0.1 unit above or below that measured in the most recent performance test (if the enforcing agency approves an alternative parameter to specific gravity for monitoring by a facility, that agency shall define appropriate parameter boundaries and periods of operation during which they are exceeded); (2) where a condenser was the final unit in the product recovery system, all 3-hour periods of operation during which the average temperature of the recovered liquid was more than 3°C (5°F) above the average operating temperature during the most recent performance test; (3) where a carbon absorber was the final unit in a product recovery system all carbon bed regeneration cycles during which the total mass of steam used was less than the total mass of steam used in most recent performance test, and all carbon bed regeneration cycles during which the temperature of the carbon bed (after regeneration and all cooling cycles) was more than 10 percent greater than that measured in the most recent performance test. If the Administrator approves the use of an organics monitor, all 3-hour periods of operation during which the average concentration of VOC in the carbon adsorber exhaust gases indicated by the continuous monitoring system is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test shall be recorded. (Such a discrepancy would indicate improper operation of the carbon adsorption system.) All records would be required to be kept up to date, and in readily accessible files for 2 years. The parameter boundaries discussed above would allow for normal

fluctuations in operation of the equipment monitored. The TRE value for the facility would not be affected by such normal fluctuations.

In addition to the one-time notifications and performance test reports discussed above, semi-annual reporting of recorded data would be required for instances where monitored parameters exceed the allowable limitations set forth in the standards. These data include the operating parameters cited above for combustion devices and for product recovery systems. Other instances that would be reported semi-annually are periods when steam generating units used for thermal oxidation are not operating and when changes in a product recovery system cause the TRE index value to be recalculated. The requirement for semi-annual reporting is waived for affected facilities in States where the program has been delegated if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such affected facilities would be required to comply with the requirements adopted by the State.

Impacts of Reporting and Recordkeeping Requirements

The information provisions associated with this proposed rule (40 CFR 60.7 and 40 CFR 60.615) have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection provisions. During the first 2 years of this regulation the average annual burden of the reporting and recordkeeping requirements would be 3.5 person-years, based on an average of 10 respondents per year.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of the preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of the preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review [except as noted in Section 307(d)(7)(A)].

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for SOCMI air oxidation processes was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that SOCMI 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 this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

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, enforceablity, improvements in 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 promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

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: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. As explained in the section entitled "Selection of Basis for the Proposed Standard," cost per megagram of emission reduction was the primary factor considered in selecting the alternative upon which the proposed standard is based.

This regulations was submitted to the Office of Management and Budget (OMB) for review as requird by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A–81–22. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the air oxidation industry is one that has 1000 employees or less. Currently only 4 percent of existing air oxidation companies (three companies) employ less than 1000 people. Since Section 111 standards apply only to newly constructed, modified, and reconstructed facilities, and no modified or reconstructed facilities are expected, nor are any of these small air oxidation companies likely to expand by adding new units, none of these small companies are expected to be subjected to the proposed standards. The economies of scale that exist in this industry hinder the entrance of small businesses. Furthermore, if a company has the capital available to enter the industry, the NSPS will require only a small percentage increase in the capital required for the project. No new, modified, or reconstructed small air oxidation facilities will be adversely

affected. This conclusion is based on the fact that, in doing the economic analysis for this proposal, the price increase and profitability impacts have been estimated from the perspective of the smaller air oxidation facilities in operation.

Therefore, the finding that producers of air oxidation chemicals, under a worst-case scenario, would be able to pass through NSPS compliance costs to their customers while keeping the price increase of their product under 5 percent accurately reflects the impacts for small air oxidation companies.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

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, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners.

Dated: October 11, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. A new Subpart III is added as follows:

Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

Sec.

60.610 Applicability and designation of affected facility.
60.611 Definitions.
60.612 Standards.
60.613 Monitoring of emissions and operations.
60.614 Test methods and procedures.
60.615 Reporting and recordkeeping requirements.
60.616 Reconstruction.

Authority: Secs. 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 III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

§ 60.610 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to affected air oxidation facilities. An affected facility is any individual reactor-product recovery train consisting of an individual product recovery system receiving offgas from at least one air oxidation reactor, along with all air oxidation reactors feeding offgas into this system. Each air oxidation reactor not feeding offgas into a product recovery system would constitute a separate affected facility.

(b) Any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after October 21, 1983, would be subject to the requirements of this subpart.

Note.—The intent of these standards is to minimize the emissions of VOC through the application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of total organic compounds, measured as total organic compounds less methane and ethane. This emission limit reflects the performance of BDT.

§60.611 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

Air Oxidation Process means a unit process, including ammoxidation and oxychlorination unit process, that uses air, or a combination of air and oxygen, as an oxygen source in combination with one or more organic reactants to produce one or more organic compounds.

Air Oxidation Reactor-Product Recovery Train means an individual product recovery system receiving offgas from at least one air oxidation reactor, along with all air oxidation reactors feeding offgas into this system.

Air Oxidation Reactor means any device or process vessel in which one or more organic reactants are combined with air, or a combination of air and oxygen, to produce one or more organic compounds. Ammoxidation and oxychlorination reactions are included in this definition.

By Compound means by individual stream components, not carbon equivalents.

Chlorinated Process Vent Stream means any process vent stream determined to have a total concentration (by volume) of compounds containing chlorine of 20 ppmv (by compound) or greater.

Process Vent Stream means any gas stream, containing nitrogen which was introduced as air to the air oxidation reactor, released to the atmosphere directly from any air oxidation reactor-product recovery train or indirectly, after diversion through other process equipment.

Product Recovery System means an individual unit or series of material recovery units, such as absorbers, condensers, and carbon adsorbers, which recovers total organic compounds (less methane and ethane) from a process vent stream for commercial or industrial use or reuse.

Steam Generating Unit means any furnace, boiler, process heater, or other device used for combusting fuel for the purpose of producing steam or process heat (including fossil-fuel-fired steam generators associated with combined cycle gas turbines; waste-heat boilers are not included).

Total Organic Compounds means those compounds measured according to the procedures in § 60.614.

Total Resource-Effectiveness (TRE) Index Value means a measure of the supplemental total resource requirement per unit reduction of total organic compounds (excluding methane and ethane) associated with an individual air oxidation process vent stream, based on offgas flowrate, emission rate and total organic compounds (excluding ethane and methane), net heating value, and corrosion properties (whether or not the vent stream is halogenated), as quantified by the equation given under § 60.614(b)(5).

§ 60.612 Standards.

On or after the date on which the performance test is required by § 60.8, each owner or operator subject to the provisions of this subpart shall comply with one or the other of the following for each process vent stream:

(a) Reduce emissions of total organic compounds (less methan and ethane) by 98 weight percent, or to a total organic compound (less methane and ethane) concentration of 20 ppmv (by compound) on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(b) Maintain a total resource-effectiveness (TRE) index value greater than 2.2 without use of combustion devices.

§ 60.613 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses a combustion device [except for a steam generating unit with a design heat input capacity of 44 MW (150 Btu/hr) or greater] to seek to comply with the total organic compound emission limit specified under § 60.612[a) shall install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater.

(1) Where a combustion device other than a catalytic oxidizer is used, a temperature measurement device shall be installed in the firebox.

(2) Where a catalytic oxidizer is used, temperature measurement devices shall be installed in the gas stream immediately before and after the catalyst bed.

(b) The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under § 60.612(b) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final unit in a system, a scrubbing liquid temperature monitor having an accuracy of 1 percent of the termperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, and a specific gravity measurement device having an accuracy of ±0.02 specific gravity unit, each equipped with a continuous recorder.

(2) Where a condenser is the final unit in a system, a condenser exit (product side) temperature monitor equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressd in degrees Celsius or ±2.5°C, whichever is greater.

(3) Where a carbon adsorber is the final unit in a system, an integrating steam flow meter having an accuracy of ±10 percent, and a carbon bed temperature monitor having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, both equipped with a continuous recorder.

(c) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.612 other than an incinerator, boiler, process heater, absorber, condensor or carbon adsorber shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))

§ 60.614 Test methods and procedures.

(a) The following test methods and procedures, except as provided under § 60.8(b), shall be used to determine compliance with the emission limit specified under § 60.612(a).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The control device inlet sampling site for determination of offgas molar composition or total organic compound reduction efficiency shall be prior to the inlet of any combustion device and after all product recovery units.

(2) Reference Method 2, 2A, 2C, or 2D as appropriate, for determination of the volumetric flowrate.

(3) Reference Method 3 for air dilution correction, based on 3 percent oxygen in the emission sample.

(4) Reference Method 18 and ASTM D2504–67 (reapproved 1977) to determine hourly emission rate of total organic compounds (minus methane and ethane) in the combustion device outlet and total organic compound reduction efficiency of the combustion device.

(5) Where a steam generating unit with a design heat unput capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.612(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(b) The following test methods and precedures, except as provided under § 60.8(b), shall be used for determining the process vent stream TRE index value to determine compliance under § 60.612(b).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flowrate and molar composition determination prescribed in § 60.614(b)[2) and (3) shall be prior to the inlet of any combustion device, prior to any post-reactor dilution of the stream with air, and prior to any post-reactor introduction of chlorinated compounds into the process vent stream. Subject to the preceding restrictions on the sampling site, it shall be after the final products recovery unit. If any gas stream other than the air oxidation process vent stream is normally conducted through the product recovery system of the affected facility, such stream shall be rerouted or turned off while the vent stream is sampled, but shall be routed normally prior to the measuring of the initial value of the parameter(s) to be monitored as specified in § 60.613(b). If the air oxidation process vent stream is normally routed through any equipment which is not a part of the affected facility as defined under § 60.610 and § 60.611, such equipment shall be bypassed by the process vent stream while the vent stream is sampled, but shall not be bypassed during the measurement of the initial value of the parameter(s) to be monitored as specified in § 60.613(b).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Reference Method 18 and ASTM D2504–67 (reapproved 1977) to measure VOC concentration, concentration of each compound containing chlorine, and concentration of all other compounds present except water vapor and carbon monoxide.

(ii) Reference Method 4 to measure the content of water vapor.

(iii) Reference Method 10 to measure carbon monoxide concentration. The process vent stream carbon monoxide concentration shall be calculated on a wet basis using the following equation:

$$C_{wco} = C_{co}(1 - B_w)$$

where:

C_{wco} = Concentration of carbon monoxide, wet basis, ppm.

C_{co} = Cencentration of carbon monoxide as determined using the recommended test method, ppm, dry.

B_w = Water vapor in the gas sample, proportion by volume.

(3) The volumetric flowrate shall be detemined using Reference Methods 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the process vent stream shall be calculated using the following equation:

$$H_T = K \left(\sum_{i=1}^{n} \right) C_i H_i + C_{wco} H_{co}$$

Where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of offgas is based of combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s (offgas flowrate).

$$K = \text{Constant, } 1.740 \times 10^{-7} \left(\frac{1}{\text{ppm}} \right) \left(\frac{\text{g mole}}{\text{scm}} \right) \left(\frac{\text{MJ}}{\text{kcal}} \right),$$

where standard temperature for $\left(\frac{\text{g-mole}}{\text{scm}} \right)$ is 20°C.

C_i = Concentration of sample component i, ppm.

H_i = Net heat of combustion of sample component i, kcal/g-mole. The heats of combustion of process vent stream components would be required to be determined using ASTM D2382–76 if published values are not available or cannot be calculated.

C_{wco} = Concentration of carbon monoxide, wet basis, ppm.

H_{co} = Net heat of combustion of carbon monoxide, kcal/g-mole.

(5) The emission rate of total organic compounds (minus ethane and methane) in the process vent stream shall be calculated using the following equation:

$$E_{TOC} = K \left(\sum_{i=1}^{n} \right) C_i M_i \quad Q_s$$

where: emission rate of total organic compounds (minus methane and ethane) in the sample, kg/hr.

K = Constant, 2.494×10^{-6} (1/ppm)(g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20°C.

M_i = Molecular weight of sample component i, g/g-mole.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

(6) The total process vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Reference Method 18.

(7) The TRE index value of the process vent stream shall be calculated using the following equation:

$$TRE = \frac{1}{E_{TOC}} \left[a + b (Q_s)^{0.88} + c (Q_s) + d (Q_s) (H_T) + e (Q_s)^{0.88} (H_T)^{0.88} + f (H_T)^{0.88} \right]$$

where:

TRE = Total resource-effectiveness index value.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

H_T = Vent stream net heating value (MJ/scm), as calculated in § 60.614(b)(4), where the net enthalpy of combustion per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s.

E_{TOC} = Hourly emissions of total organic compounds (minus methane and ethane) reported in kg/hr measured at full operating flowrate.

a,b,c,d,e, and f are coefficients.

The set of coefficients which apply to a process vent stream shall be obtained from Table 1.

(c) Each owner or operator of an affected facility shall recalculate the TRE index value for that affected facility whenever changes are made in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of product recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the product recovery system. In any instance where the recalculated TRE index value is less than 2.2, the owner or operator shall conduct a performance tests as required by § 60.614(a) in order to determine compliance with § 60.612(a).

TABLE 1. COEFFICIENTS OF THE TOTAL RESOURCE EFFECTIVENESS (TRE) INDEX EQUATION

A1. FOR CHLORINATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm)≤3.3:

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	46.21	0	0.763	-0.325	0	0
$15 < Q_s \leq 790$	38.98	0.754	0.763	-0.325	0	0
$790 < Q_s \leq 1590$	77.96	0.819	0.763	-0.325	0	0
$1590 < Q_s \leq 2380$	116.9	0.860	0.763	-0.325	0	0
$2380 < Q_s \leq 3160$	155.9	0.890	0.763	-0.325	0	0
$3160 < Q_s \leq 3960$	194.9	0.915	0.763	-0.325	0	0

A2. FOR CHLORINATED PROCESS VENT STREAMS, IF 3.3<NET HEATING VALUE (MJ/scm):

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	46.21	0	-0.822	0	0	0
$15 < Q_s \leq 790$	38.98	0.754	-0.822	0	0	0
$790 < Q_s \leq 1590$	77.96	0.819	-0.822	0	0	0
$1590 < Q_s \leq 2380$	116.9	0.860	-0.822	0	0	0
$2380 < Q_s \leq 3160$	155.9	0.890	-0.822	0	0	0
$3160 < Q_s \leq 3960$	194.9	0.915	-0.822	0	0	0

B. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm) ≤ 0.45:

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	18.03	0	0.257	-0.426	0	0
$15 < Q_s \leq 1520$	15.83	0.229	0.257	-0.426	0	0
$1520 < Q_s \leq 3050$	31.66	0.248	0.257	-0.426	0	0
$3050 < Q_s \leq 4570$	47.49	0.262	0.257	-0.426	0	0

C. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0.45< NET HEATING VALUE (MJ/scm)≤1.8:

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	18.05	0	0.912	-0.403	0	0
$15 < Q_s \leq 1520$	16.86	0.123	0.912	-0.403	0	0
$1520 < Q_s \leq 3050$	33.72	0.134	0.912	-0.403	0	0
$3050 < Q_s \leq 4570$	50.58	0.279	0.912	-0.403	0	0

D. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 1.8 < NET HEATING VALUE (MJ/scm)≤3.4:

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	14.31	0	0.073	0	0	0
$15 < Q_s \leq 1340$	12.83	0.154	0.073	0	0	0
$1340 < Q_s \leq 2680$	25.66	0.167	0.073	0	0	0
$2680 < Q_s \leq 4020$	38.49	0.176	0.073	0	0	0

E. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 3.4<NET HEATING VALUE (MJ/scm):

Q = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q < 15$	14.31	0	0	0.0019	0	0.450
$15 < Q_s \leq 1340$	12.83	0	0	0.0019	0.047	0
$1340 < Q_s \leq 2680$	25.66	0	0	0.0019	0.051	0
$2680 < Q_s \leq 4020$	38.49	0	0	0.0019	0.054	0

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(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))

§ 60.615 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.612 shall notify the Administrator of the specific provisions of § 60.612 [§ 60.612 (a) or (b)] with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial startup required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.612 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.614.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily-accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8, except when a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), in which case an initial report containing the data specified in (b)(2) of this section shall be submitted at the startup of the facility. The same data specified in paragraph (b) (1) or (3) of this section, as appropriate, shall be submitted in the reports of all subsequently required performance tests where either the total organic compound emission control efficiency of a combustion device or the TRE index value of a process vent stream from a product recovery system is determined.

(1) Where an owner or operator subject to this subpart seeks to demonstrate compliance with § 60.612(a) through use of a combustion device (except for a steam generating unit with a design heat input capacity of 44 MW or greater):

(i) The average firebox temperature of the thermal oxidizer or steam generation unit with a design heat input capacity of less than 44 MW (or the average temperature upstream and downstream of the catalyst bed), every 15 minutes and averaged over a 3-hour period, and

(ii) The percent reduction of total organic compounds (minus methane and ethane) achieved by the combustion device, or the concentration (ppmv, by compound) of total organic compounds (less methane and ethane) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to this subpart seeks to demonstrate compliance with § 60.612(a) through use of a steam generating unit with a design heat input capacity of 44 MW or greater, the initial report will contain a statement of the design heat input capacity of the steam generating unit to be used.

(3) Where an owner or operator seeks to demonstrate compliance with § 60.612(b):

(i) The specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average temperature, measured every 15 minutes and averaged over a 3-hour period, of the absorbing liquid (both measured while the vent stream is normally routed and constituted), where an absorber is the final unit in a system, or

(ii) The average exit (product side) temperature, measured every 15 minutes and averaged over a 3-hour period while the vent stream is normally routed and constituted, where a condenser is the final unit in a system, or

(iii) The manifold steam pressure measured every 15 minutes and averaged over the period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration [and within 15 minutes of completion of any cooling cycle(s)], and duration of the carbon bed steaming cycle where a carbon adsorber is the final unit in a system (all measured while the vent stream is normally routed and constituted), and

(iv) All measurements and calculations performed to determine the TRE index value of the process vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily-accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(a), as well as up-to-date, readily-accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report ot these data. Where a combustion device is used by an owner or operator seeking to demonstrate compliance with § 60.612(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incineration or combustion in a steam generatlng unit with a design heat input capacity of less than 44 MW (150 million Btu/hour), all 3-hour periods of operation during which the average combustion the, temperature was more than 28°C (50°F) below the average combustion temperature during the most recent performance test at which compliance with § 60.612(a) was determined.

(2) For catalytic incineration, all 3-hour periods of operation during which the average temperature of the device immediately before the catalyst bed is more than 28°C (50°F) below the average temperature of the device during the most recent performance test at which compliance with § 60.612(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.612(a) was determined.

(d) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily-accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(b) as well as up-to-date, readily-accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where the owner or operator seeks to demonstrate compliance with § 60.612(b), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final unit in a system,

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11°C (20°F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he or she will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final unit in a system, all 3-hour periods of operation during which the average

condenser operating temperature was more than 6°C (10°F) above the average operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final unit in a system,

(i) All carbon bed regeneration cycles during which the total mass steam flow was below the total mass steam flow pressure during the most recent performance test, and

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration [and after completion of any cooling cycle(s)] was more than 10 percent greater than the carbon bed temperature (in degrees centigrade) during the most recent performance test.

(4) Where a carbon adsorber is the final unit in the recovery system and a total organic compound monitor approved by the Administrator is used, all 3-hour periods of operation during which the average concentration of total organic compounds [less methane and ethane] in the carbon adsorber gases is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test.

(e) Each owner or operator subject to the provisons of this subpart who uses a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater and seeking to demonstrate compliance with § 60.612(a) shall keep an up-to-date, readily accessible record of all periods of operation of the steam generating unit. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements.)

(f) Each owner or operator subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.612(b) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of product recovery equipment;

(2) Any recalculation of the TRE index value performed pursuant to § 60.614(c);

(3) The results of any performance test performed pursuant to § 60.614(c).

(g) Each owner and operator subject to the provisions of this subpart is exempt from § 60.7(c) of the General Provisions.

(h) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.612 shall submit to the Administrator semi-annual reports of the information recorded under §§ 60.615 (c), (d), and (f). In addition, when a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), the owner or operator of the affected facility shall submit to the Administrator semi-annual reports of all periods during which the steam generating unit is not operating, as recorded under § 60.615(e). The initial report shall be submitted within 6 months after the initial start-up date.

(i) The requirements of § 60.615(h) remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.615(h), provided that they comply with the requirements established by the State.

(j) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility seeks to demonstrate compliance with the standards specified under § 60.612 other than as provided under § 60.613 (a) and (b).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))

§ 60.616 Reconstruction.

(a) For purposes of this subpart "fixed capital cost of the new components", as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following (date of proposal). 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))

It is proposed that Appendix A of 40 CFR Part 60 be amended as follows:

2. Reference Method 1A is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 1A—Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts

1. *Applicability and Principle*

The applicability and principle of this method are identical to Method 1, except its applicability is limited to stacks or ducts less than about 0.30 meter (12 in.) in diameter, or 0.071 m^2 (113 $in.^2$) in cross-sectional area, but equal to or greater than about 0.10 meter (4 in.) in diameter, or 0.0081 m^2 (12.57 $in.^2$) in cross-sectional area.

In these small diameter stacks or ducts the conventional pitot assembly (consisting of a Type S pitot tube attached to a sampling probe, equipped with a nozzle and thermocouple) blocks a significant cross-section of the duct and prevents a true traverse. Therefore, for particulate sampling in small stacks or ducts, the gas velocity is measured using a standard pitot tube downstream of the actual emission testing site. The straight run of duct between the sampling and velocity measurement sites allows the flow profile, temporarily disturbed by the presence of the sampling probe, to redevelop and stabilize.

The cross-sectional layout and location of traverse points and the verification of the absence of cyclonic flow are the same as in Method 1, Sections 2.3 and 2.4, respectively. Differences from Method 1, except as noted, are given below.

2. *Procedure*

2.1 Selection of Measurement Site.

2.1.1 Particulate Measurements—Steady or Unsteady Flow. Select a particulate measurement site located preferably at least eight equivalent stack or duct diameters downstream and 10 equivalent diameters upstream from any flow disturbances such as a bends, expansions, or contractions in the stack, or from a visible flame. Next, locate the velocity measurement site eight equivalent diameters downstream of the particulate measurement site. See Figure 1A-1. If such locations are not available, select an alternative particulate measurement location at least two equivalent stack or duct diameters downstream and two and one-half diameters upstream from any flow disturbance. Then, locate the velocity measurement site two equivalent diameters downstream from the particulate measurement site. (See Section 2.1 of Method 1 for calculating equivalent diameters for a rectangular cross-section.)

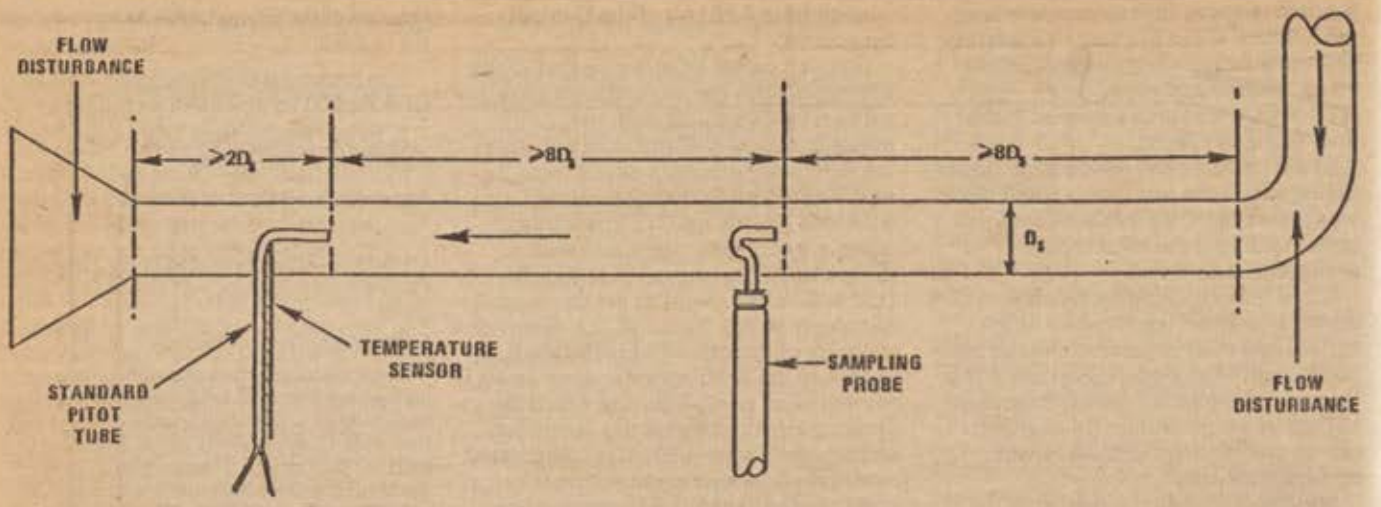

Figure 1A-1. Recommended sampling arrangement for small ducts.

2.1.2 Particulate (Steady Flow) or Velocity (Steady or Unsteady Flow) Measurements. If the average total volumetric flow rate in a duct is constant with respect to time or if only velocity measurements are required use the same criterion as in Section 2.1 of Method 1.

2.2 Determining the Number of Traverse Points.

2.2.1 Particulate Measurements (Steady or Unsteady Flow). Use Figure 1–1 of Method 1 to determine the number of traverse points. Before referring to the figure, however, determine the distance between the velocity and sampling sites and the distances to the nearest upstream and downstream disturbances and divide each distance by the stack diameter or equivalent diameter to determine the distances in terms of the number of duct diameters. Then, determine the number of traverse points from Figure 1–1 of Method 1 corresponding to each of these three distances. Choose the highest of the three numbers of traverse points (or a greater number) so that for circular ducts the number is a multiple of four; for rectangular ducts use one of those numbers shown in Table 1.1 of Method 1.

2.2.2 Particulate (Steady Flow) and Velocity (Non-Particulate) Measurements. Use Figure 1A–3 to determine number of traverse points, following the same procedure used for particulate traverses as described in Section 2.2.1 of Method 1.

3. *Bibliography*

1. Same as Method 1, Section 3, Citations 1 through 6.

2. Vollaro, Robert F. Recommended Procedure for Sample Traverses in Ducts Smaller Than 12 Inches in Diameter. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, North Carolina. January 1977.

3. Reference Method 2C is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 2C—Determination of Stack Gas Velocity and Volumetric Flow Rate From Small Stacks or Ducts (Standard Pitot Tube)

1. *Aplicability and Principle*

1.1 Applicability. The applicability of this method is identical to Method 2, except it is limited to stationary source stacks or ducts less than about 0.30 meter (12 in.) in diameter, or 0.071 m^2 (113 $in.^2$) in cross-sectional area, but equal to or greater than about 0.10 meter (4 in.) in diameter or 0.0081 m^2 (12.57 $in.^2$) in cross-sectional area.

The apparatus, procedure, calibration, calculations, and bibliography are the same as in Method 2, Sections 2, 3, 4, 5, and 6, except as noted in the following sections.

1.2 Principle. The average gas velocity in a stack or duct is determined from the gas density and from measurement of velocity heads with a standard pitot tube.

2. *Apparatus*

2.1 Standard Pitot Tube (instead of Type S). A standard pitot tube which meets the specifications of Section 2.7 of Method 2. Use a coefficient of 0.99 unless it is calibrated against another standard pitot tube with an NBS-traceable coefficient.

2.2 Alternative Pitot Tube. A modified hemispherical-nosed pitot tube (see Figure 2C–1), which features a shortened stem and enlarged impact and static pressure holes. Use a coefficient of 0.99 unless it is calibrated as mentioned in Section 2.1 above. This pitot tube is useful in particulate liquid droplet laden gas streams when a "back purge" is ineffective.

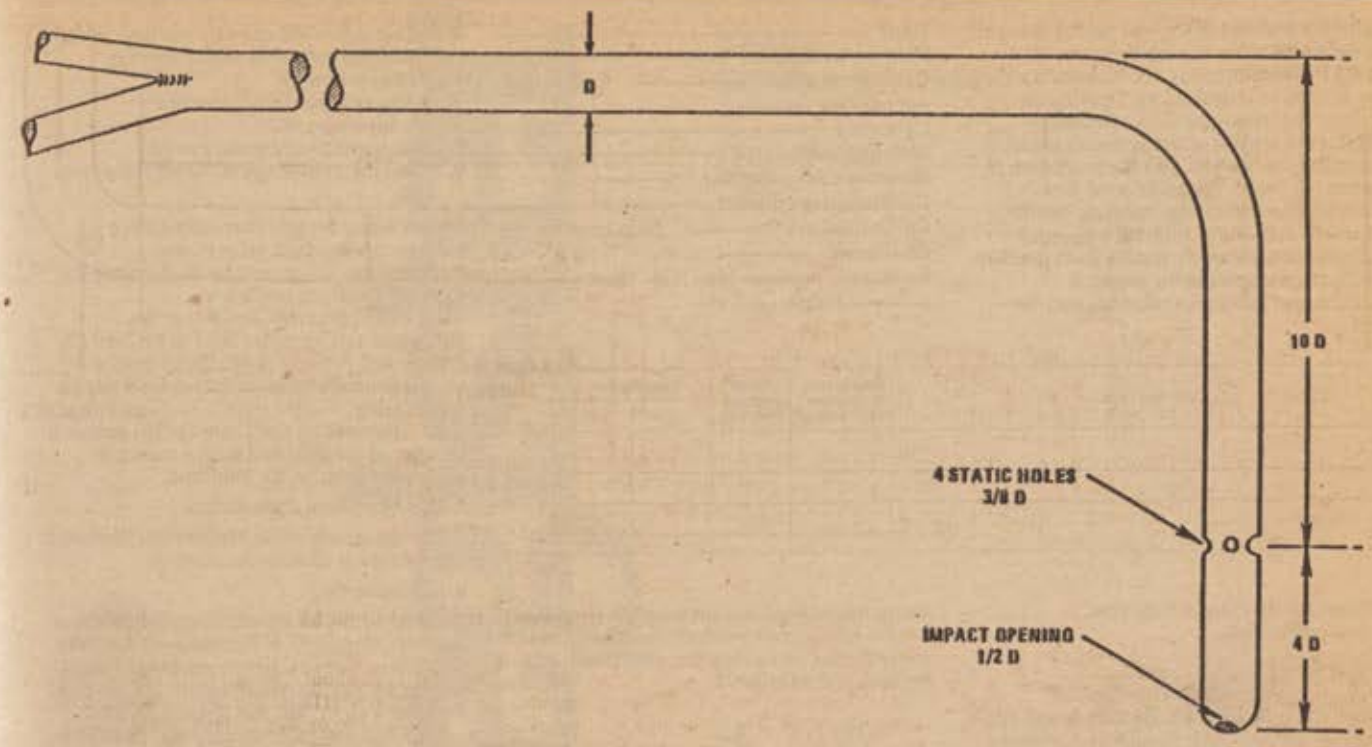

Figure 2C-1. Modified hemispherical-nosed pitot tube.

3. *Procedure*

Follow the general procedures in Section 3 of Method 2, except conduct the measurements at thetraverse points specified in Method 1A. The static and impact pressure holes of standard pitot tubes are susceptible to plugging in particulate-laden gas streams. Therefore, the tester must furnish adequate proof that the openings of the pitot tube have not plugged during the traverse period; this can be done by taking the velocity head (Δp) heading at the final traverse point, cleaning out the impact and static holes of the standard pitot tube by "back-purging" with pressurized air, and then taking another Δp reading. If the Δ readings made before and after the air purge are the same (±5 percent) the traverse is acceptable. Otherwise, reject the run. Note that if the ΔP at the final traverse point is unsuitably low, another point may be selected. If "back purging" at regular intervals is part of the procedure, then take comparative Δp readings, as above, for the last two back purges at which suitably high Δp readings are observed.

4. Reference Method 2D is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 2D—Measurement of Gas Volume Flow Rates in Small Pipes and Ducts

1. *Applicability and Principle*

1.1 Applicability. This method applies to the measurement of gas flow rates in small pipes and ducts. It can only be applied to intermittent or variable gas flows with particular caution.

1.2 Principle. All the gas flow in the pipe or duct is directed through a rotameter, orifice plate or similar device to measure flow rate or pressure drop. The device has been previously calibrated in a manner that insures its proper calibration for the gas being measured. Absolute temperature and pressure measurements are made to adjust volume flow rates 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 Metering Rate or Flow Element Device. A rotameter, orifice plate, or other volume rate or pressure drop measuring device capable of measuring the stack flow rate to within 5 percent. The metering device shall be equipped with a temperature gauge accurate to within 2 percent of the minimum absolute stack temperature and a pressure gauge (accurate to within 5 mm Hg). The capacity of the metering device shall be sufficient for the expected maximum and minimum flow rates at the stack gas conditions. The magnitude and variability of stack gas flow rate, molecular weight, temperature, pressure, dewpoint, and corrosive characteristics, and pipe or duct size are factors to consider in choosing a suitable metering device.

2.2 Barometer. Same as Method 2, Section 2.5.

2.3 Stopwatch. Capable of measurement to within 1 second.

3. *Procedure*

3.1 Installation. Use the procedure in Method 2A, Section 3.1.

3.2 Leak Check. Use the procedure in Method 2A, Section 3.2.

3.3 Volume Rate Measurement.

3.3.1 Continuous, Steady Flow. At least once an hour, record the metering device flow rate or pressure drop reading, and the metering device temperature and pressure. Make a minimum of 12 equally spaced readings of each parameter during the test period. Record the barometric pressure at the

beginning and end of the test period. Record the data on a table similar to Figure 2D–1.

3.3.2 Noncontinuous and Nonsteady Flow. Use volume rate devices with particular caution. Calibration will be affected by variation in stack gas temperature, pressure and molecular weight. Use the procedure in Section 3.3.1 with the addition of the following: Record all the metering device parameters on a time interval frequency sufficient to adequately profile each process cyclical or noncontinuous event. A multichannel continous recorder may be used.

Plant _____
Flow meter location _____
Calibration date _____ Calibration run number _____
Operators _____
Metering device type _____
Metering device number _____
Calibration coefficient _____
Calibration gas _____ Date to recalibrate _____
Barometric pressure (mm Hg) Start _____ Finish _____

Time run/clock	Volume rate or pressure drop reading	Static pressure (mm Hg)	Temperature	
			°C	°K
Average				

Figure 2D–1. Volume flow rate measurement data.

4. *Calibration*

4.1 Gas Metering Device. Use the procedure in Method 2A, Section 4, and apply the same performance standards. Calibrate the metering device with the principle stack gas to be measured (examples: air, nitrogen) against a standard reference meter. A calibrated dry gas meter is an acceptable reference meter. Ideally, calibrate the metering device in the field with the actual gas to be metered. For metering devices that have a volume rate readout, calculate the test metering device calibration coefficient, Y_m, for each run as follows:

$$Y_m = \frac{(V_r)(T_r)}{(V_m)(T_m)} \frac{P_{bar}}{(P_{bar}+P_s)} \quad \text{Eq. 2D–1}$$

Where:

V_r = Reference meter volume rate reading, m^3/min.
V_m = Test meter volume rate reading, m^3/min.
T_r = Absolute reference meter average temperature, °K.
T_m = Absolute test meter average temperature, °K.
P_{bar} = Barometric pressure, mm Hg.
P_s = Test meter average static pressure, mm Hg.

For metering devices that do not have a volume rate readout, refer to the manufacturer's instructions to calculate the V_m corresponding to each V_r.

4.2 Temperature Gauge. Use the procedure and specifications in Method 2A, Section 4.2. Perform the calibration at a temperature that approximates field test conditions.

4.3 Barometer. Calibrate the barometer to be used in the field test with a mercury barometer prior to the field test.

5. *Gas Flow Rate Calculation*

Use the equations in Method 2A, Section 5, except time is already factored in.

6. *Bibliography*

1. United States Environmental Protection Agency. Standards of Performance for New Stationary Sources, Revisions to Methods 1–8. Title 40, Part 60. Washington, D.C. **Federal Register** Vol. 42, No. 160. August 18, 1977.

2. United States Environmental Protection Agency. Standards of Performance for New Stationary Sources, Proposed Method 2A. Title 40, Part 60. Washington, D.C. **Federal Register** Vol. 45, No. 244. December 17, 1980.

[FR Doc. 83-28287 Filed 10-20-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday,
October 21, 1983

Part V

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2328-3]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators

AGENCY: Environmental Protection Agency.

ACTION: Proposed revision of rule.

SUMMARY: On December 23, 1971, the Environmental Protection Agency promulgated standards of performance for large fossil-fuel-fired steam generating units constructed after August 17, 1971 (40 CFR Part 60, Subpart D). The changes to Subpart D being proposed today would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis. Electric utility steam generating units constructed after September 18, 1978, would not be affected by the proposal since they are subject to Subpart Da. For steam generators firing low-sulfur compliance fuels, the proposal would allow sulfur dioxide compliance testing by continuous emission monitoring, stack testing, or fuel sampling and analysis. For steam generators equipped with flue gas desulfurization systems, compliance testing could be conducted by either continuous emission monitoring or stack testing. The proposed revisions would become effective 1 year after promulgation. The proposal includes a new sulfur dioxide compliance test method (Reference Method 19A) which incorporates the revised test methods and data reduction procedures.

DATES: Comments on the proposed revisions are requested by December 20, 1983. The revision would become effective 1 year after promulgation.

ADDRESS: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket No. A–81–15.

Docket. Docket No. A–81–15, containing supporting information used in developing the proposed revision, 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: Mr. Fred L. Porter, or Mr. Walter H. Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1971, EPA promulgated standards of performance for large fossil-fuel-fired steam generating units (36 FR 24876; 40 CFR Part 60, Subpart D). The standards limit emissions of sulfur dioxide (SO_2), particulate matter, and oxides of nitrogen. The SO_2 emission standard for coal is 520 ng/J (1.2 lb SO_2), per million Btu) heat input and for fuel oil is 340 ng/J 0.8 lb SO_2, per million Btu) heat input. The SO_2 standard can be met by the use of low-sulfur fuels, flue gas desulfurization (FGD), or a combination of the two.

When the SO_2 standards were promulgated in 1971, there were little data available on short-term variability of SO_2 emissions; it was expected that short-term stack tests would be satisfactory for assessing compliance with the SO_2 standard at facilities using either low-sulfur compliance fuel or FGD. Compliance demonstration was required through the use of EPA Reference Method 6 (minimum 3-hour test period).

Subpart D also required that continuous SO_2 emission monitors be installed and operated. For facilities using compliance fuel, continuous SO_2 monitors were not required, provided that fuel sampling and analysis were conducted. Continuous SO_2 emission monitoring systems has not been extensively evaluated by EPA in 1971 and, because of this, performance specifications (including data reduction and reporting requirements) were not included in the 1971 regulation. Therefore, the monitoring requirements proposed in August 1971 indicated that a review of continuous emission monitoring systems would be conducted and additional guidance provided at a later date (36 FR 15704).

The guidance on continuous monitoring systems was provided on October 6, 1975, when EPA promulgated a number of changes to Subpart D (proposal at 39 FR 32852 and promulgation at 40 FR 46250). Included were performance specifications for continuous emission monitoring systems and emission reporting requirements for FGD-equipped steam generators. For FGD-equipped units, the revision required that the data collected by the SO_2 monitor be used to prepare quarterly reports of excess emissions. A 3-hour averaging period, consistent with the Method 6 stack test, was specified for data reduction purposes.

In the proposal to the 1975 changes, EPA had included SO_2 excess emissions reporting requirements for both FGD and non-FGD-equipped steam generators. However, comments received on the proposed monitoring requirements pointed to a number of problems with the proposed fuel analysis option and the impact of coal sulfur variability on reporting excess emissions. Comments and discussions with coal suppliers and electric utility companies led the Agency to conclude that the proposed requirements for fuel analysis were inadequate and inconsistent with the existing fuel supply situation. Recognizing that additional study would be necessary before meaningful provisions could be developed, the fuel analysis provisions of Subpart D were reserved in the regulation.

Since 1975, EPA has conducted a number of studies to assess both the sulfur variability in coal and the variation in FGD performance. Today's proposel is based on these studies and completes the SO_2 emission monitoring requirements for steam generators using compliance fuels and revises the provisions for FGD-equipped units.

Rationale for Proposal

When EPA proposed emission standards for large fossil-fuel-fired steam generating units in 1971, EPA indicated that the 520 ng/J (1.2 lb SO_2 per million Btu) emission limit for coal-fired units could be complied with by using either flue gas desulfurization or low-sulfur coal. In developing the standard, EPA reviewed U.S. coal reserve data to determine the potential impacts of the standard on compliance coal reserves. As indicated in the background document for the 1971 standard, a high grade coal with a sulfur content of 0.7 percent or less was judged capable of complying with the standard (II–A–001 p. 5). In selecting a 0.7 percent sulfur compliance coal as one basis of the standard, EPA estimated that about one-fourth of the U.S. recoverable coal reserves could be expected to comply (II–B–001). In arriving at this estimate, the Agency considered the average sulfur content of the fuel reserves but did not consider sulfur content variability or the effect of averaging time.

Many facilities subject to Subpart D have elected to use compliance fuel. A survey conducted by EPA in 1978

indicated that approximately 200 coal-fired electric utility boilers subject to Subpart D will have begun operation by 1983. Of these, approximately one-half plan to use compliance coal. The other half plan to use FGD systems (II–A–003).

The issue of averaging time for the SO_2 standard relates to both the variability of sulfur content of the coal and FGD performance. In relation to compliance coals, the variability of sulfur has been addressed in various EPA studies since 1975 and studies continue (II–A). From the studies completed to date, it is clear that coal is not homogeneous and the sulfur content of coal used in a steam generator can vary, even when the coal is supplied from the same mine. In addition to geological properties, some of the factors that affect coal sulfur content variability include mining practices, coal preparation procedures, on-site coal handling procedures (including the on-site mixing of coal from various suppliers), and chemical characteristics of the coal. These factors can interact and result in complex sulfur variability patterns which are difficult for boiler operators to predict or manage on a short-term basis.

The record shows that this variability and these effects were largely not recognized by EPA or by commenters when the standard was adopted in 1971. Because the sulfur content of coal supplied to a steam generator varies with time, the averaging time associated with an SO_2 emission limit can affect the supply of coals that can comply with the standard without the use of FGD. As the averaging period associated with an emission standard is shortened, coals with a lower mean sulfur content are required to assure compliance. Table 1 shows the estimated range of mean sulfru levels required to meet a 520 ng/J (1.2 lb per million Btu) heat input standard for different averaging times. Table 2 shows the estimated U.S. low-sulfur coal reserves that would be expected to comply with various mean sulfur levels listed in Table 1.

Combined, Tables 1 and 2 show that interpretation of the SO_2 standard on a short-term basis severely limits supplies of compliance coals. The tables show that about 10 percent, or less, of the U.S. coal reserves would be expected to comply with the SO_2 standard on a 3-hour basis. However, on a 30-day rolling average basis, about 25 percent of the coal reserves could comply with Subpart D and this is consistent with the intended effects when the standard was adopted in 1971.

Proposed Averaging Time and Monitoring Requirements

Based on these analyses (II–B–002), EPA believes that a 30-day period is an appropriate averaging period for evaluating compliance fuels and makes the standard conform to the original intent. The rolling average allows for daily enforcement. Averaging periods longer than 30 days were judged to be unnecessary. Longer averaging periods would have relatively little additional effect on mitigating the effect of coal sulfur variability compared to the 30-day rolling average. Shorter averaging periods would severely limit compliance coal supplies for plants subject to the standard and could lead to the use of costly coal blending facilities.

TABLE 1.—ESTIMATED MEAN SO_2 EMISSION LEVELS REQUIRED TO COMPLY WITH A 520 NG/J (1.2 LB/MILLION BTU) EMISSION LIMIT AT DIFFERENT AVERAGING BASIS

Averaging periods (rolling average)	Required mean SO_2 Emissions [1]	
	ng/J	Lb SO_2/10^6 Btu
90-days	450	1.04
30-days	410	0.95
3-hour	265	0.63

SOURCE: Docket A-81-15, II-B-002.

[1] Based upon 24-hour relative standard deviation and autocorrelation values of 0.20 and 0.70, respectively.

TABLE 2.—ESTIMATED NATIONAL LOW-SULFUR COAL RESERVES [1]

Required mean SO_2 emission		Estimated recoverable U.S. coal reserves (percent)
ng/J	Lb SO_2/10^6 Btu	
260	0.6	5 to 7.
300	0.7	10 to 15.
345	0.8	15 to 20.
385	0.9	20 to 25.
430	1.0	25 to 30.
470	1.1	30 to 40.

SOURCE: Docket A-81-15, II-B-002.

[1] Based upon a ±20 percent accuracy level of estimated coal reserves.

In addition, EPA also proposes to apply the 30-day rolling average to FGD-equipped units. Similar to the short-term fluctuations in SO_2 emissions experienced when combusting compliance fuels, FGD performance and associated SO_2 emissions from FGD equipped units also experience short-term fluctuations. The short-term variation in FGD performance was not well understood when Subpart D was adopted in 1971 and is not appropriately addressed by a short-term 3-hour compliance test. Based on a thorough review of FGD performance data, which was conducted in conjunction with the revised NSPS for utility steam generating units (Subpart Da; 44 FR 33580), EPA has concluded that a 30-day rolling average best typifies the performance of a well-designed and properly operated FGD system. At promulgation of Subpart Da, EPA concluded that a 30-day average allows adequate time for owners or operators to respond to operating problems affecting FGD efficiency, permits greater flexibility in procedures necessary to operate FGD systems in compliance with the standard, and can reduce the effects of coal sulfur variability on maintaining compliance (44 FR 33595). These same considerations are applicable to evaluating the performance of FGD-equipped units subject to Subpart D and a 30-day rolling average is included in this proposal.

The proposed revision would make Subpart D consistent with the intent and the anticipated effect at the time it was adopted and does not make it a more stringent regulation with which to comply. By determining compliance through continuous methods, it will better ensure that sources continuously comply with the standard. Finally, the proposal provides an averaging time that is consistent with the capability of the control technology. If adopted, the revisions would become effective 1 year after promulgation. This lag time provides the necessary time for planning, procurement, installation, and start-up of monitoring systems and data processing equipment which will be required.

A number of factors contribute to the need for allowing a 1-year period to implement the revisions. Sources that now have continuous emission monitors for determining excess SO_2 emissions would have to develop data retrieval and reduction capabilities for determining the 30-day rolling average. Most sources would opt to install electronic data storage and processing systems which are presently available but have delivery periods of several months. Development of data reduction procedures for individual sources would add to the time needed for installation and initiation of the data gathering.

Sources that do not have SO_2 monitoring systems installed would have to order equipment, prepare the measurement sites, install the monitors, conduct the performance specification tests, and develop a quality assurance/quality control program to maintain the quality of the data. The time required to complete these tasks could take 1 year. Most of the above tasks would also have to be done by sources that would use fuel sampling and analysis procedures in lieu of continuous monitors. Not all of the sources which now perform fuel sampling and analysis

follow the procedures specified in Method 19A. In some cases, modification of existing sampling or analysis procedures may be necessary.

A new SO_2 stack testing method (Method 6B), was promulgated in the **Federal Register** on December 1, 1982 (47 FR 56073) and is included in this proposal as an optional SO_2 measurement procedure. Use of Method 6B to determine SO_2 emissions would suggest that less than a 1-year lead time would be necessary for implementing the proposal; however, Method 6B was only recently promulgated and at present, no manufacturers commercially market a Method 6B sampling system.

Based on these factors, EPA has concluded that a 1-year lead time for complying with the revised monitoring requirements would be reasonable. Owners or operators of facilities that wish to implement the revision prior to the 1-year period may apply to the Administrator for approval. Until the revision is implemented, Subpart D would remain in effect in its present form and compliance would continue to be determined through the use of Method 6.

Compliance Methods

The proposed SO_2 compliance provisions would replace Method 6 with Method 19A. Under the proposal, a source employing a continuous emission monitoring system to determine SO_2 emissions would use hourly data averaged for the past 30 boiler operating days to determine a 30-day average emission rate. This procedure is repeated for each day and results in the calculation of a 30-day rolling average emission rate. SO_2 emissions data collected during startup, shutdown, or system malfunction are not included in calculation of the 30-day rolling average emission rate. However, such periods must be identified in the quarterly SO_2emissions report. If SO_2 emissions are measured through the use of Method 6B or by fuel sampling and analysis, as allowed under proposed Method 19A, SO_2 emissions report. If SO_2 emissions a daily basis and the SO_2 emission rate for the past 30 boiler operating days would be averaged to determine a 30-day average emission rate.

In calculating SO_2 emission rates, all valid SO_2 emissions data are used. It is recognized, however, that data may not be available for 100 percent of the time. Under the proposal, minimum data requirements are included and supplemental sampling would be required, if necessary, to assure that the data requirements are met. For SO_2 continuous emission monitoring systems, the minimum SO_2 data availability requirements would be 22 days of SO_2 emissions data for each 30 days of boiler operation and for fuel sampling and analysis systems and Method 6B stack testing procedures would be 27 days of SO_2 emissions data for each 30 days of boiler operations.

In announcing the use of continuous emission monitors for compliance determinations in Subpart Da in June 11, 1979, EPA indicated that quality assurance procedures were being developed (44 FR 33611). During 1980 and 1981, EPA distributed draft quality assurance procedures for continuous monitoring systems for technical review. When these procedures complete review and are adopted, they will be applicable to SO_2 continuous emission monitors used under today's proposal and Subpart Da. The procedures would require daily instrument drift measurement and quarterly accuracy audits. Additionally, EPA recently promulgated changes in Performance Specification 2 and 3 (Appendix B) which will simplify the continuous emission monitoring system performance evaluation required under § 60.13

Method 6B may be used to determine daily SO_2 stack emission rates instead of continuous emission monitors. Method 6B uses an SO_2 collection system, based upon Reference Method 6, with an on/off timer to collect an integrated SO_2 sample over a 24-hour period. Analysis of the Method 6B sample provides a 24-hour integrated SO_2 emission rate.

If fuel sampling is selected for determining the daily SO_2 emission rate, sampling systems meeting the minimum requirements of the specific portion of ASTM Method D–2234 (coal) and ASTM Method D–270 (oil) included in Method 19A would be used. These are the same sampling methods included in Method 19 for new electric utility steam generating units subject to Subpart Da. For coal-fired steam generators, sampling on a daily "as-fired" basis in proposed. This would mean that coal would be sampled as the coal silos (bunkers) that supply coal to the coal pulverizers are filled. The coal sample would be analyzed for sulfur content and specific heat, the potential SO_2 emission level (ng/J, lb per million Btu) would be calculated, and used as the 24-hour SO_2 emission rate for the day the coal was bunkered. For fuel oil, a "drip type" sample would be collected at the burner while oil is being fired. Fuel samples would be analyzed using ASTM procedures (included in Method 19A).

For coal-fired steam generators, the proposal assumes that 95 percent of the sulfur in the coal is discharged to the atmosphere as SO_2 This assumption is based upon studies which indicate that about 5 percent of the sulfur in the coal is retained in the pulverizer rejects, bottom ash, and fly ash. The owner or operator of a steam generator may petition the Administrator to permit use of a lower value for the sulfur in the coal discharged to the atmosphere, provided data are made available to substantiate a lower value.

Under the proposal, the fuel sampling and analysis procedures contained in Method 19A are included as an EPA approved "alternative test method." As defined under § 60.2 and discussed under § 60.8(b), the fuel sampling option under Method 19A could be selected by an owner or operator to determine SO_2 emissions; however, since it is an alternative test method, EPA or the implementing State air pollution control agency retains the authority to require periodical SO_2 testing by Method 6B or continuous emission monitors to demonstrate the adequacy of the alternative test method.

Proposal of the fuel sampling and analysis procedures as alternative test methods is based on the Administrator's judgment that these procedures are sufficiently accurate to be used as a basis for determining compliance with the standard. Under section 307(b)(2) of the Act, the owner will be precluded from challenging these procedures in any enforcement proceeding. Of course, use of these procedures is optional; any owner that wishes not to use them to determine compliance is free to choose either of the other two methods. Finally, as with any alternative method, the Administrator retains the authority to withdraw approval for its use at a particular facility if, in his judgement, it would not be sufficiently accuate to determine compliance at that facility.

Under the proposal, ASTM D–2234 Type I, Conditions A, B, or C, and Systematic Spacing would be used for coal sampling. This approach would allow both automated and manual coal sampling methods to be used; however, automated sampling is expected to predominate. For units not using automated coal sampling systems or for supplemental sampling due to failure of the primary system, manual sampling would be done in accordance with ASTM requirements, including proper sampling device geometry, number of sample increments, and increments taken evenly spaced in time or position.

In cases where more than one steam generator subject to Subpart D is installed at a site, a single fuel sampling system may be used to sample the coal as it is bunkered to individual units. A

daily "as fired" coal sample would be collected for each unit and would be analyzed to determine the daily SO_2 emission rate for each unit.

Because of the wide variation in design and operation of steam generation facilities, there may be alternative SO_2 monitoring sites, fuel sampling locations, or procedures that may be appropriate for specific steam generators. In such cases, the owner or operator of a facility may petition the Administrator to approve other alternate monitoring procedures.

Miscellaneous

Under Executive Order 12291, EPA is required to judge whether this action would be a "major rule" and, therefore, subject to certain requirements of the Order. The Agency has made a preliminary determination that the revision would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a "major rule." While this action is primarily a clarification of an earlier rule, there are some additional monitoring and reporting requirements. However, the additional costs are far less than the $100 million specified in the Order as defining a "major rule." Moreover, the revision will not result in a major increase in costs or prices and will not disrupt market competition. The Agency has, therefore, concluded that this revision would not be a "major rule" under Executive Order 12291.

Additionally, under Section 317 of the Clean Air Act, the Administrator is required to prepare an economic impact assessment for revisions determined by the Administrator to be substantial. The Administrator has determined that these revisions are not substantial and has not prepared an economic impact assessment.

The reporting and recordkeeping provisions of the regulation that this rulemaking revises have previously been cleared by OMB (OMB clearances 2000–0207 and 2000–0142). A clearance package reflecting the reporting requirements contained in this proposal has been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on information collection requirements.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that these revisions do not have a significant impact on a substantial number of small entities. The proposed revision will not affect a substantial number of small entities since the standard only applies to steam generators larger than 73 MW (250 million Btu per hr) heat input and well over 90 percent of these facilities will be large electric utility and industrial manufacturing companies. If the standards does not apply to any small entities, the impacts are insignificant as the emission monitoring costs would be less than 1 percent of the annualized boiler costs.

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, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners.

(Sec. 111, 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7411, 7601(a))

Dated: October 13, 1983.

Alvin L. Alm,

Acting Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

In 40 CFR Part 60, §§ 60.41, 60.43, 60.45, and 60.46 are amended and §§ 60.48 and 60.49 are added as follows:

1. Section 60.41 is amended by adding paragraphs (g) and (h) as follows:

§ 60.41 Definitions.

* * * * *

(g) "24 hour period" means the period of time between 12:01 a.m. and 12:00 midnight. A starting time other than 12:01 a.m. may be used for the 24-hour period. If a starting time other than 12:01 a.m. is used, the starting time must be defined in the quarterly emissions report and must be constant for the entire calendar quarter.

(h) "Boiler operating day" means a 24-hour period during which any fossil fuel is combusted in the steam generator.

2. Section 60.43 is amended by adding paragraph (d) as follows:

§ 60.43 Standard for sulfur dioxide.

* * * * *

(d) Compliance with the emission limitations under this Section are determined on a 30-day rolling average basis in accordance with Method 19A (Appendix A).

3. Section 60.45 is amended by revising paragraphs (b)(2), (4), and (e); deleting paragraphs (f) and (g)(2), and adding paragraphs (b)(5), (h), (i), (j), (k), and (l) as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(b) * * *

(2) The continuous emission monitoring system for measuring sulfur dioxide required under paragraph (a) of this Section is not necessary, if Method 6B or the alternative fuel sampling and analysis procedure under Method 19A (Appendix A) is used. The fuel sampling and analysis procedures included in Method 19A are approved as alternative SO_2 test methods for steam generators subject to this subpart and a written application for approval under § 60.13(j) is not required. The fuel sampling and analysis procedures in Method 19A are alternative test methods and the Administrator retains the authority to periodically require SO_2 testing by Method 6B or continuous emission monitors or to withdraw the approval for specific facilities.

* * * * *

(4) If an owner or operator does not install any continuous monitoring systems for sulfur oxides and nitrogen oxides as provided under paragraphs (b)(1) and (b)(3) or (b)(1) and (b)(5) of this Section, a continuous monitoring system for measuring either oxygen or carbon dioxide is not required.

(5) For affected facilities that combust more than 75 percent wood or wood residue on a quarterly (calendar) heat input basis, a continuous monitoring system for measuring sulfur dioxide emissions in not required. Such facilities are required to maintain quarterly records of percent of wood or wood residue fired on a heat input basis.

* * * * *

(e) For any continuous monitoring system installed under paragraph (a) of this Section, the following conversion procedure shall be used to convert the continuous monitoring data into units of the applicable standards (ng/J, lb/million Btu):

(1) For sulfur dioxide data, procedures under Section 3 of Method 19A (Appendix A) are used.

(2) For nitrogen oxides data, procedures under Section 5 of Method 19 (Appendix A) are used.

(f) [Reserved]

(g) * * *

(2) [Reserved]

* * * * *

(h) The continuous monitoring systems under paragraph (a) of this

section are operated and data are recorded during all periods of operation of the affected facility including periods of startup, shutdown, and malfunction except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments.

(i) When sulfur dioxide emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks and zero and span adjustments, emission data are obtained by using an alternate monitoring procedure under Method 19A or by using other monitoring systems as provided by the Administrator as necessary to provide emission data as required under paragraph (k) of this section.

(j) For continuous emission monitoring systems, the 1-hour average SO_2 emissions required under paragraph § 60.13(h) are expressed in ng/J (lbs/million Btu) heat input and used to calculate the average emission rates under § 60.48. The 1-hour averages are calculated using the data points required under § 60.13(b). At least two points must be used to calculate the 1-hour averages.

(k) The minimum data requirements for sulfur dioxide emissions data collected using Method 19A are as follows:

(1) For continuous emission monitoring systems, data from at least 75 percent of the boiler operating hours per day in at least 22 out of 30 successive boiler operating days are required.

(2) For stack testing (Method 6B), data from at least one test run per day in at least 27 out of 30 successive boiler operating days are required.

(3) For coal sampling and analysis, data from coal samples representative of the coal supplied to the steam generator or to the coal silos (bunkers) each boiler operating day in at least 27 out of 30 successive boiler operating days are required.

(4) For oil sampling and analysis, data from oil samples representative of the oil supplied to the steam generator each boiler operating day in at least 27 out of 30 successive boiler operating days are required.

(l) In meeting the data requirements under paragraph (k) of this section, a combination of the test procedures included under Reference Method 19A (Appendix A) may be used. If SO_2 emissions data from continuous emission monitoring systems under paragraph (k)(1) of this section are supplemented with SO_2 emissions data from stack testing (Method 6B) or by fuel sampling and analysis procedures contained in Method 19A, the minimum data requirements of paragraph (k)(1) of this section apply.

4. Section 60.46 is amended by revising paragraph (a)(4), (c) and (f) and removing paragraph (d) as follows:

§ 60.46 Test methods and procedures.

* * * * *

(a) * * *

(4) Method 19A for sulfur dioxide emission rate and

* * * * *

(c) For Method 7, the sample site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross Section or at a point no closer to the wall than 1 m (3.28 ft.). Removed

(d) [Reserved]

* * * * *

(f) For each run using the methods specified by paragraphs (a)(3) and (a)(5) of this section, the emissions expressed in ng/J (lb/million Btu) are determined following the procedures in Section 5 of Method 19 (Appendix A) (see § 60.47 for sulfur dioxide emissions calculations).

* * * * *

5. Sections 60.48 and 60.49 is added as follows:

§ 60.48 Sulfur dioxide compliance provisions.

(a) After the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limitations under § 60.43 is based on the average emission rate for 30 successive boiler operating days [as determined following the procedures under Method 19A (Appendix A)]. Following the initial performance test, a separate performance test is completed at the end of each boiler operating day and a new 30 day average emission rate for sulfur dioxide is calculated to determine compliance with the standards.

(b) For the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limitations is based on the average emission rates for sulfur dioxide for the first 30 successive boiler operating days. The initial performance test is the only test in which at least 30 days prior notice is required unless otherwise specified by the Administrator. The initial performance test is to be scheduled so that the first boiler operating day of the 30 successive boiler operating days is completed within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of the facility.

(c) In determining compliance with the standard following Method 19A, all sulfur dioxide emissions data (except sulfur dioxide emissions data obtained during startup, shutdown, or malfunction) are included in determining compliance.

(d) If an owner or operator has not obtained the minimum quantity of emission data as required under § 60.45(k), compliance with the emission requirements under § 60.43 of this Subpart for the day on which the 30-day period ends may be determined by the Administrator by following the applicable procedures in Section 6 of Reference Method 19A (Appendix A).

§ 60.49 Sulfur dioxide reporting requirements.

(a) The owner or operator of any affected facility shall submit the written reports required under paragraph (b) of this section and Subpart A to the Administrator for every calendar quarter. All quarterly reports shall be submitted by the 30th day following the end of each calendar quarter.

(b) For sulfur dioxide, the following emission data are submitted to the Administrator for each 24-hour period:

(1) Calendar Date.

(2) The average sulfur dioxide emission rate (ng/J or lb/million Btu) for each 30 successive boiler operating days ending with the last 30-day period in the quarter; reasons for noncompliance with the emission standards, and description of corrective action taken.

(3) Identification of the boiler operating days for which pollutant or diluent data have not been obtained following methods under Method 19A (Appendix A); justification for not obtaining sufficient data; and description of corrective actions taken.

(4) Identification of the times when emission data from FGD equipped steam generators have been excluded from the calculation of average emission rates because of start-up, shut-down, malfunction, or other reasons; and justification for excluding data for reasons other than start-up, shut-down, or malfunction.

(5) For facilities combusting mixtures of fossil fuel and wood or fossil fuel and wood residue, the percentage of heat input to the steam generator provided by wood or wood residue during the calendar quarter.

6. Part 60, Appendix A is amended by adding Method 19A to read as follows:

Method 19A—Determination of Sulfur Dioxide Emission Rates From Fossil-Fuel-Fired Steam Generators

1. Principle and Applicability

1.1 Principle.

1.1.1 Fuel samples are collected and analyzed for sulfur and heat content and the

sulfur dioxide emission rate is determined from the analysis data. Procedures are described for coal and oil; or

1.1.2 Sulfur dioxide and oxygen or carbon dioxide concentration data are obtained using emission testing procedures and are used to determine sulfur dioxide emission rates. Procedures are described for continuous emission monitoring systems using instrumental or manual techniques.

1.2 Applicability. This method is applicable for determining sulfur dioxide (SO_2) emission rates from fossil fuel-fired steam generators.

2. As-Fired Fuel Analysis

Collect the fuel samples from a location in the fuel handling or processing system that provides a sample representative of the fuel bunkered or consumed during a boiler operating day. For the purpose of this method, a fuel lot size is defined as the weight of fuel bunkered or consumed during each boiler operating day. For reporting and calculation purposes, the gross sample shall be identified with the calendar day on which sampling began. Alternate definitions of fuel lot sizes may be specified subject to prior approval of the Administrator.

2.1 Fuel Sampling.

2.1.1 Solid Fossil Fuel. Use coal sampling procedures meeting the requirements of ASTM D 2234 [1] Type I, Conditions A, B, or C and systematic spacing. As a minimum, determine the number and weight of increments required per gross sample according to paragraph 7.1 of ASTM D 2234[1]. As used in this method, systematic spacing is intended to include evenly spaced increments in time or increments based on equal weights of coal passing the collection area.

2.1.2 Liquid Fossil Fuel. Use the procedure for continuous sampling described in Method 19, Section 2, paragraph 2.2.1.

2.2 Fuel Analysis.

2.2.1 Solid Fossil Fuel. Determine the percent sulfur content (%S) and gross calorific value (GCV) of the solid fossil fuel on a dry basis fro each gross sample. Use ASTM D 2013[1] for sample preparation, ASTM D 3177[1] for sulfur analysis, ASTM D 3173[1] for moisture analysis and ASTM D 2015[1] for GCV determination.

2.2.2 Liquid Fossil Fuel. Determine the percent sulfur content (%S) and gross calorific value (GCV) of the liquid fossil fuel. Use ASTM D 240 [1] for GCV determination and ASTM D 129 [1] for sulfur analysis. These values can be assumed to be on a dry basis.

2.3 Calculation of Sulfur Dioxide Emission Rate Using Fuel Analysis Data.

2.3.1 Daily Emission Rate. Calculate the daily SO_2 emission rate as follows:

For Solid Fossil Fuel:

$$E_{sd} = 0.95K \times \frac{(\%S)}{GCV} \quad \text{(Equation 19A–1)}$$

For Liquid Fossil Fuel:

$$E_{so_2} = \frac{K(\%S)}{GCV} \quad \text{(Equation 19A–2)}$$

Where:

E_{so_2} = SO_2 emission rate; ng/j (lb/10^6 Btu).

%S = Sulfur content of the fuel on a dry basis; weight percent.

0.95 = Allowance for 5.0 percent sulfur removal in coal pulverizer rejects and ash.

GCV = Gross calorific value of the fuel on a dry basis; kJ/kg (Btu/lb).

K = Conversion Factor: $2. \times 10^7$ for SI units; 2.0×10^4 for english units.

If more than one fuel type is bunkered or consumed during the day, use the following equation to calculate the daily sulfur content per unit of heat content as follow:

$$\frac{\%S}{GCV} = \sum_{k=1}^{n} Y_k \left(\frac{\%S_k}{GCV_k}\right) \quad \text{(Equation 19A–3}$$

Where:

Y_k = The fraction of total heat input derived from each fuel type, k.

$\%S_k$ = Sulfur content of each fuel type, k, on a dry basis; weight percent.

GCV_k = Gross calorific value for each fuel type, k, on a dry basis; kJ/kg (Btu/lb).

n = Number of different fuel types.

For the purpose of this method, fuel type is meant to differentiate between classes of fossil fuel (e.g., solid or liquid), classifications of solid fossil fuel (e.g., bituminous or subbituminous coal), or grades of liquid fossil fuels (e.g., crude or residual). Sampling of fuel types contributing less than one percent of the total heat input in a boiler operating day (e.g., light fuel oils used during boiler startup or for combusiton stabilization in solid fossil fuel fired boilers) is not necessary.

2.3.2 Determination of 300-Day Rolling Average. Calculate the mean 30-day SO_2 emission rate for 30 successive boiler operating days (rolling average) as follows:

$$E_{30} = \frac{1}{n} \sum_{1}^{n} E_{SO_2} \quad \text{(Equation 19A–4)}$$

E_{30} = SO_2 emission rate as a 300-day rolling average; ng/J (lb/10^6 Btu).

n = Number of daily SO_2 emission rates obtained in the 30 boiler operating day period.

3. Continuous Emission Monitoring System (CEMS)

Measurement of SO_2 concentration and oxygen (O_2) or carbon dioxide (CO_2) at the same exhaust location representative of the total emissions are required. Install and operate the CEMS in accordance with 40 CFR 60, Appendix B, Performance specifications 2 and 3 and as required in the applicable subpart.

3.1 Sampling. Use the CEMS data for SO_2 and O_2 or CO_2 concentrations obtained following the procedures in Section 3.

3.2 Determination of an F Factor. Select an applicable f factor as described in Method 19, Section 5.2.

3.3 Calculation of Emission Rate. Determine the hourly SO_2 emission rate as described in Method 19, Section 5.3.

3.4 Calculation of the 30-Day Rolling Average. Calculate the mean 30-day emission rate using all the available hourly averages in ng/J (lb/10^6 Btu) for 30 successive boiler operating days (rolling average) as follows:

$$E_{30} = \frac{1}{n} \sum_{1}^{n} E_{SO2} \quad \text{(Equation 19A–5)}$$

where:

E_{30} = SO_2 emission rate as a 30-day rolling average; ng/J (1b/10^6 Btu).

n = Total number of hourly values available for calculation of the 30-boiler operating day average.

E_{SO2} = Hourly SO_2 emission rate, average of at least two 15-minute measurement values and determined as in Section 3.3; ng/J (1b/10^6 Btu).

4. Manual Sampling Using Method 6B

Method 6B may be used as either an intermittent sample on a schedule of at least one increment per 2-hour interval or a continuous sample for a 24-hour composite for analysis. Measurement of SO_2 and CO_2 concentration at the same exhaust location representative of the total emissions are required. An initial stratification test is required to verify the adequacy of the sampling location. The stratification test shall consist of three paired runs of a suitable SO_2 and CO_2 measurement train installed and operated at the candidate location and a secord similar train operated using a three (or more) point traverse. Method 6B, Method 6A, or a combination of Methods 6 and 3 are suitable measurement techniques.

The minimum requirements for selecting the traverse location are as follows: Establish a "measurement line" that passes through the centroidal area and in the direction of any expected stratification. (The centroidal area is a concentric area that is geometrically similar to the stack or duct cross section and is greater that 1 percent of the stack or duct cross-sectional area.) If this line interferes with the measurement at the candidate location, displace the line up to 30 cm (or 5 percent of the equivalent diameter of the cross section, whichever, is less) from the centroidal area. Locate three traverse points at 16.7, 50.0 and 83.3 percent of the measurement line. If the measurement line is longer than 2.4 meters and pollutant stratification is not expected, the tester may choose to locate the three traverse points on the line at 0.4, 1.2, and 2.0 meters from the stack or duct wall. This option must not be

[1] Use the most recent revision or designation of the ASTM procedure specified.

used after wet scrubbers or a points where two streams with different pollutant concentrations are combined. The tester may select other traverse points provided that they can be shown to the satisfaction of the Administrator to provide a representative sample over the stack or duct cross section. If method 6B is used, sampling time and timer operation may be adjusted for the stratification test to collect an adequate sample volume; however, both sampling trains are to be operated similarly.

If the mean of the absolute difference between the three paired runs agree to within 10 percent, the location is adequate for the Method 6B 24-hour tests. If the agreement is not within 10 percent, choose a new location and repeat the stratification tests.

4.1 Sampling. All sample collection shall be within 3 cm of the sample location meeting the stratification test in section 4.0.

4.2 Determination of a F_c Factor. Select an applicable F_c factor as described in Method 19, Section 5.2.

4.3 Calculation of a Boiler Operating Day Emission Rate. Determine a daily SO_2 emission rate, E_{SO_2}, as described in Method 6A, Section 7.6.2 (Equation 6A–8); in ng/J (1b10^6 Btu).

4.4 Calculation of the 30-Day Rolling Average. Calculate the mean 30-day emission rate using the daily measured values in ng/J (1b10^6 Btu) for successive boiler operating days (rolling averages) as follow:

$$\overline{E}_{so} = \frac{1}{n}\sum_{1}^{n} E_{so2} \quad \text{(Equation 19A–6)}$$

where:

E_{so} = SO_2 emission rate 30-day rolling average, ng/J (lb/10^6 Btu).

E_{so2} = Daily SO_2 emission rates, ng/J (1b/10^6 Btu).

n = Number of daily SO_2 emission rates obtained in the 30 boiler operating day period.

5. Calculation of Emission Rate from Combined Cycle-Gas Turbine Systems

Determine the SO_2 emission rate from the steam generator as described in Method 19, Section 5.4

6. Calculation when Available Emission Measurement Data Are Less Than the Minimum

Perform the following calculations when the number of data values is less than the minimum required in the applicable subpart for calculation of the 30-day rolling average.

6.1 Mean Emission Rate. Calculate the mean emission rate for the reporting period using all emission measurement values (hourly averages for CEMS and daily averages for fuel sampling and Method 6B) and the following equation:

$$\overline{E} = \frac{1}{n}\sum_{1}^{n} E_{SO_2} \quad \text{(Equation 19A–7)}$$

where:

$\overline{E}$ = Mean SO_2 emission rate for the reporting period, ng/J (1b/10^6 Btu).

n = Number of available emission rate values for the reporting period hourly averages for CEMS, daily averages for other methods.

E_{SO_2} = Measured emission rate values, ng/J (lb/10^6 Btu).

6.2 Standard Deviation of Mean. Calculate the standard deviation of the mean of the available emission rate values using the following equation:

$$S_{\overline{E}} = \left[\sqrt{\frac{1}{n} - \frac{1}{max}}\right]\left[\sqrt{\frac{\sum_{1}^{n}(\overline{E} - E_{SO_2})^2}{n-1}}\right] \quad \text{(Equation 19A–8)}$$

where:

S_E = Standard deviation of the mean of the emission values for the reporting period, ng/J (1b/10^6 Btu).

max = The maximum number of data values that should have been recorded during the reporting period.

n = The number of available emission rate values for the reporting period-hourly averages for CEMS, daily averages for other methods.

6.3 Confidence Limit. Calculate the upper and lower confidence limit for the mean emission rate using the following equation:

$E_L = \overline{E} - t_{0.95} S_E$ (Equation 19A–9)

$E_U = \overline{E} + t_{0.95} S_E$ (Equation 19A–10)

where:

E_L = The lower confidence limit for the mean emission rate; ng/J (1b/10^6 Btu).

E_U = The upper confidence limit for the mean emission rate; ng/J (1b/10^6 Btu).

$t_{0.95}$ = Values shown below for the indicated number of data points (n).

Values for $t_{0.95}$

n	$t_{0.95}$	n	$t_{0.95}$	n	$t_{0.95}$
2	6.31	8	1.89	22–26	1.71
3	2.42	9	1.86	27–31	1.70
4	2.35	10	1.83	32–51	1.68
5	2.13	11	1.81	52–91	1.67
6	2.02	12–16	1.77	92–151	1.66
7	1.94	17–21	1.73	152 or more	1.65

The values of this table are corrected for n-1 degrees of freedom. Use n equal to the number of emission rate values.

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Friday
October 21, 1983

Federal Register

Part VI

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates, and Modification of List of Bureau of Prisons Institutions

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500, 527, and 552

Control, Custody, Care, Treatment, and Instruction of Inmates; D.C. Women Offenders, et al.

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: In this document, the Bureau of Prisons is publishing its final rule on Designations and Transfers of D.C. Women Offenders. The rule concerns the designation of women District of Columbia (D.C.) Code violators to the Bureau of Prisons and the transfer of women D.C. offenders in federal institutions to the District of Columbia Department of Corrections.

In this document, the Bureau of Prisons is also amending two existing rules. The Bureau is amending its rule on definitions to revise the terms "inmate" and "contraband" and to add the term "qualified health personnel". The Bureau is also amending its rule on Searches of Housing Units, Inmates, and Inmate Work Areas to refine and/or clarify the existing rule.

EFFECTIVE DATE: November 21, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing final and amended rules. The new final rule is on Designations and Transfers of D.C. Women Offenders. The rule on Searches of Housing Units, Inmates, and Inmate Work Areas is amended. In addition, the term "qualified health personnel" is added and the terms "inmate" and "contraband" are amended in the definitions section of the rules. Each of these subjects has been published in the **Federal Register** as a proposed rule. The amended definitions for "inmate" and "contraband" were published in the **Federal Register** January 19, 1983 (at 48 FR 2503). The other rules were published in the **Federal Register** April 29, 1983 (at 48 FR 19576 et seq.). Interested persons were invited to submit comments on the proposed rules. Public comment was received for the rule on searches. Members of the public may submit comments concerning the final rules by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to these rules since the rules involve agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), do not have a significant impact on a substantial number of small entities.

Summary of Changes

I. Designations and Transfers of D.C. Women Offenders

1. Section 527.50—The phrases "will designate" and "will refer" are revised to read "designates" and "refers" respectively.

2. Section 527.52—Section 527.52(a) is reworded, but its intent is unchanged.

3. Section 527.53—The "Notice of Eligibility" form is retitled "Notice of Eligibility for Referral."

4. Section 527.54—Section 527.54(b) is expanded to provide the inmate with information on where to send a complaint filed under the D.C. Department of Corrections grievance procedure.

II. Searches of Housing Units, Inmates, and Inmate Work Areas

1. Section 552.11—Comments to § 552.11(a) opposed the proposed change allowing staff of the opposite sex to perform pat searches. Commenters suggested that such a policy is an invitation to arguments, confrontations, and problems, that it will be sexually arousing, increase anxiety, and will not reinforce moral attitudes and behavior. One commenter stated that a "cross-sex" pat search serves no useful purpose except for the sexual gratification of the male staff member.

As stated in the preamble to the proposed rule, the nature and purpose of the pat search, inspection of a clothed inmate on a routine or random basis, does not warrant the requirement that the search be done by a staff member of the same sex as the inmate. The pat search is a reasonable means by which the Bureau may attempt to control contraband in a correctional institution. Bureau staff are trained to make the pat search in a detached, professional manner and to conduct the search so as to preserve the dignity of the individual. A properly performed pat search, whether done by a man or woman, ordinarily should not adversely affect the inmate, whether man or woman. Staff abuse of the search procedure subjects the staff member to disciplinary action. An inmate who believes such an abuse has occurred may file a complaint through the Administrative Remedy Procedure (Part 542, Subpart B).

A commenter notes that courts have reviewed and balanced the issues concerning the "conflict between the rights of prisoners to a modicum of privacy versus the rights of staff to equal job opportunity." We believe Bureau rules sufficiently balance these concerns within the constraints of maintaining institution security, good order, and discipline. The rule allows staff, regardless of sex, to conduct a search of a clothed inmate. To require otherwise could adversely affect staff work assignments, or necessitate a situation requiring a male staff member to leave his assigned post, thereby endangering institution security, to pat search a male inmate detained by a female staff member. While a search by a member of the same sex as the inmate is ordinarily appropriate for visual searches (§ 552.11(b)), inasmuch as it recognizes the privacy rights of an inmate, a similar procedure is not warranted for the search of a clothed inmate.

Section 552.11(c) is clarified by inserting the phrase "Acting Warden", to recognize the authorizing official in the absence of the Warden. Internal implementing instructions state that only the Warden or Acting Warden may approve a digital or simple instrument search.

List of Subjects in 28 CFR Parts 500, 527, 552

Prisons Bureau, Justice Department, Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: October 18, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

Amend Subchapter A, B, and C of 28 CFR, Chapter V as follows:

I. Subchapter A, Part 500 is amended as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

A. The authority citation for Part 500 reads as follows:

Authority: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

B. In § 500.1, revise paragraphs (c) and (h) and add a new paragraph (i) to read as follows:

§ 500.1 Definitions.

* * * * *

(c) "Inmate" means any person who is committed to, or in the custody of, the U.S. Attorney General and who is placed in, or designated to be placed in, a Bureau of Prisons institution. "Inmate" also includes any person who is committed for civil contempt to an institution of the Bureau of Prisons.

* * * * *

(h) "Contraband" is material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution.

(i) "Qualified health personnel" includes physicians, dentists, and other professional and technical workers who engage in activities within their respective levels of health care training or experience which support, complement, or supplement the administration of health care.

II. In Subchapter B, add Subpart F to Part 527.

SBUCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 527—TRANSFERS

* * * * *

Subpart F—Designations and Transfers of D.C. Women Offenders

Sec.

527.50 Purpose and scope.
527.51 Definitions.
527.52 Designation.
527.53 Transfer Referrals.
527.54 Grievance Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5003, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Designations and Transfers of D.C. Women Offenders

§ 527.50 Purpose and scope.

(a) The Bureau of Prisons designates federal institutions for most female D.C. Code violators who are serving sentences of more than one year and who are not within nine months of a parole eligibility, sentence expiration, or mandatory release date.

(b) The Bureau of Prisons refers to the District of Columbia [D.C.] Department of Corrections and to the D.C. Board of Parole for transfer consideration any District of Columbia female inmate in Bureau of Prisons custody provided the inmate has made a request for transfer and is within nine months of a parole eligibility, sentence expiration, or mandatory release date.

572.51 Definitions.

For purposes of this rule, the following definitions apply.

(a) Parole eligibility date—the date on which the inmate becomes eligible for parole consideration.

(b) Sentence expiration date—the date on which the inmate is to be released by good time allowances or other statutory means, and not by parole action, and with 180 days or less remaining on the sentence.

(c) Mandatory release date—the date on which the inmate is to be released by good time allowances, and not by parole action, and with more than 180 days remaining on the sentence.

(d) Appropriate District of Columbia officials—officials of the District of Columbia Department of Corrections and/or the District of Columbia Board of Parole.

§ 527.52 Designation.

Bureau of Prisons staff shall review all requests for designation of female D.C. Code violators to a federal institution to ensure that the individual is not within nine months of a parole eligibility, sentence expiration, or mandatory release date. When staff determine that the inmate is within nine months of such a release date, the request for designation shall be held in abeyance until a determination has been made by the appropriate District of Columbia officials with respect to the inmate's suitability for community placement or parole.

(a) Bureau staff shall proceed with the designation of a federal institution for the inmate upon being notified that the appropriate District of Columbia officials have determined that the inmate is presently considered unsuitable for both community placement and for parole.

(b) Bureau staff should not proceed with the designation upon being notified that the appropriate District of Columbia officials have determined that the inmate is considered a suitable candidate for community placement and/or parole.

§ 527.53 Transfer referrals.

(a) Staff, at the time of the inmate's intitial classification, shall notify the inmate of her right to request referral to the District of Columbia and the procedures to be followed with respect to making this request. Staff shall give the inmate a copy of the "Notice of Eligibility for Referral" form to sign and ask that the inmate indicate on this form whether she wishes to be referred, at the time of her eligibility, for transfer to the District of Columbia.

(1) When an inmate requests referral to the D.C. Department of Corrections, Bureau staff shall make this referral when the inmate is within nine months of her parole eligibility, sentence expiration, or mandatory release date.

(2) The inmate may choose not to be referred to the District of Columbia Department of Corrections. Staff shall provide an inmate who, at the time of initial classification, elects not to be referred, a second opportunity for referral when she is within nine months of her parole eligibility or upon her request. A copy of all declinations for referral by the inmate shall be forwarded by Bureau staff both to the D.C. Department of Corrections and to the D.C. Board of Parole.

(b) If the D.C. Board of Parole indicates that the inmate's parole prognosis is such that they do not wish to have her returned to the District of Columbia for a hearing, and she is also denied acceptance by the D.C. Department of Corrections for community placement, Bureau staff are to use the following timetable with respect to a re-referral of the inmate to both agencies: when the inmate's sentence is less than five years, a re-referral may occur after six months; where the maximum sentence is five years or more, she is eligible for re-referral in one year.

(c) If the inmate is approved for community placement and/or parole by the appropriate District of Columbia officials, arrangements shall be coordinated between officials of the Bureau of Prisons and the District of Columbia for inmate's transfer to the District of Columbia.

§ 527.54 Grievance procedures.

District of Columbia women wishing to express a formal complaint regarding their designation or transfer may file a grievance under one of the following procedures.

(a) The Bureau of Prisons Administrative Remedy Procedure is to be used for matters under Bureau of Prisons jurisdiction.

(b) The D.C. Department of Corrections grievance procedure is to be used for matters under the D.C. Department of Corrections jurisdiction. An inmate wishing to use this procedure should send a letter to the Judicial Affairs Officer, D.C. Department of Corrections, 1923 Vermont Avenue, NW., Washington, D.C. 20001. The letter should state that the inmate is filing a

grievance under the D.C. Department of Corrections grievance procedure.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

III. In Subchapter C, Part 552 is amended to read as follows:

PART 552—CUSTODY

Subpart B—Searches of Housing Units, Inmates, and Inmate Work Areas

1. The authority citation for Part 552, Subpart B is as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In §552.11, revise paragraph (a) and (c) to read as follows:

§ 552.11 Body searches of inmates.

(a) Pat search—an inspection of an inmate, using the hands, that does not require the inmate to remove clothing. The inspection includes a search of the inmate's clothing and personal effects. A metal detector search may be done under the same circumstances. Staff may conduct a pat search of an inmate on a routine or random basis to control contraband.

* * * * *

(c) Digital or simple instrument search—inspection for contraband or any other foreign item in a body cavity of an inmate by use of fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forcep. A digital or simple instrument search may be conducted only by designated qualified health personnel (for example, physicians, physician assistants, and nurses) upon approval of the Warden or Acting Warden and only if the Warden or Acting Warden has reasonable belief that an inmate is concealing contraband in or on his person. If located, the contraband or foreign item may be removed immediately by medical staff if such removal can easily be effected by use of fingers or the simple instruments referred to above. Staff shall document all digital and simple instrument searches and the reasons for the searches in the inmate's central file.

* * * * *

3. In § 552.12, revise paragraph (b) to read as follows:

§ 552.12 X-ray, major instrument, fluoroscope, or surgical intrusion.

* * * * *

(b) The institution physician may authorize use of an X-ray for medical reasons and only with the consent of the inmate. When there exists no reasonable alternative, and an X-ray examination is determined necessary for the security, good order, or discipline of the institution, the Warden, upon approval of the Regional Director, may authorize the institution physician to order a non-repetitive X-ray examination for the purpose of determining if contraband is concealed in or on the inmate (for example: in a cast or body cavity). The X-ray examination may not be performed if it is determined by the institution physician that it is likely to result in serious or lasting medical injury or harm to the inmate. Staff shall place documentation of the examination and the reasons for the examination in the inmate's central file and medical file.

* * * * *

[FR Doc. 83-28773 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-05-M

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28 CFR Part 571

Control, Custody, Care, Treatment, and Instruction of Inmates; Fines and Costs; Confinement Until Paid

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: Bureau of Prisons is publishing its final rule on Fines and Costs. The rule provides that when a federal court orders an inmate confined until a fine and/or costs are paid, the Bureau of Prisons will so confine that inmate, unless the inmate qualifies for release as an indigent under 18 U.S.C. 3569. The rule is intended to discuss Bureau of Prisons procedures with respect to the inmate who is ordered committed until a fine and/or costs are paid, and who requests a discharge from imprisonment because of indigency.

EFFECTIVE DATE: November 21, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on Fines and Costs. A proposed rule on this subject was published in the **Federal Register** January 19, 1983 (at 48 FR 2503 et seq.). Public comment was invited on the proposed rule. Members of the public may submit comments on the final rule by writing the previously cited address. These comments will be considered but will receive no formal response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Public Comment/Summary of Changes

1. Section 571.50 While we agree with a comment that favors increasing the $20.00 limitation for non-exempt property, the Bureau has no authority to raise this amount because the $20.00 limit is set by statute. For clarity, § 571.50(b) is rewritten to indicate that an indigent inmate may not be held past his regularly established release date solely for nonpayment of a fine. The phrase "court decision" in § 571.50(b) becomes "court decisions" in the final rule. These decisions are *Williams v. Illinois*, 399 U.S. 235 (1970), and *Tate v. Short*, 401 U.S. 395 (1971).

2. Section 571.52 The phrase, "Promptly after the inmate's commitment," is added to § 571.52(a) to identify when the inmate will be notified of the committed fine. Proposed § 571.52 (c) and (d) are relocated in a new § 571.55. As a result of this change, proposed § 571.52(e) becomes final § 571.52(c). The final rule requires staff to interview an inmate who has an unpaid committed fine at least 75 days (was 60 days) prior to the inmate's pending release date.

3. Section 571.54 Section 571.54 is retitled "Determination of indigency by U.S. Magistrate—inmates in federal institutions". Proposed § 571.54(b) is relocated in a new § 571.55. As a result of this change, proposed § 571.54(c)–(e) becomes final § 571.54(b)–(d).

4. Section 571.55 Proposed §§ 571.52(c)–(d) and 571.54(b) are now in new § 571.55, "Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions." Although slightly reworded, the general intent of these sections is unchanged.

5. Section 571.56 Based on new final § 571.55, proposed § 571.55 is renumbered final § 571.56. In publishing its proposed rule, the Bureau quoted a portion of 18 U.S.C. 3569(a). In publishing this portion, the **Federal Register** deleted the phrase "or fine". That phrase is now included within final § 571.56(b).

List of Subjects in 28 CFR Part 571

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the

Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR chapter V is amended by adding a new Subpart F to Part 571.

Dated: October 18, 1983.

Norman A. Carlson,

Director.

In Subchapter D, Part 571 is amended by adding a new Subpart F to read as follows:

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

Subpart F—Fines and Costs

Sec.

571.50 Purpose and scope.
571.51 Definitions.
571.52 Procedures—committed fines.
571.53 Determination of indigency by Warden.
571.54 Determination of indigency by U.S. Magistrate—inmates in Federal institutions.
571.55 Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions.
571.56 Review by Regional Director.

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3568, 3569, 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Fines and Costs

§ 571.50 Purpose and scope.

When the court orders a prisoner's confinement until a fine and/or costs are paid, the Bureau of Prisons shall confine that inmate until the fine and/or costs are paid, unless the inmate qualifies for release under 18 U.S.C. 3569.

(a) An inmate who is unable to pay such fine and/or costs and whose non-exempt property does not exceed $20 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

(b) 18 U.S.C. 3569 states that the determination of indigency may be made by the Warden of the federal institution where the inmate is confined or by the U.S. Magistrate. Where the Warden and/or U.S. Magistrate make a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine and/or costs, the appropriate Regional Director shall review the application for the purpose of making a final decision on the inmate's discharge under 18 U.S.C. 3569. It is to be noted that 18 U.S.C. 3569 provides for confining an inmate for thirty days for nonpayment of a committed fine. By court decisions, an indigent inmate may not be held for any time past his regularly established release date for nonpayment of a fine. Only a person who has resources and refuses to pay may be held on a committed fine under 18 U.S.C. 3569.

§ 571.51 Definitions.

(a) *Fine*—a monetary penalty associated with an offense imposed as part of a judgment and commitment. There are two types of fines.

(1) *Committed fine*—a monetary penalty imposed with a condition of imprisonment until the fine is paid.

(2) *Non-committed Fine*—a monetary penalty which has no condition of confinement imposed.

(b) *Costs of the prosecution*—monetary costs of the legal proceeding which the court may levy.

Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.

§ 571.52 Procedures—committed fines.

(a) Promptly after the inmate's commitment, staff shall inform the inmate that there is a committed fine on file against the inmate, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine is paid except—

(1) The inmate may spend money from his trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authorized for such purchases.

(2) Staff may authorize the inmate to make withdrawals from his trust fund account for emergency family or emergency personal needs or for furlough purposes.

This rule on impounding an inmate's trust fund account applies only when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or a contract community-based facility.

(b) If the inmate pays the committed fine, or if staff verifies payment prior to confinement, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) Staff shall interview an inmate with an unpaid committed fine at least 75 days prior to the inmate's pending release date. Staff shall explain to the inmate that to secure release without paying the committed fine in full, the inmate must make an application, on the appropriate form, to either the Warden or the U.S. Magistrate for a determination on whether the inmate is considered indigent under 18 U.S.C. 3569.

§ 571.53 Determination of indigency by Warden.

An inmate in a federal institution who has a committed fine may apply to the Warden of that institution for a determination on the inmate's ability to pay the committed fine. If application is made to the Warden and the Warden determines that the inmate is not indigent under 18 U.S.C. 3569, the inmate may elect to apply to the U.S. Magistrate for a determination on the inmate's ability to pay the committed fine.

(a) The Warden's decision as to the inmate's indigency must be made on the basis of the inmate's property and the determination as to whether such property exceeds "* * * $20.00 in value, except such as is by law exempt from being taken on execution for debt * * *" (18 U.S.C. 3569).

(b) If the Warden finds that the inmate is indigent, the Warden shall notify the inmate that the inmate may take the "Pauper's Oath" (see 18 U.S.C. 3569) on the inmate's regularly established date of release providing the inmate's indigency status does not change.

(c) If the Warden finds that the inmate is not indigent under 18 U.S.C. 3569, the Warden shall refuse to administer the oath and notify the inmate in writing as to the reasons for this refusal. The Warden shall advise the inmate that, if the inmate disagrees with the Warden's non-indigency finding, an application, if not previously made, may be submitted to the nearest U.S. Magistrate for a determination as to the inmate's indigency under 18 U.S.C. 3569. The Warden shall also advise the inmate that in the event a finding of non-indigency is made by the Warden and, if submitted, a similar finding is made by the U.S. Magistrate, the inmate's application for a determination of indigency under 18 U.S.C. 3569 shall be forwarded by staff to the Regional Director for final disposition.

§ 571.54 Determination of indigency by U.S. Magistrate—inmates in federal institutions.

(a) An inmate with a committed fine who is imprisoned in a federal institution may make application directly to the U.S. Magistrate for a determination of the inmate's indigency under 18 U.S.C. 3569.

(b) An inmate who elects to apply to the U.S. Magistrate after a finding of non-indigency by the Warden must complete a new application. Staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate.

(c) If the U.S. Magistrate finds that the inmate is indigent, the U.S. Magistrate will administer the oath to the inmate. The inmate shall be released no earlier than the inmate's regularly established release date.

(d) If the U.S. Magistrate finds that the inmate is not indigent, Bureau staff shall forward a referral package to the Regional Director for a final determination as to the inmate's ability to pay the committed fine.

§ 571.55 Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions.

(a) Inmates with committed fines may be transferred to contract community-based facilities, to state institutions as boarders, or to state institutions for service of federal sentences concurrently with state sentences.

(b) Inmates with committed fines may be committed directly to contract community-based facilities or to state institutions as boarders or may be designated to state institutions for service of federal sentences concurrently with state sentences.

(c) An inmate with a committed fine who is imprisoned in a contract community-based facility or a state institution and who desires to make application for a determination of ability to pay the committed fine and/or costs under 18 U.S.C. 3569 must make application directly to the U.S. Magistrate.

§ 571.56 Review by Regional Director.

(a) When a finding of non-indigency is made by the Warden and/or U.S. Magistrate, staff shall forward material to the Regional Director who will make a final determination as to the inmate's ability to pay the committed fine. This authority may not be delegated below the level of acting Regional Director.

(b) If the Regional Director determines that the "* * * retention by such convict of all of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for the nonpayment of such fine, or fine and costs; or if he finds that the retention by such convict of any part of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for nonpayment of such fine or fine and costs upon payment on account of his fine and costs, of that portion of his property in excess of the amount found to be reasonably necessary for his support or that of his family." (18 U.S.C. 3569)

(c) After making a determination as to the property that the inmate possesses in excess of what is exempt by law, and what property the inmate may need in the community, the Regional Director may take one of the following three actions: (1) release the inmate without any payment toward the fine; (2) require partial payment of the fine prior to the inmate's release; or (3) require payment of the fine in full prior to the inmate's release. Regardless of the action taken, the Regional Director shall furnish the inmate with a written statement stating the action taken and the reasons for that action.

[FR Doc. 83-28774 Filed 10-20-83; 8:45 am]
BILLING CODE 4410-05-M

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28 CFR Part 572

Control, Custody, Care, Treatment, and Instruction of Inmates; Prison Overcrowding

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: The Bureau of Prisons is amending its final rule on the implementation of 18 U.S.C. 4205(g). The Bureau is experiencing overcrowding within its institutions. In an effort to alleviate this situation, the Bureau is* publishing an interim rule authorizing an additional reason under which the Bureau may file a motion with the sentencing court to reduce the minimun term of the inmate's sentence to time served. Specifically, in order to reduce overcrowding, a motion under 18 U.S.C. 4205(g) may be filed with the court, provided the Bureau of Prisons has reveived a written statement from the U.S. Parole Commission that the inmate could safely be released from prison under current Parole Commission standards, but that such a release is barred by a judicially imposed minimum sentence. The rule also identifies the criteria that must be met.

EFFECTIVE DATE: October 5, 1983.

Public comments on the interim rule must be received on or before December 19, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing an interim rule on procedures for the implementation of 18 U.S.C. 4205(g). A final rule on this subject was published in the **Federal Register** April 4, 1980 (at 45 FR 23366). The present revision retains the rationale of "particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing." This language is now contained in § 572.40(a). Section 572.40(b) is new and authorizes the Bureau of Prisons to use 18 U.S.C. 4205(g) to relieve prison overcrowding, provided the Bureau has received a written statement from the U.S. Parole Commission that the inmate could be safely released from prison under current Parole Commission standards, but that such a release is barred by a judicially imposed minimum sentence. This modification will assist the Bureau in its efforts to relieve prison overcrowding. In conjunction with this effort, the U.S. Parole Commission published in the **Federal Register** September 29, 1983 (at 48 FR 44525 et seq.) a final rule on the subject "Relief of Prison Overcrowding". Their rule authorizes the U.S. Parole Commission to recommend to the Director, Bureau of Prisons that a motion under 18 U.S.C. 4205(g) be made on behalf of an inmate whom the Parole Commission identifies as otherwise suitable for release at or after service of the time required by the maximum of the Commission's applicable guideline range (28 CFR 2.20). The Parole Commission's proposed rule on this subject was published in the **Federal Register** May 23, 1983 (at 48 FR 22949). The Commission stated it received forty-six letters from the public commenting on the proposal, and that the "majority of them strongly support the new rule".

Section 572.41 of the Bureau's rule is clarified by referencing the phrase "meritorious or unusual circumstances" in both the title and body of this section. Interim § 572.42, "Criteria for request—to relieve prison overcrowding", is new. This section identifies the criteria to be met before the Bureau will submit a motion under 18 U.S.C. 4205(g) for the purpose of reducing prison overcrowding. This procedure may be used only to relieve overcrowding within Bureau of Prisons institutions (as distinguished from overcrowding within one or more institutions), provided the Bureau has been advised by the U.S. Parole Commission that while the inmate could be safely released from prison under current U.S. Parole Commission guidelines, such release is barred by a judicially imposed minimum sentence. In addition, the inmate ordinarily must meet the following criteria: The inmate does not require a high level of security; the inmate's

"severity of offense" behavior under U.S. Parole Commission guidelines ordinarily is included within Categories 1–5; the inmate's "salient factor score" under U.S. Parole Commission guidelines ordinarily is "very good" or "good"; and the inmate has demonstrated acceptable institutional adjustment. The rule indicates that cases for reduction of sentence to reduce prison overcrowding are initiated by the Parole Commission or, on occasion, by the Bureau of Prisons. The Bureau's initiation of a request may occur when an inmate is not eligible to receive an initial hearing until ten years of the sentence is completed. The request is made to the Parole Commission, asking that an assessment be made of the inmate's status. There is no provision for an inmate to initiate such a request.

Former § 572.42 becomes interim § 572.43. Section 572.43(a)(1) is amended to include a sentence that the Warden is to promptly review a request for consideration under 18 U.S.C. 4205(g). Section 572.43(c) is amended to insert the phrase "or in the event of prison overcrowding". Final § 572.43 becomes interim § 572.44.

These amendments are not intended to place a burden on either the inmate or the public, nor to increase the risk to public safety. The rule allows the Bureau of Prisons to exercise its discretion under 18 U.S.C. 4205(g) by providing an additional basis for the Bureau to file a motion with the sentencing court to reduce an inmate's minimum sentence to time served. The court which originally imposed the sentence retains the authority to determine if the sentence is to be reduced. Through the coordinated efforts of the sentencing court, the U.S. Parole Commission, and the Bureau of Prisons, this procedure can be responsive to the serious problem of prison overcrowding and can meliorate the sentences of certain carefully selected offenders without increasing the risk to public safety. For these reasons, the Bureau of Prisons finds good cause to publish this document as an interim rule, without a prior notice of proposed rulemaking, an opportunity for public participation, and delay in effective date. To provide the public with a fuller understanding of Bureau procedures on the implementation of 18 U.S.C. 4205(g), the Bureau has decided to republish its entire rule as an interim rule. The Bureau is interested in receiving public comments on both the rule and on other concepts to alleviate prison overcrowding without endangering public safety. These comments will be considered prior to publication of the final rule.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in CFR Parts 572

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: October 18, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

In Part 572, revise Subpart E to read as follows:

PART 572—PAROLE

Subpart E—Procedures for the Implementation of 18 U.S.C. 4205(g)

Sec.

572.40 Purpose and scope.
572.41 Initiation of request—meritorious or unusual circumstances.
572.42 Criteria for request—to relieve prison overcrowding.
572.43 Approval of request.
572.44 Denial of request.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4205, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart E—Procedures for the Implementation of 18 U.S.C. 4205(g)

§ 572.40 Purpose and scope.

Under 18 U.S.C. 4205(g), a sentencing court, on motion of the Bureau of Prisons, may make an inmate immediately eligible for parole by reducing the minimum term of the sentence to time served.

(a) The Bureau uses 18 U.S.C. 4205(g) in particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing. This section may be used, for example, if there is an extraordinary change in an inmate's personal or family situation or if an inmate becomes severely ill.

(b) The Bureau may also use 18 U.S.C. 4205(g) to relieve prison overcrowding, provided the Bureau has received a written statement from the U.S. Parole Commission that the inmate safely could be released from prison under current Parole Commission standards (see 18 U.S.C. 4206 and 28 CFR 2.20), but that such a release is barred by a judicially imposed minimum sentence.

§ 572.41 Initiation of request—meritorious or unusual circumstances

(a) An inmate may submit a written request for a motion under 18 U.S.C. 4205(g) to the Warden. An inmate may initiate a request for consideration under 18 U.S.C. 4205(g) only when there are particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing. In the request, the inmate shall relate the meritorious or unusual circumstances that the inmate believes warrant consideration. In addition, the inmate shall include the following information in the request:

(1) Offense,

(2) Plea,

(3) Length and date of sentence,

(4) Name and location of sentencing court,

(5) Date service of sentence began,

(6) Parole eligibility date, and

(7) Mandatory release date.

(b) The Bureau of Prisons processes a request made by another person on behalf of an inmate in the same manner as an inmate's request. Staff shall refer a request received at the Central Office or at a Regional Office to the Warden of the institution where the inmate is confined.

§ 572.42 Criteria for request—to relieve prison overcrowding.

To help reduce prison overcrowding, the Bureau of Prisons may, in its unreserved discretion, also make a motion under 18 U.S.C. 4205(g) to reduce the minimum term of the inmate's sentence to time served, provided the following criteria are met.

(a) The Bureau of Prisons is experiencing overcrowding within its institutions.

(b) The Bureau of Prisons has been advised by the U.S. Parole Commission that, while the inmate could safely be released from prison under current U.S. Parole Commission standards, such release is barred by a judicially imposed minimum sentence.

(c) Bureau of Prisons staff will evaluate an inmate referred by the U.S. Parole Commission for consideration under 18 U.S.C. 4205(g). Bureau staff must determine that an inmate meets the following criteria before the inmate may

be considered, on the basis of prison overcrowding, for referral under 18 U.S.C. 4205(g).

(1) The inmate is identified by the Bureau as not requiring a high level of security.

(2) The inmate's "Severity of Offense" behavior under U.S. Parole Commission guidelines ordinarily is included within Category 1–5 (see 47 FR 56334 et seq.).

(3) The inmate's "Salient Factor Score" under U.S. Parole Commission guidelines (28 CFR 2.20) is ordinarily in the "very good" or "good" range.

(4) The inmate has demonstrated acceptable institutional adjustment.

(d) To help reduce prison overcrowding, the Bureau of Prisons may, on occasion, initiate a request to the U.S. Parole Commission. This request will ask that an inmate's status be assessed with respect to whether the Parole Commission believes the inmate could safely be released from prison under current U.S. Parole Commission standards, although such release is barred by a judicially imposed minimum sentence. This request ordinarily occurs with an inmate who has a sentence of 30 or more years, and who, under 28 CFR 2.2, is not eligible to receive an initial hearing until ten years of the sentence is completed.

(e) Under the procedures of this § 572.42, cases for reduction of sentence to reduce prison overcrowding are initiated by the Bureau of Prisons or Parole Commission staff. There is no provision for an inmate to initiate a request for a reduction of sentence for the purpose of reducing prison overcrowding.

§ 572.43 Approval of request.

(a) The Bureau of Prisons makes a motion under 18 U.S.C. 4205(g) only after review of the request by the Warden, the Regional Director, the General Counsel, the Medical Director or the Assistant Director, Correctional Programs Division, and with the approval of the Director, Bureau of Prisons.

(1) The Warden shall promptly review a request for consideration under 18 U.S.C. 4205(g). If the Warden upon an investigation of the request determines that the request warrants approval, the Warden shall refer the matter in writing with recommendation to the Regional Director.

(2) If the Regional Director determines that the request warrants approval, the Regional Director shall prepare a written recommendation and refer the matter to the Office of General Counsel.

(3) If the General Counsel determines that the request warrents approval, the General Counsel shall solicit the opinion of either the Medical Director or the Assistant Director, Correctional Programs Division depending upon the nature of the basis for the request. With this opinion, the General Counsel shall forward the entire matter to the Director, Bureau of Prisons, for final decision.

(4) If the Director, Bureau of Prisons, grants a request, the Director shall ask the U.S. Attorney in the district in which the inmate was sentenced to move the sentencing court on behalf of the Bureau of Prisons to reduce the minimum term of the inmate's sentence to time served.

(b) Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 4205(g), the Warden of the institution where the inmate is confined shall schedule the inmate for hearing on the earliest Parole Commission docket.

(c) In event of medical emergency certified by the physician of the institution where the inmate is confined, or in the event of prison overcrowding, staff shall expedite the request at all levels.

§ 572.44 Denial of request.

(a) When an inmate's request is denied by the Warden or Regional Director, the Warden or Regional Director shall provide the inmate with a written notice and statement of reasons for the denial. The inmate may appeal the denial through the Administrative Remedy Procedure (Part 542, Subpart B).

(b) When an inmate's request for consideration under 18 U.S.C. 4205(g) is denied by the General Counsel, the General Counsel shall provide the inmate with a written notice and statement of reasons for the denial. This denial constitutes a final administrative decision.

(c) When the Director, Bureau of Prisons, denies an inmate's request, the Director shall provide the inmate with a written notice and statement of reasons within 20 workdays after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

[FR Doc. 83-28775 Filed 10-20-83; 8:45 am]
BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Department of Justice, Bureau of Prisons.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the **Federal Register** October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prisons institutions. A consolidated listing of Bureau institutions was published in the **Federal Register** March 5, 1982 (at 47 FR 9754). The present document is intended to modify this listing by deleting Florence, Arizona as a Federal Detention Center and to recognize that the Bureau's prison camp in Montgomery, Alabama includes the use of both Maxwell Air Force Base and Gunter Air Force Station.

EFFECTIVE DATE: Federal Detention Center, Florence, Arizona—July 1, 1983; Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama—October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534 (202–724–3062).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, Sec. 1(a).

The Bureau's detention center in Florence, Arizona was closed earlier this year. This closing was possible because the Bureau's new Metropolitan Correctional Center in Tucson, Arizona could absorb the small Florence population and was more convenient to the court. With respect to the Federal prison camp in Montgomery, Alabama, the agreement to house Federal prisoners includes the use of both Maxwell Air Force Base and Gunter Air Force Station. To reflect this intent, this notice includes Gunter Air Force Station as a place of confinement for Federal prisoners.

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), the Notice on Modification to List of Bureau of Prisons Institutions as published in the **Federal Register** March 5, 1982, is amended as follows:

(1) In paragraph C, subsection (5) is retitled Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama.

(2) Delete paragraph E, by removing Federal Detention Center, Florence, Arizona.

(3) Redesignate existing paragraph F as new paragraph E.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-28776 Filed 10-20-83; 8:45 am]

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Friday
October 21, 1983

Federal Register

Part VII

Environmental Protection Agency

State Implementation Plan for Lead; Missouri

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[A-7-FRL 2455-4]

State Implementation Plans; Petition for Reconsideration of Lead Plan and Policy Change Regarding Attainment Date; Missouri

AGENCY: Environmental Protection Agency.

ACTION: Response to petition for reconsideration of Missouri lead plan and notice of policy change regarding attainment date for state implementation plans for lead.

SUMMARY: Three Missouri lead smelters submitted a petition for reconsideration of the Environmental Protection Agency's ("EPA") disapproval of portions of the Missouri State Implementation Plan for lead promulgated on April 27, 1981 (46 FR 23412). The smelters asked EPA to reconsider its disapproval of the plan's attainment date and dispersion modeling.

This notice announces EPA's decision to grant in full the smelters' petition concerning the attainment date for the Missouri lead SIP, to grant in part the smelters' request for recalculation of two attainment date extensions, and to find that the AMAX and St. Joe lead smelters satisfied the modeling requirements of 40 CFR 51.84 (1981). EPA has decided that the modeling issue is moot for the ASARCO smelter. This notice also announces that EPA is modifying its policy on the attainment date for all lead SIPs.

Elsewhere in today's **Federal Register**, EPA is proposing to approve the portions of the Missouri lead SIP relating to the attainment date and the dispersion modeling for the AMAX and St. Joe smelters. In a separate notice, EPA is also proposing to approve a new modeling study for the ASARCO smelter but disapprove its control strategy.

FOR FURTHER INFORMATION CONTACT: Dewayne Durst, Air Branch, U.S. EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3791 (for issues pertaining to the Missouri plan); John Ulfelder, Office of General Counsel, U.S. EPA, 401 M Street, NW., Washington, D.C. 20460, (202) 382-7615 (for issues pertaining to the attainment date policy).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 109 of the Clean Air Act, 42 U.S.C. 7409, EPA promulgated primary and secondary national ambient air quality standards for lead on October 5, 1978 (43 FR 46246). Under Section 110(a)(1), 42 U.S.C. 7410(a)(1), within 9 months of this promulgation each state was required to submit a State Implementation Plan ("SIP") to provide for attainment and maintenance of the lead standards.

Under Section 110(a)(2), 42 U.S.C. 7410(a)(2), each SIP must provide for attainment of a primary standard "as expeditiously as practicable, but in no case later than three years from the date of approval of such plan." Under Section 110(e), 42 U.S.C. 7410(e) a state may request a two-year extension of this three-year deadline if it demonstrates that necessary technology will not be available soon enough to provide for attainment within three years.

EPA promulgated regulations establishing specific requirements for lead SIPs on October 5, 1978 (43 FR 46264). These regulations were codified as 40 CFR 51.80-51.87. They supplement more general SIP requirements codified in 40 CFR Part 51.

They include a requirement that the attainment demonstration as it relates to significant point sources of lead be based on dispersion modeling. 40 CFR 51.84 (1981). Missouri's submittal contained control strategies for stationary and mobile sources of lead, an attainment date, an attainment demonstration, and a request for a two-year extension of the attainment date for the areas around the St. Joe and AMAX primary lead smelters.

On April 27, 1981 EPA published its final rulemaking on the Missouri lead SIP. 46 FR 23412. EPA approved all portions of the SIP except the attainment date and the modeling for the three primary lead smelters. On June 30, 1981, the AMAX, St. Joe, and ASARCO lead smelters submitted a petition for reconsideration of the disapprovals. EPA's principal reasons for granting this petition are explained below.[1]

Discussion

1. The Attainment Date Issue

Section 110(a)(2)(A), 42 U.S.C. 7410(a)(2)(A), requires all SIPs to provide for the attainment of a primary NAAQS "as expeditiously as practicable but . . . in no case later than three years for the date of approval of such plan. * * *"

When EPA promulgated the final lead NAAQS in October 1978, it announced that all lead SIPs would have to provide for attainment of the primary standard "no later than October of 1982." *See* the "Dates" section of the preamble to the lead standard, 43 FR 46246 (October 5, 1978). In making this assertion, EPA was interpreting the statutory language quoted above as requiring all SIPs to provide for attainment no later than three years from the date that EPA's approval was required to occur under the specific timetable for SIP development contained in Sections 110(a)(1) and 110(a)(2). Under that timetable, all states must submit SIPs within nine months of the promulgation of a new NAAQS. Section 110(a)(1), 42 U.S.C. 7410(a)(1). EPA must approve or disapprove each SIP within 4 months of its submittal. Section 110(a)(2), 42 U.S.C. 7410(a)(2). The plan must then provide for attainment within three years of EPA's approval. Adding together all these time intervals, EPA concluded that the Clean Air Act requires all SIPs to provide for attainment of a primary NAAQS within four years and one month of the promulgation of the standard. As the lead standard was promulgated in early October 1978, EPA calculated that the latest attainment date for lead would be the end of October 1982.[2]

Missouri's lead submittal did not provide for attainment in all areas of the State by October 1982. Instead, the submittal stated that the attainment date for lead in most areas would be three years from the actual date of EPA's approval of a Missouri lead SIP. In addition, for the areas around the St. Joe and AMAX primary lead smelters, the State asserted that it would not be possible to attain within three years. Therefore, the State requested a two-year extension of the attainment date pursuant to Section 110(e).

EPA proposed to disapprove the State's attainment date because it did not conform to the October 1982 date contained in the preamble to the lead standard. However, EPA was able to propose approval of the State's extension request because it found that the areas around the AMAX and St. Joe

[1] The Clean Air Act does not contain criteria for a petition for reconsideration of an approval or disapproval of a SIP submitted under Section 110(a)(1). However, Section 4(e) of the Administrative Procedure Act establishes a general right to petition for "issuance, amendment or repeal" of an agency rule. 5 U.S.C. 553(e). *See also Oljato Chapter of the Navajo Tribe* v. *Train*, 515 F.2d 654 (D.C. Cir. 1975). EPA is treating the smelters' petition as a petition for revision under Section 4(e).

[2] EPA's final rulemaking does not specify a uniform national date for extensions under Section 110(e). However, under the same logic, the latest attainment date for an area which received a two-year extension would have to be October 1984.

smelters met the requirements of Section 110(e).[3]

The AMAX and St. Joe lead smelters submitted comments arguing that the State's attainment date was supported by the literal language of Section 110(a)(2), which states simply that a plan must provide for attainment no later than three years from the date of EPA's approval. The smelters also pointed out that EPA had used a "literal" interpretation in other SIP actions involving other pollutants.

EPA decided not to modify its proposed disapproval. In its response to public comments, EPA explained that it had interpreted Section 110(a)(2) in the broader context of the timetable for attainment provided in Sections 110(a)(1) and 110(a)(2). EPA also argued that the "uniform date" interpretation was necessary for policy reasons. EPA explained that an "open" date keyed to the actual date of an EPA approval would impose a competitive disadvantage on sources located in environmentally aggressive states which submitted plans quickly. EPA also noted that the other EPA rulemakings the smelters had cited all involved EPA promulgations of federal plans rather than EPA approvals of state plans.

The petition for reconsideration submitted on June 30, 1981 repeats all of the arguments raised in the comments on EPA's proposed disapproval. However, it contains one significant item of new information. The smelters note that EPA used a literal interpretation of Section 110(a)(2) in approving an April 15, 1977 attainment date for the Ohio SIP for particulate matter ("PM"). 41 FR 2099 (January 14, 1976).[4] The smelters also directed EPA's attention to the decision of the U.S. Court of Appeals for the Sixth Circuit in *NOLA* v. *EPA*, 572 F.2d 1143 (1978). In that case a citizens group challenged EPA's approval of the 1977 date for the Ohio PM SIP, claiming that the statutory time schedule in Section 110 established a uniform attainment date. The Sixth Circuit upheld EPA's approval, finding:

> [C]ontrary to the claim of petitioner NOLA, the statutory scheme governing SIPs does not fix a calendar date for attainment. On the other hand, Congress did employ calendar dates for attainment of automobile emission standards. Therefore, Congress' failure to set a similar calendar date impresses us with its intention that the language of "three years from the date of approval" should have more flexible meaning.

Upon reconsideration, EPA has been persuaded by the Sixth Circuit's reasoning to return to the more literal interpretation of Section 110(a)(2)(A) that the Agency followed in approving the Ohio PM SIP. Elsewhere in today's **Federal Register** EPA is publishing a notice proposing to approve the attainment date in the Missouri lead SIP. Since EPA approved the SIP in April 1981, the proposed attainment date would be April 1984.

The petition for reconsideration also requested EPA to recalculate the attainment date extension granted for the AMAX and St. Joe smelters based on the date of actual EPA approval rather than the uniform attainment date. The petition asserts the extended attainment date should be April 1986, two years after the April 1984 attainment date.

EPA agrees that recalculation of the extension is appropriate in light of the change to the attainment date. EPA, however, does not believe that a full two-year extension is warranted. The Missouri lead plan demonstrates that attainment will be achieved in the areas around the AMAX and St. Joe smelters in October 1984. Since Section 110(a)(2) requires all SIPs to provide for attainment as expeditiously as practicable, and the SIP shows that an October 1984 date is practicable, EPA cannot approve an extension that would give the State more time. In the notice published elsewhere in today's **Federal Register**, EPA is proposing to approve an extension of the attainment date for the areas around these two smelters from April 1984 to October 1984.

This change in interpretation of Section 110(a)(2)(A) applies to all states. States which have not yet received EPA approval for such SIPs may be entitled to revise their attainment dates. Section 110(a)(2), however, also requires attainment to be achieved "as expeditiously as practicable". Therefore, states which have approved plans that demonstrate that it is practicable to attain the lead standard by October 1982 would not be able to obtain extensions based on this change in policy.

2. The Dispersion Modeling Issue

EPA's regulations for lead SIPs require the demonstration of attainment for each area around certain major point sources of lead to be based on "atmospheric dispersion modeling." 40 CFR 51.84 (1981). Demonstrations for other areas may be based on a proportional equation known as "rollback" modeling.[5] 40 CFR 51.83, 51.85 (1981).

Missouri's SIP submittal explained that the State had performed dispersion modeling for the AMAX and St. Joe lead smelters, but found that lead concentrations predicted by the modeling bore no correlation to the actual lead concentrations recorded by the monitors in the vicinity of the smelters. In some cases, according to the submittal, the modeling predicted concentrations much higher than the values recorded by the monitors; in other cases the predictions were much lower. Missouri attributed the problems to complex terrain and a lack of reliable estimates of emission rates for fugitive lead emissions.[6] The State's submittal did not describe any attempts to use dispersion modeling as to the ASARCO smelter, but it implied that there would have been similar problems if it had tried to do so.

Missouri concluded that it could not rely on the modeled concentrations for calculating the amount of emission reductions needed to attain the lead standards and therefore did not submit its dispersion modeling studies for EPA review. Instead, Missouri based its attainment demonstrations for the AMAX and St. Joe smelters on rollback modeling and data from monitors located near the smelters. For the ASARCO smelter, monitoring data showed that there were no violations of the lead standards. Since there were no readings above the level of the lead standard, there was no reason to perform rollback modeling to determine the amount by which the smelter's emissions should be reduced. Consequently, the State relied on the monitoring data alone for the ASARCO smelter.

In the notice of proposed rulemaking, EPA agreed that, under some circumstances, terrain problems and inaccurate or non-existent fugitive emission rates could make it difficult to perform reliable modeling. However,

[3] Despite the problem with the attainment dates, EPA approved the plans's control strategy. EPA found that the control strategy would provide for sufficient emission reductions in all areas of the State to meet the lead standards by October 1984 (for the two extension areas) or by October 1982 (for all other areas).

[4] EPA promulgated national standards for PM in 1971. *See* 36 FR 22384. Under the uniform date theory, the Ohio SIP for PM should have provided for attainment no later than mid-1975.

[5] A "rollback" model consists of a fairly simple mathematical equation that estimates the amount of emission reductions needed in an area by comparing measured ambient pollutant concentrations to the NAAQS. Atmospheric dispersion models are much more complex mathematical "descriptions" of the dispersion of pollutants through the atmosphere. Typically, actual data on source emissions, local meteorology, local topography and background air concentrations are fed into a computer which calculates ambient pollutant concentrations in the vicinity of a source.

[6] "Fugitive" emissions are emissions that do not pass into the atmosphere through a stack or vent. Examples include emissions which escape from openings in furnaces or dust which escapes from storage piles.

EPA explained that it could not determine whether Missouri had encountered these types of problems unless the State submitted its modeling studies to EPA for review. 45 FR 85481, 85483 (Dec. 29, 1980). Therefore, it proposed to disapprove the SIP as to all three smelters on the grounds that the State had failed to satisfy 40 CFR 51.84.

The AMAX and St. Joe lead companies and the State of Missouri submitted comments objecting to EPA's disapproval as to the AMAX and St. Joe smelters. They argued that Missouri had fulfilled the requirements of 40 CFR 51.84 by performing dispersion modeling. They also felt that disapproval was unnecessary if EPA was willing to accept the rollback modeling. However, the State did not submit its dispersion modeling to EPA for review.

EPA's final action disapproved the SIP as to all three smelters for failure to satisfy the dispersion modeling requirement because the State still had not submitted its dispersion modeling studies. 46 FR 23412, 23415 (April 27, 1981). It also requested the State to submit modeling for all three smelters within twelve months.

The smelters' petition for reconsideration correctly points out that EPA received new information concerning the State's modeling efforts after the final action on the lead SIP. On June 10, 1981, EPA personnel had an opportunity to review the modeling the State had performed for the AMAX and St. Joe lead smelters. At that meeting, the EPA reviewers agreed that the modeling studies did not produce reliable predictions of lead concentrations in the vicinity of the two smelters. As explained in a technical memorandum prepared by EPA's Region VII Office,[7] EPA attributed the problem to a lack of accurate local meteorological data and a lack of specific data relating to emission rates from the AMAX and St. Joe lead smelters.[8]

Since EPA has not found that it was not possible to perform reliable dispersion modeling for the AMAX and St. Joe lead smelters at the time the SIP was written, EPA concludes that the State used the most accurate methods available to it in performing its attainment demonstration for those smelters. Consequently, EPA believes that it should approve those demonstrations as satisfying 40 CFR 51.84. In making this determination, EPA is relying on the intent which underlies this regulatory provision. EPA wrote the regulation to insure that states would use the most reliable methods available in demonstrating attainment of the lead standard, judging that, as a general matter, dispersion modeling would be the best available technique.[9] Where, however, a state has shown that dispersion modeling would not produce reliable results, EPA believes that Section 51.84 should be read to allow the use of other techniques that do produce reasonably reliable results. In such circumstances, a literal interpretation of § 51.84 would produce the highly undesirable result of requiring a state to base a control strategy on an inaccurate attainment demonstration. The underlying goals of Section 110 of the Act—attainment and maintenance of the ambient standards—would be better served by a more flexible interpretation allowing the use of other techniques where they have been shown to be more reliable. Elsewhere in today's **Federal Register**, EPA is proposing therefore to approve the dispersion modeling portions of the lead SIP submitted by Missouri in 1980. Interested persons are invited to comment on this proposal.[10]

In the April 1981 final action, EPA confirmed that modeling had not been attempted for the ASARCO smelter prior to the submittal of the SIP. The technical memorandum described above explains that, although more specific data on meteorology and fugitive emissions were available for this smelter, the data were not in a form that could have been used in a dispersion model. Moreover, since the ASARCO smelter is located in complex terrain, it would have been necessary to make adjustments to a flat-terrain model to produce reliable results.

In any event, after EPA disapproved the SIP, ASARCO and the State made the necessary adjustments to the data and model and performed a dispersion modeling study of the smelter's emissions. The State has submitted this study to EPA as a SIP revision. Elsewhere in today's **Federal Register**, EPA is proposing to find that this modeling study meets the requirements of 40 CFR 51.84.[11] Thus, the modeling issue is moot as to the ASARCO smelter, and EPA finds it unnecessary to reconsider its disapproval for lack of modeling as it relates to this smelter.

Conclusion

For the reasons explained above, EPA is taking the following actions on the petition for reconsideration:

(1) granting the request to reconsider the attainment date;

(2) granting the request to reconsider the attainment date extensions, but proposing elsewhere to provide only a portion of the additional time requested;

(3) granting the request to reconsider the dispersion modeling determinations for the AMAX and St. Joe smelter; and

(4) finding that the reconsideration of the modeling issue is moot as to the ASARCO smelter.

In granting this petition, EPA expresses no opinion as to the feasibility of performing dispersion modeling for other lead smelters in other states. EPA notes that other states which have not completed their lead plans have now had over two years longer than Missouri had to produce its plan, which was submitted to EPA in September–December 1980.

This determination is a final action of local or regional application. It may be challenged only by filing a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today's date.

Dated: October 17, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-28570 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

[7] Copies of this memorandum, entitled "Modeling Performed by Missouri for Primary Lead Smelters in Conjunction with Lead SIP Preparation," October 28, 1982, may be obtained from EPA's Region VII Office at the address above.

[8] EPA notes that this statement is not intended to express an opinion about the feasibility of developing more accurate meteorological data and emission factors for any of the three lead smelters in Missouri. In fact, EPA believes that it is possible to develop better data, and continues to urge the smelters and the states to do so. EPA merely intends to recognize that such data was not available at the time the State developed and submitted its SIP.

[9] In fact, in the preamble to EPA's final rules for lead SIPs, EPA explained that monitoring generally would be more reliable than modeling in determining the ambient impact of sources which emit large quantities of fugitive emissions. However, EPA explained that it was requiring modeling because adequate monitoring networks would not be available by the time the lead SIPs were due. *See* 43 FR 46265 (October 5, 1978).

[10] It should be noted that steps are being taken to improve the data base for the control strategy for the AMAX and St. Joe lead smelters. As EPA noted in its April 1981 final action, the State and the smelters committed to install long-term monitoring networks around each of the lead smelters that comply with EPA's "Guidance for Lead Monitoring in the Vicinity of Point Sources" (January 1981). *See* 46 FR 23412, 23414 (April 27, 1981). These networks, which are not required under EPA's lead SIP regulations, should permit the State to reassess the adequacy of the attainment demonstrations and, if necessary, revise the control strategies. In fact, monitoring networks began operating at the AMAX and St. Joe lead smelters on July 1, 1982. *See* the technical memorandum described in note 7. A long-term network has not been installed at the ASARCO smelter, but, as explained below, the State has submitted dispersion modeling for this smelter which EPA is proposing to approve. EPA recommends, however, that the State and ASARCO install a long-term monitoring network to provide continuing data on lead levels in the vicinity of the ASARCO smelter.

[11] As a result of its review of the modeling EPA is also proposing to find that the current control strategy for the ASARCO smelter does not adequately provide for attainment and maintenance of the lead standard. This proposal, however, does not affect the adequacy of the dispersion modeling at issue here.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 987; A-7-FRL 2340-5]

Approval and Promulgation of Missouri State Implementation Plan (SIP) for Lead

AGENCY: Environmental Protection Agency.

ACTION: Proposal to Disapprove a Portion of the Missouri Lead SIP.

SUMMARY: On July 7, 1982, Missouri submitted a revision to their lead SIP. Corrections to the revision were submitted on January 10, 1983. The State submittal contains a re-evaluation of the adequacy of the lead control strategy for the ASARCO primary lead smelter in Glover, Missouri. The re-evaluation included dispersion modeling to predict ambient lead concentrations in the vicinity of the smelter. EPA concludes that this modeling meets the requirements for atmospheric dispersion modeling in areas around significant point sources of lead, such as lead smelters, contained in 40 CFR 51.84. Based upon the modeling results, the state concluded that the control strategy for the ASARCO smelter is adequate to show attainment and maintenance of the lead standard in the vicinity of the plant. However, based upon the information submitted by the State and supplemented by modeling performed by EPA, EPA has concluded that there are predicted violations of the lead standard near ASARCO. Therefore, EPA is proposing to disapprove the control strategy for the ASARCO primary lead smelter because it does not provide for attainment and maintenance of the ambient air quality standard for lead. No other portions of the Missouri lead SIP are affected by this proposed action.

DATE: Written comments are due on or before December 20, 1983.

ADDRESSES: Copies of the submission, and technical support material which explain EPA's actions are available for review at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106

Missouri Department of Natural Resource, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

Written comments should be sent to: Dewayne E. Durst, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at the above address or call (816) 374-3791, FTS: 758-3791.

SUPPLEMENTARY INFORMATION: On September 2, 1980, Missouri submitted a lead SIP for attainment and maintenance of the national ambient air quality standards (NAAQS) for lead in the state. On April 27, 1981, EPA took final action on the Missouri lead SIP (46 FR 23412). The SIP was approved except for two portions: (1) The attainment date for meeting the lead standard and (2) dispersion modeling at the three primary lead smelters in the state as required by § 51.84 of 40 CFR. Subsequent to the final rulemaking the owners of the three primary lead smelters submitted a petition for reconsideration of EPA's dispproval of these two portions of Missouri's SIP. Elsewhere in today's **Federal Register**, EPA is granting that petition for reconsideration and is proposing to approve the attainment date and modeling portions of the Missouri lead SIP. This proposal to find the control strategy for the ASARCO smelter deficient is based upon new information which was submitted since final action was taken on the original SIP submission. This new information was developed as part of the re-evaluation of the control strategy for the ASARCO smelter. The Missouri SIP requires that the control strategies for all primary lead smelters in the state be re-evaluated to determine their adequacy after implementation of control measures at the plants. The control strategies for the other two primary smelters will be re-evaluated at a later date after at least one year of ambient monitoring data is available at those plants. The monitoring was started at those plants on July 1, 1982. ASARCO chose to perform dispersion modeling rather than ambient monitoring to determine the adequacy of the control strategy for their plant. EPA and Missouri concurred in the modeling approach.

The Modeling for ASARCO

The modeling was performed by a contractor retained by ASARCO, in accordance with a modeling plan which was submitted to the Missouri Department of Natural Resources and EPA. The modeling plan defines the models to be utilized, the emission and meteorological data input, the receptor locations and the control parameters to be used in executing the model. This information is contained in a report titled, "Proposed Procedures for SIP Compliance Lead Modeling in Glover, Missouri" dated December 1981.

The Industrial Source Complex Long Term (ISCLT) model was the principal model used in this exercise. Because the plant is located in complex terrain, the VALLEY model was also used to evaluate the impact of the elevated points sources at receptor points greater than stack height. The meteorological data used in the ISCLT modeling were collected at a tower located near the plant. The data are considered to accurately reflect wind conditions on the valley floor where the plant is located. The meteorological data base used in the VALLEY model was collected on top of Taum Sauk mountain which is the highest point in the area and located about 10 kilometers north-northwest of the ASARCO plant. The data are believed to represent the wind conditions in the moderately complex terrain extending several kilometers in all directions from the plant. Eight quarters of meteorological data were assembled for each site to be used in the modeling.

Lead emissions from 4 elevated point sources (stacks), 5 volume sources (building openings) and 10 area sources (slag piles and exposed ground surfaces) were used in the modeling. Emission rates for the point sources were based upon recent stack tests. Fugitive emission rates for the volume sources were based upon test information collected at the plant. The gravitational settling option of the ISCLT model was used with specific gravity data derived from tests conducted at the plant and in the laboratory.

The receptor array for the VALLEY model consisted of 112 points located along 16 radials at 1.65 kilometer intervals from the main stack. Receptors for the ISCLT were located around the periphery of the ASARCO property line and at discrete points of interest within the outer periphery. The outer boundary are small parcels of land not owned by ASARCO. Discrete receptor points were located at the corners of these small parcels of land so that ambient lead concentrations could be predicted at these locations.

In addition to the modeling results submitted by ASARCO and the State of Missouri, EPA performed additional modeling using a 100 meter grid system to define the 1.5 ug/m^3 lead concentration isopleth, and to identify points of maximum ambient lead concentration near the smelter.

Modeling Results

The modeling was performed by ASARCO's contractor according to the modeling plan described above. The results were submitted to the Missouri DNR in a report titled, "SIP Compliance Lead Modeling in Glover, Missouri,"

Revised Final Report, dated April 1982. The state submitted the material as a SIP revision on July 7, 1982. The state also submitted corrections to the modeling results on January 10, 1983.

Based upon an evaluation of the results of the modeling, the state determined that the area around the ASARCO plant is attaining the national ambient air standard for lead. The state did acknowledge in their submittal that the modeling showed exceedences of the standard in three areas of uninhibited private or public lands located in the vicinity of the plant which are completely surrounded by ASARCO property. The state does not consider these exceedences to be violations of the lead standard because the lead standard has a 90-day averaging period and they believe it would be unreasonable to assume that long term exposure could occur in these areas in "the absence of permanent human residence." In addition, the state contends that it would be impractical to declare nonattainment areas of such small size. Also, the state points out that the lead emissions from the ASARCO primary lead smelter are already well controlled.

EPA does not agree with Missouri's determination that the ASARCO modeling demonstrates attainment of the ambient air quality standards. As explained below, EPA believes that the issue to be addressed by modeling is whether predicted exceedences of the lead standards would occur in the ambient air. Issues concering the existing degree of control on the modeled source, the size of the area of predicted exceedences, and the current demographic characteristics of the area, are not relevant to the issue.

Under section 110(a)(2)(A) of the Clean Air Act, states are required to submit plans which demonstrate attainment of the ambient air quality standards. The Act requires that air quality be assured by each state "within the entire geographic area" of the state. *See* section 107(a). In implementing these statutory requirements, EPA has defined the "ambient air" in which the standards must be attained as "that portion of the atmosphere, external to buildings, to which the general public has access." [40 CFR 50.1(e).]

Even though ASARCO owns approximately 4,000 acres of land surrounding their plant in Glover, the smelting operations are conducted within a much smaller security fenced area situated in the middle of their property. Also located within the outer property boundary are small parcels of land not owned by ASARCO. There is a U.S. Post Office and a union hall located on one of these parcels. A church and cemetery are located on another parcel. The public clearly has access to the areas where exceedences of the ambient lead standard are predicted. In addition to the parcels of land not owned by ASARCO in the vicinity of their plant, the public also has access to all ASARCO owned land except for the security fenced area. The primary reason for this conclusion is that a state highway cuts through the center of the ASARCO property and there is no fence or physical barrier to preclude public access from the highway onto ASARCO property.

Applying the ambient air requirements to ASARCO, EPA believes that the state must demonstrate that all areas outside the plant security fence meet the lead standard. The modeling submitted by the state does not make this demonstration. The modeling shows that the highest predicted quarterly concentration outside the fence line is approximately 10 micrograms per cubic meter, the ambient air quality standard for lead is 1.5 micrograms per cubic meter on a quarterly basis. Further information on the number and location of the predicted exceedences can be found in the technical support document prepared for this proposal.

EPA concludes that there are predicted violations of the lead standard in the vicinity of the ASARCO smelter in Glover, Missouri. Furthermore, EPA concludes that these violations are caused by lead emissions from the ASARCO smelter.

EPA's Proposed Action

EPA is proposing to approve the July 7, 1982, ASARCO modeling submittal as meeting 40 CFR 51.84. However, EPA is proposing to find that the existing control strategy for the ASARCO smelter is deficient because it is not adequate to attain and maintain the NAAQS in all areas which represent ambient air. If EPA takes final action to find the control strategy to be deficient, it will request Missouri to revise that strategy pursuant to Sections 110(a)(2)(H) and 110(c)(1)(C) of the Act.

Public Comments

Interested persons are invited to submit written comments on this proposal within 60 days of its publication.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must determine whether this regulation will have a significant economic impact on a substanctial number of small entities. EPA finds that this proposed action, if finalized, will not have a significant impact. Any new control requirements will be imposed in a separate rulemaking. In addition, since the area is not and will not be designated as nonattainment under section 107(d) of the Clean Air Act, disapproval will not trigger any moratorium on the construction of stationary sources.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required by Section 3 of Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments will be available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: March 29, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-28571 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[MO 987; A-7-FRL 2340-4]

Approval and Promulgation of Missouri State Implementation Plan (SIP) for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to approve the Missouri Lead SIP.

SUMMARY: On April 27, 1981 (46 FR 23412), EPA issued final rulemaking which approved the Missouri lead SIP with two exceptions, the attainment date and modeling of three primary lead smelters. Subsequent to the final rulemaking the three primary lead smelters submitted a petition for reconsideration of EPA's disapproval of these two portions of Missouri's plan. Elsewhere in today's **Federal Register**, EPA is granting that petition for reconsideration. This notice proposes to approve the attainment date and modeling portions of the Missouri lead SIP.

DATE: Comments on this approval must be received by December 20, 1983.

ADDRESSES: Copies of documents relevant to this proposed action are available for review at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106

Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

Written comments should be sent to: Dewayne E. Durst, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at the above address or call (816) 374–3791, FTS: 758–3791.

SUPPLEMENTARY INFORMATION: On September 2, 1980, Missouri submitted a lead SIP (EPA received the SIP on September 5, 1980) which was designed to provide for attainment and maintenance of the ambient air quality standards for lead in the state. On December 29, 1980, EPA proposed to approve the SIP with certain exceptions. The State of Missouri submitted additional information to EPA on February 11, 1981, and February 13, 1981, which corrected all minor deficiencies but failed to adequately address two items which were identified as major deficiencies in the proposed rulemaking: (1) The attainment date for meeting the lead standard, and (2) dispersion modeling at the three primary lead smelters in the state as required by § 51.84 of 40 CFR. Because the state did not correct the two deficiencies in the Missouri lead SIP, these items were disapproved in the April 27, 1981 final rulemaking.

Attainment Date

Disapproval of the attainment date in the Missouri SIP resulted from the fact that the state did not follow certain EPA guidance concerning the interpretation of the attainment date in Sections 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA). The Missouri SIP stated that the attainment date would be five years (three years plus a two-year extension) from the date EPA approved their lead SIP. EPA's interpretation of the Act required a uniform national attainment date for all lead SIPs. Based on the statutory timetable for submission and approval of plans, EPA announced in the October 5, 1978 **Federal Register** (43 FR 46246) that all lead SIPs had to provide for attainment "no later than October of 1982" (or up to October 1984 with an approved extension).

In the April 27, 1981 rulemaking, EPA allowed 60 days for the state to submit a revision to their SIP which would set a final attainment date consistent with the one established in the October 5, 1978 **Federal Register**. If the state did not submit the revision, the rulemaking stated that EPA would promulgate the date as part of the Missouri SIP. Missouri did not submit the revised attainment date, nor has EPA promulgated the date. The reason that EPA has not taken action to promulgate the attainment date is because the three smelters filed a petition with the Administrator to reconsider the disapproval action before the 60 day deadline expired. Elsewhere in today's **Federal Register**, EPA is granting the petition for reconsideration.

The basis for the decision to grant the petition with respect to the attainment date is new information which was submitted concerning the attainment date. This information shows that EPA approved an attainment date for the Ohio SIP for total suspended particulate which was three years from the date of plan approval (41 FR 2099, January 14, 1976) rather than the uniform date based on the statutory time intervals in Sections 110(a)(1) and 110(a)(2) of the CAA. This approval was upheld by the U.S. Court of Appeals for the Sixth Circuit in *Northern Ohio Lung Association* v. *EPA* 572 F.2d 1143 (6th Cir. 1978). After reexamining the issue, EPA has concluded that Missouri's interpretation of attainment date as contained in their lead SIP is correct, i.e., that attainment must occur no later than three years from actual date of plan approval. This notice proposes to approve the attainment date portion of the Missouri lead SIP. The latest attainment date for most portions of the state is April 27, 1984.

The State of Missouri requested a two-year extension for attaining the lead standard in two areas of the state. These areas are in the vicinity of the St. Joe and AMAX smelters. EPA approved the request because it met the criteria for an attainment date extension under Section 110(e) of the CAA. The full two year extension was granted because expeditious compliance schedules for the St. Joe and AMAX smelters contained in Missouri's SIP indicated that two years beyond the October 1982 uniform attainment date would be required to complete the control measures needed to meet the standard.[1] Now that EPA is proposing to use Missouri's interpretation of attainment date, the full two year extension is not needed. Thus, EPA is proposing to modify its approval of the extension request by granting an extension for attainment of the lead standard in the vicinity of the St. Joe and AMAX smelters until October 31, 1984.[2] The attainment date for the urban areas of Missouri (St. Louis and Kansas City) will remain November 1, 1982 as is stated in the Missouri SIP submittal. The state did not request an extension for the area around the ASARCO smelter because ambient sampling at two monitors located near the main property boundary of the smelter had not registered exceedences of the lead standard. Thus, the attainment date for the area around ASARCO is April 27, 1984.

EPA's approval of the attainment date contained in Missouri's lead SIP does not change any of the dates contained in the individual consent orders for each smelter. The consent orders remain an approved portion of the Missouri lead SIP and the completion dates contained in those orders are considered expeditious as practicable for purposes of attaining the primary lead standard in the vicinity of the smelters. Any revision of the final compliance dates contained in those orders would require a revision of the approved SIP. Thus, this proposal would not result in extending the dates for compliance with the lead standards near the St. Joe and AMAX smelters.

Modeling

The Missouri lead SIP did not contain dispersion modeling for the three primary lead smelters as required by 40 CFR 51.84. The state attempted to perform dispersion modeling for two of the smelters but because of lack of on-site meteorological data and accurate emission data, the results of the modeling did not correlate with measured air quality data. Because of these deficiencies, the state contended that any dispersion modeling which could be performed within the agreed upon time frame for submission of the Missouri lead SIP would not produce reliable predictions of lead concentrations in the vicinity of the lead smelters. Because the Missouri SIP did not comply with 40 CFR 51.84, EPA disapproved that portion of the SIP and called upon the state to perform dispersion modeling for the three primary smelters within 12 months of

[1] In approving the compliance schedules, EPA found that the SIP provided for attainment of the standard in the vicinity of the two smelters by October, 1984 (46 FR 23414).

[2] Section 110(e) of the CAA authorizes an extension of not more than two years after the initial three years allowed for attainment. (Section 110(e)(1)). However, the duration of the extension can only be the time during which controls necessary for attainment are not available. The Missouri plan shows that such controls will be in place by October 31, 1984, or approximately six months after the three year attainment date. Therefore EPA believes an extension until October 31, 1984 is appropriate under Section 110(e).

the date of approval of the remaining portions of the SIP. The smelters' petition also requested reconsideration of EPA's disapproval of the modeling.

The petition correctly points out that EPA received new information concerning the state's modeling effort after the final action on the lead SIP. On June 10, 1981, EPA personnel had an opportunity to review the modeling the State had performed for the AMAX and St. Joe smelters. At that meeting, the EPA reviewers agreed that the modeling studies did not produce reliable predictions of lead concentrations in the vicinity of the two smelters. The unreliable predictions resulted from a lack of on-site meteorological data and lack of fugitive emission data for the AMAX and St. Joe smelters.

Elsewhere in today's **Federal Register**, EPA is granting the petition with respect to the modeling issue. As explained in the notice granting the petition, EPA believes that the State's attainment demonstration used generally acceptable techniques and the best information available at the time the SIP was prepared. We find there would be no practical purpose in insisting on formal submittal of dispersion modeling to satisfy disapproval of the present Missouri lead SIP. Accordingly, EPA has decided that the State substantially complied with 40 CFR 51.84. Therefore, this notice proposes to approve the modeling portion of the Missouri lead SIP.

Modeling was not performed for the ASARCO smelter prior to submission of the lead SIP. Even though site specific meteorological and emission data were available for the ASARCO smelter before the SIP was submitted, it required verification to insure that it was acceptable for input to the model. After considerable time was spent reviewing and evaluating meteorological and fugitive emissions input data, modeling was commenced for the ASARCO plant in early 1982. That modeling has been completed and submitted to EPA. Elsewhere in today's **Federal Register**, EPA is proposing to approve the modeling as meeting the requirements of 40 CFR 51.84. However, based upon the results of that modeling, EPA has concluded that there are violations of the ambient air quality standard for lead in the vicinity of the ASARCO smelter in Glover, Missouri. Thus, while EPA is proposing to approve the modeling performed for the ASARCO smelter, EPA is also proposing to find the control strategy for ASARCO deficient based upon the results of the modeling.

EPA solicits comments on its proposed approval of the two previously disapproved portions of the Missouri lead SIP as identified in this notice. Comments should also be submitted on the information and issues discussed in the Response to Petition for Reconsideration of Missouri's Lead Plan and Notice of Policy Change Regarding Attainment Date for State Implementation Plans for Lead, published elsewhere in this **Federal Register**. That response contains further discussion of the rationale for the actions proposed in this notice.

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

This proposal and the related notices on the petition for reconsideration, referenced above, were submitted to the Office of Management and Budget (OMB) for review as required by Section 3 of Executive Order 12291. Any comments from OMB and any EPA response to those comments will be available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

(Sec. 110 of the Act as amended (42 U.S.C. 7410))

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: March 29, 1983.

Morris Kay,

Regional Administrator.

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Friday
October 21, 1983

Part VIII

Environmental Protection Agency

Ocean Dumping Permit Programs

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2456-5]

Ocean Dumping Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice. Ocean Dumping Permit Program, notice of receipt of applications and tentative determination to issue special and research permits for the incineration of chemical wastes at sea; announcement of public hearings to receive comments.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has made a tentative determination to issue special and research permits to Chemcial Waste Management, Inc., Oak Brook, Illinois, and Ocean Combustion Service, B.V., Rotterdam, the Netherlands, (the Applicants) for the M/T VULCANUS I and the M/T VULCANUS II to transport and dispose of material as authorized by the Marine Protection, Research and Sanctuaries Act of 1972 (the Act), as amended.

The Special Permits, HQ 83-001 and HQ 83-002, would authorize the Applicants, over a three year period, to use the M/T VULCANUS I and the M/T VULCANUS II, respectively, to transport to the designated Gulf Incineration Site (in the Gulf of Mexico) and incinerate at the site a combined total of 300,000 metric tons (approximately 79.7 million U.S. gallons) of mixed liquid organic compounds. The Research Permit, HQ 83-003, would be issued for six months and would authorize the Applicants to demonstrate that the incinerators on the M/T VULCANUS II can attain a destruction efficiency of at least 99.99 percent on 10 percent dichlorodiphenyl trichloroethane (DDT), 90 percent solvent wastes. The amount of material that would be incinerated under the Research Permit is 900 metric tons (approximately 264,600 U.S. gallons).

Solicitation of Public Comments

The purpose of this Notice is to provide all interested parties an opportunity to comment on the factors considered in reaching the tentative determination to issue the permits. In addition, the Agency invites public comment on the principles used in developing these permits as a model for specific criteria regulating incineration-at-sea. The principles are:

(1) Limiting the compounds that are eligible for incineration in a waste mixture to those compounds with heats of combustion equal to or greater (i.e. easier to burn) than the heats of combustion of the principal organic hazardous waste constituents (POHCs) for which the incinerators demonstrated a destruction efficiency of at least 99.99 percent.

(2) Developing operating condition and performance standards for incineration at-sea permits equivalent to those in land-based incineration permits.

(3) Requiring independent verification of the Permittees' compliance with the conditions of the Permits.

Furthermore, the Agency would like recommendations on what constitutes an adequate demonstration of financial responsibility. The Permittees carry $350,000,000 in liability insurance. While this amount appears adequate, EPA does not necessarily endorse this specific amount and requests information on appropriate methods for determining an adequate level of liability insurance. As proposed, the permits require notification if there is any decrease in the amount of liability insurance carried.

DATES: Written public comments on this Notice should be submitted by December 8, 1983 to: Patrick M. Tobin, Director, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public hearings will be held on the dates and at the times specified below:

1. November 21, 1983, from 9:00 a.m. to 10:00 p.m., Jacob Brown Auditorium, Civic Center, 600 International Blvd., Brownsville, Texas
2. November 33, 1983, from 7:00 p.m. to 10:00 p.m., November 23, 1983, from 9:00 a.m. to 1:00 p.m., Mobile Gas Service Corporation Auditorium, 2828 Dauphin Street, Mobile, Alabama

Registration will begin at 8 a.m. for day sessions and 6:00 p.m. for the Mobile evening session. A 30 minute staff presentation will open the day hearings at 9:00 a.m. and the Mobile evening session at 7:00 p.m. and if necessary, a summary of the staff presentation will be repeated at 7 p.m. for the Brownsville hearing. All speakers must register and will be heard in the order in which they have registered. Remarks should be sumarized in five minutes or less. Speakers are encouraged to submit written statements for the record:

FOR FURTHER INFORMATION CONTACT: Dr. Alan B. Rubin, Chief, Criteria Section (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-245-3030.

SUPPLEMENTARY INFORMATION: Supplementary information, draft permits and all reports and studies used in making tentative determination to issue these permits may be examined at the following locations during normal business hours:

United States Environmental Protection Agency, Library, Room 2904 Mall (Rear), 401 M Street, SW., Washington, D.C. 20460, Attn: Ms. Gloris J. Butler, (202) 382-5926

U.S. Army Corps of Engineers, Brownsville, Room 508, Boca Chica Towers, 2100 Boca Chica Blvd., Brownsville, Texas 78520, Attn: Mr. Arthur Barrera, (512) 546-2456

State of Texas Law Library, Texas Supreme Court Building, 13th and Colorado Streets, Austin, Texas 78711, Attn: Ms. Kay Schlueter, (512) 475-3807

U.S. Corps of Engineers, Mobile, Room 5031, New Federal Building, 109 St. Josephs, Mobile, Alabama 36601, Attn: Ms. Cissy Scott, (205) 690-3182.

The Applicants submitted an application for a special permit on July 10, 1981, and an application for a research permit on November 2, 1981. Public meetings were held in Brownsville, Texas, May 25, 1982, and in Mobile, Alabama, May 27, 1982, to consider the Applicants' permit requests and to discuss the preliminary results of the trial burn on PCBs (under Research Permit HQ 81-002). On August 31, 1982, a public hearing was held in Brownsville, Texas, to receive formal comments on the Applicants' request for permits and to outline the quality assurance and quality control procedures used in monitoring the second PCB trial burn. Subsequent to the public hearing and after considering the hearing record, the Agency decided to revise its approach in developing the conditions for the proposed permits.

The Agency is making a new tentative determination to issue the permits based on the finding that the proposed incineration would not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities of the ocean. The basis of this finding was the determination that the proposed permits are consistent with the criteria in the Ocean Dumping Regulations in 40 CFR Parts 220-228 and the Regulations for the Control of Incineration of Wastes and Other Matter at Sea, Addendum I to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Dumping Convention or LDC) to which the United

States is a Contracting Party. The proposed permits are also consistent with the Interim Technical Guidelines on the Control of Incineration of Wastes and Other Matter at Sea, as amended by the Fourth Consultative meeting to the London Dumping Convention. With respect to the incineration of PCBs, the permits meet the requirements of the regulations in 40 CFR 761.70(a) implementing provisions of the Toxic Substances Control Act on incinerating liquid PCBs. In addition, as a matter of Agency policy, the proposed permits are consistent with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, regulations on land-based incinerator facilities in 40 CFR Part 264, Subpart O.

In this Notice, the relevant provisions of each of the above regulations are summarized and compared with the proposed permits. A Background Document has been prepared which provides a more detailed analysis of the factors used in reaching the tentative determination to issue the permits. The Background Document also includes a section-by-section analysis of the permits which provide the reasons for the selection of particular permit conditions. This Background Document may be obtained by writing or calling Dr. Alan B. Rubin, listed above under "FOR FURTHER INFORMATION CONTACT".

The remainder of this Notice is organized as follows:

I. Summary of the Major Provisions in the Permits and the Rationale for the Provisions Selected
II. Summary of the Factors Considered and the Findings Reached in Making a Tentative Determination to Issue the Permits

I. Summary of the Major Provisions of the Permits and the Rationale for the Provisions Selected

This section organizes the key permit conditions under major topic categories. Under each category, the key conditions of the permits which fall under that category are summarized, followed by a brief explanation of the rationale supporting the Agency's decisions to select these conditions. A more detailed explanation is provided in the Background Document, available from EPA.

Authorized Vessels

- HO 83-001: M/T VULCANUS I
- HO 83-002: M/T VULCANUS II
- HO 83-003: M/T VULCANUS II

Duration of the Permits

1. *Permit Condition:*

HO 83-001: 3 years
HO 83-002: 3 years
HO 83-003: 6 months

2. *Rationale.* The three year expiration date for the Special Permits, HQ 83-001 and HQ 83-002, is a regulatory requirement of 40 CFR 220.3(b). The six months expiration date for the Research Permit, HQ 83-003, is a statutory requirement of 33 U.S.C. 1412a(b).

Eligible Wastes and Quantities To Be Incinerated

1. *Permit Condition.* Eligible wastes are:

- HQ 83-001: liquid organic compounds with heats of combustion equal to or greater than 1.79 kcal/gram
- HQ 83-002: liquid organic compounds with heats of combustion equal to or greater than 0.24 kcal/gram
- HQ 83-003: liquid DDT wastes consisting of 10 percent DDT and 90 percent organic solvents with heats of combustion equal to or greater than 0.24 kcal/gram

The maximum quantities of wastes which may be incinerated are:

- HQ 83-001 and HQ-002: a combined total of 300,000 metric tons
- HQ 83-003: 900 metric tons

2. *Rationale.* The determination of which compounds are eligible for incineration under the Special Permits, HQ 83-001 and HQ 83-002, is based on trial burns which demonstrated a destruction efficiency of at least 99.99 percent on principal organic hazardous waste constituents (POHCs) and a comparison of the heats of combustion of th compounds in the waste mixture to those POHCs tested. A POHC is an organic chemical in a waste mixture that has been identified as hazardous by EPA in Appendix VIII of 40 CFR Part 261. By demonstrating that an incinerator can achieve a 99.99 percent destruction efficiency on a particular POHC, EPA can generally be assured that any less thermally stable hazardous component burned in the incinerator under comparable conditions also will be destroyed.

Compounds with lower heats of combustion have greater thermal stabilities and are therefore more difficult to burn than compounds with higher heats of combustion. The heat of combustion of each of 293 hazardous constituents is ranked on an Index of Incinerabilitly. The heat of combustion is determined empirically in the laboratory through bomb calorimetry or through calculation of chemical bond strengths. The compound on the Index of Incinerability most difficult to burn has the lowest heat of combustion and is listed first; the compound easiest to burn has the highest heat of combustion and is listed last. Compounds in a waste mixture can be compared to the Index of Incinerability to determine whether their heats of combustion are greater than, equal to, or less than that of the POHCs tested. Waste mixtures that are eligible for incineration only contain those compounds or classes of compounds, with heats of combustion equal to or greater than the compound with the lowest heat of combustion for which the incinerator demonstrated a destruction efficiency of 99.99 percent during a trial burn.

The purpose of Research Permit HQ 83-003 is to determie the destruction efficiency of the incinerators onboard the M/T VULCANUS II for DDT (and associated compounds DDE and DDD). Even though the heat of combustion of DDT, 4.51 kcal/gram, is greater than the heat of combustion of tetrachloromethane, 0.24 kcal/gram, for which the M/T VULCANUS II demonstrated a destruction efficiency of greater than 99.99 percent, Regulation 4 of the London Dumping Convention's Incineration Regulations requires a trial burn before DDT may be included in a waste mixture authorized for incineration under a special permit. This is because DDT is one of five compounds identified in the Technial Incineration guideline on which three are doubts as to its incinerability.

Prohibitions and Limitations on Contents/Materials To Be Incinerated

1. *Permit Conditions:*

- HQ 83-001 and HQ 83-002 prohibit:

—Quantifiable concentrations of compounds with heats of combustion less than 1.79 kcal/gram (HQ 83-001) or 0.24 kcal/gram (HQ 83-002)
—Quantifiable concentrations of:
  —DDT and associated compounds DDD, DDE
  —PCTs (polychlorinated tripenyls)
  —BHC (lindane)
—TCDD (dioxin) in concentrations exceeding 2 ppm
—PCBs in concentrations exceeding 35 percent
—Chlorine in concentration exceeding 70 percent
—Over 100 ppm of arsenic, cadmium, chromium, copper, lead, nickel, selenium, thallium, zinc
—Over 9 ppm mercury
—Over 20 ppm silver
—Materials which are produced for radiological, chemical or biological warfare, high-level radioactive wastes, or materials which cannot be identified or which are presistent

and may float or remain in suspension.

- HQ 83-9003:

—Similar to above, except TCDD and PCBs are excluded from the trial burn under the Research Permit

2. *Rationale.* The permits would prohibit or restrict the burning of wastes containing "quantifiable concentrations" of certain chemical compounds. A quantifiable concentration is defined as the minimum concentration of a discrete chemical constituent in a chemical waste mixture that can be detected, identified and quantified without confirmatory analysis. The amount of this concentration will vary depending on the chemical constituent, possible interferences of other constituents in the chemical waste, the method of sample preparation, and method of analytical detection, identification, and quantification. This means that for organics the quantifiable concentrations are most likely to be 1–2 ppm while for metals the quantifiable concentration is most likely to be 1–10 ppb.

Incineration of DDT, BHC, and PCT is prohibited because there has been no trial burn to establish the incinerability of these compounds. Incineration of these materials without a trail burn is prohibited by Regulation 4 of the London Dumping Convention's Incineration Regulation 4 because there are doubts (according to the London Dumping Convention's Incineration Guidelines) as to the incinerability of these compounds.

Trail burns were conducted on the M/T VULCANUS I for both TCDD (dioxin) and PCBs. Trial burns were not required on the M/T VULCANUS II for TCDD and PCBs based on a finding that the incinerator equipment on the M/T VULCANUS II is the same as that on the M/T VULCANUS I and on EPA's accumulate experience in the monitoring of incinerators for TCDD and PCB emissions.

Three separate trial burns were conducted for TCDD during the incineration of the U.S. Air Force's stock of Herbicide Orange in 1977 on the M/T VULCANUS I. Usually a concentration of at least 100 ppm of a compound is needed in a waste mixture to analytically measure and demonstrate an incinerator's destruction efficiency for that compound to at least 99.99 percent. In the Herbicide Orange mixture, TCDD averaged only 1.9 ppm. While an overall destructive efficiency of greater than 99.93 percent was obtained for dioxin in the three burns, EPA believes that the incinerators probably achieved at least a 99.99 percent destruction efficiency on TCDD based on the fact that during the same trial burns, the destruction efficiencies for 2,4-D and 2,4,5-T were calculate to be greater than 99.99 percent. However, to be able to demonstrate an unqualified destruction efficiency, there has to be a detectable and quantifiable amount of a compound in the stack gas samples. The inability to detect a compound does not mean that the compound is not present; the level of detection of the sampling methodology may not be adequate to measure low levels of a particular compound. At that time, the methodologies employed did not have the analytical sensitivity to measure low levels of potentially surviving dioxin in stack gas samples, particularly in mixtures with compounds having a similar chemical structure as dioxin.

Dioxin is easier to incinerate than other compounds that the vessels are authorized to include in a waste mixture. Dixoin has a heat of combustion of 2.43 kcal/gram, while hexachlorobenzene has a heat of combustion of 1.79 kcal/gram and tetrachloromethane has a heat of combustion of 0.24 kcal/gram on which the M/T VULCANUS I and M/T VULCANUS II, respectively, demonstrated greater than 99.99 percent destruction efficiency.

In addition, incinerator plume modelling and subsequent ocean dispersion modelling have demonstrated that emissions resulting from the incineration of chemical wastes containing 2 ppm of dioxin at a destruction efficiency of 99.93 percent will not exceed the limiting permissible concentration of TCDD, as defined in 40 CFR 227.27, and will not cause any adverse environmental impact. This is based on a determination that any uncombusted dioxin in the emissions would result in an ambient marine water concentration of dioxin below the marine aquatic life no-effect for this compound. Based on the foregoing, EPA has authorized the incineration of wastes containing dioxin, in concentrations not to exceed 2 ppm.

The trial burn in August, 1982 demonstrated that the M/T VULCANUS I could achieve a destruction efficiency of greater than 99.99 percent for PCBs. The concentration of PCBs in the waste mixture may not exceed 35 percent by weight to assure that at a destruction efficiency of at least 99.99 percent, any trace PCB emissions will not cause the ambient marine water quality criterion (limiting permissible concentrations) to be exceeded as required in 40 CFR 227.27. This determination is made by performing incineration plume modelling and subsequent ocean dispersion modelling.

The chlorine concentration of the wastes is limited to 70 percent because this is the maximum concentration for which both vessels have demonstrated a combustion efficiency of 99.9 percent, on the whole wastes, while also demonstrating a destruction efficiency of 99.99 percent on the POHCs tested. (A discussion of the difference between combustion efficiency and destruction efficiency is included later in this Summary of the Major Provisions in the Permits).

Limits are placed on the above-listed metals to ensure that the surviving metallic particulates will not cause the applicable marine water quality criteria or the limiting permissible concentrations defined in 40 CFR 227.27 to be exceeded.

High level radioactive wastes, or materials which are used in radiological, chemical or biological warfare, which cannot be identified, or which are persistent, inert, synthetic, or which may float or remain in suspension are prohibited by Section 102(a) of the Act and § 227.5 of the Ocean Dumping Regulations.

Analysis of the Wastes Required Before Each Incineration Cruise

1. *Permit Conditions:*

- Before each incineration cruise, an analysis of the wastes must be conducted in accordance with EPA-approved protocols (in Appendix A of the Permit), in an EPA-approved laboratory.
- Duplicate samples may be taken by EPA or an authorized EPA representative, coded, and analyzed in an EPA-approved laboratory to verify the Permittees' samples and analyses.
- Wastes from hazardous waste sites subject to a Court, State, or EPA order are to be identified.

2. *Rationale.* The Ocean Dumping Regulations at 40 CFR 227.5(c) prohibit the dumping of wastes which are insufficiently described to determine their impact on the environment. EPA is requiring the Permittees to supply information on the chemical classes of the constituents in the waste mixture. This level of detail is sufficient to determine the incinerability of these wastes and the effect of these wastes on the environment after incineration. The Permittees are to submit an analysis of the wastes from the blending/holding tanks in Emelle, Alabama to EPA before the wastes are loaded for each incineration cruise. The reason for requiring an analysis of the wastes before each incineration cruise is that

over the three year term of HQ 83-001 and HQ 83-002, the wastes will be coming from many different sources and are likely to vary in their composition.

EPA may take duplicate samples from the Permittees' blending/holding tanks in Emelle and submit them for analysis to verify the analytical results obtained by the Permittees on the original samples. Also, EPA may analyze the wastes at dockside or in the vessels' storage tanks to ensure that new wastes have not been added or other wastes substituted from the time the wastes were transported from Emelle to the Port of Mobile for loading on the vessels.

The Permittees are to report, to the best of their knowledge, whether any of the wastes to be incinerated are from hazardous waste sites which are subject to a Court, State or EPA cleanup order. This information will assist EPA and the States in verifying the location and final disposition of such wastes and may assist EPA's determination as to whether the wastes meet the permit conditions.

Authorization for Loading/ Incineration Is by the Permit Program Manager:

Permit Condition and Rationale

The Permit Program Manager is the official who will make the decisions on all aspects of the permits and who is ultimately responsible for ensuring that the incineration operations are carried out safely and efficiently. The Director, Criteria and Standards Division, Office of Water Regulations and Standards is designated as the Permit Program Manager.

The Permit Program Manager evaluates the data from the previous cruise to independently verify that the Permittees met the performance standard and operating conditions specified in the permit. Authorization of successive incineration cruises is dependent on the demonstration that the Permittees complied with all provisions and requirements of the Permit during the previous incineration operation. Although this requirement may cause a delay in incineration activities, in EPA's judgment it is essential to assure that incineration at-sea activities are carried out properly and in an environmentally acceptable manner.

The chemical analyses submitted by the Permittees will be evaluated by the Permit Program Manager to assure that the wastes do not contain chemicals with heats of combustion less than that specified in the Permit and do not contain any prohibited materials. The Pernfit Program Manager will verify that the analytical results obtained from the duplicate samples, if taken at Emelle, Alabama, are in agreement with the analytical results submitted by the Permittees on the original samples. If the Permit Program Manager is convinced that the wastes meet the specifications of the Permit, he will authorize the loading of the vessel. Loading of the vessel may begin with a verbal authorization, but prior to departure the specific written authorization must be onboard the vessel.

The authorization for loading is, for all practical purposes, an authorization for incineration. However, should the analyses of any samples taken by EPA from the vessels' or dockside storage tanks, or from the blending/holding tanks, demonstrate the presence of compounds that were not in, or were in concentrations greater than that indicated in the original analyses of the Permittees' samples from the blending/ holding tanks, the Permit Program Manager shall terminate the incineration if the newly discovered compounds, or the concentrations of these compounds are not eligible for incineration. If these verification analyses of the mixed chemical wastes show the wastes are nevertheless eligible for incineration, the Permit Program Manager has the discretion to terminate or to continue the incineration. In any case, whether the incineration is terminated or not, any discrepancies beyond the expected range of sample variation constitute a violation of the Permit.

The U.S. Coast Guard supervises the loading of the vessels and the Captain of the Port, Mobile, supervises the passage of the vessels through Mobile Bay to the Gulf.

Port of Departure is Port of Mobile, Alabama

Permit Condition and Rationale

Section 223.1(a)(3) states that the permit shall include the port through or from which the wastes will be transported. Designation of a specific port also serves to restrict the geographic area in which the activities may take place to aid in EPA's and the U.S. Coast Guard's surveillance and enforcement functions.

Incineration Site

Permit Condition and Rationale

As provided in 40 CFR 228.12(b)(1), incineration of mixed chemical wastes may occur only at the designated site. The Gulf Incineration Site[1] lies 315 kilometers south, southest of Galveston, Texas and 350 kilometers south, southwest of Cameron, Louisiana. It is located off the continental slope and covers approximately 4900 square kilometers. The water depth at the Site's center is approximately 1,375 meters.

At this time the Gulf Site is the only site which has been designated for the incineration-at-sea of mixed chemical wastes. It was designated on September 15, 1976 (41 FR 39319) and redesignated on April 26, 1982 (47 FR 17817).

Performance Standards:

1. *Permit Conditions:*

- HQ 83-001: 99.99 percent destruction efficiency; 99.9 percent combustion efficiency
- HQ 83-002: 99.99 percent destruction efficiency; 99.9 percent combustion efficiency
- HQ 83-003: 99.99 percent destruction efficiency; 99.9 combustion efficiency

2. *Rationale.* A destruction efficiency of 99.99 percent was established as a performance standard based on extensive date indicating that such a destruction efficiency is attainable and can be routinely measured in incinerators buring a wide range of organic hazardous waste constituents in initial concentrations that are over 100 ppm. A 99.99 percent destruction efficiency ensures that any emissions from the incineration process will be rapidly rendered harmless or will be present only in trace amounts as required in 40 CFR 227.6. This determination is based on incinerator plume modeling and subsequent ocean dispersion modeling that show any emissions will result in ambient marine water concentrations below the limiting permissible concentrations as required by 40 CFR 227.27.

Based on EPA's accumulated experience and judgment in monitoring incineration, a combustion efficiency of at least 99.9 percent on the *entire* load of mixed chemical wastes corresponds to destruction efficiencies of at least 99.99 percent for all compounds in the wastes whose heats of combustion are equal to or greater than 1.79 kcal/gram (for the M/T VULCANUS I) or 0.24 kcal/gram (for the M/T VULCANUS II). The lower combustion efficiency of 99.9 percent is due to the fact that a waste mixture is not pure; it includes such elements as metals, sand and moisture which cannot be destroyed completely. Combustion efficiencies are continuously calculated on each incineration cruise.

[1] The coordinates of the Gulf Incineration Site are:
Latitude and longitude:
26°20'00"N., 93°20'00'00" W.
26°20'00"N., 94°00'00'00" W.
27°00'00"N., 93°20'00'00" W.
27°00'00"N., 94°20'00'00" W.

Destruction efficiencies are calculated for each incineration cruise under the Research Permit but not necessarily for each incineration cruise under the Special Permits. The Permit Program Manager may request that the Permittees sample and analyze the waste and emissions to verify that the operating conditions established in the Special Permits achieve the performance standard of 99.99 percent destruction efficiency.

Operating Parameters

1. *Permit Conditions:*

- HQ 83-001:
  - —Temperature: minimum-1280°C; average-1303°C; prior to waste feed initiation-1353°C
  - —Oxygen: minimum-5%; average-101%
  - —Carbon monoxide: maximum-100 ppm; average 8-ppm
- HQ 83-002:
  - —Temperature: minimum-1166°C; average-1200°C; prior to waste feed initiation-1250°C
  - —Oxygen: minimum-5%; average-10.6%
  - —Carbon monoxide: maximum 100-ppm; average-22 ppm
  - —If incinerating TCDD and PCBs, same as HQ 83-001
- HQ 83-003:
  - —Minimum temperature (1200°C) and oxygen level (5%) in the combustion gases and maximum carbon monoxide (100 ppm) in the combustion gases are the same as HQ 83-002; no averages are set since they will be established in the trial burn.

2. *Rationale.* In EPA's judgment, the operating conditions specified will ensure that the incinerators attain and maintain a combustion efficiency of at least 99.9 percent and a destruction efficiency of 99.99 percent.

The operating conditions established for the M/T VULCANUS II are lower than those for the M/T VULCANUS I (except for burning TCDD or PCBs) for two reasons. First, the BTU content of the wastes burned during the trial burn on the M/T VULCANUS II was lower than the BTU content of the wastes on the M/T VULCANUS I. Second, the thermocouples measuring the wall temperature on the M/T VULCANUS II are placed higher above the burner head and in a cooler part of the stack than on the M/T VULCANUS I.

The minimum operating conditions are based on EPA's accumulated data and best engineering judgment that complete combustion will still occur if operating conditions less stringent than the minimum established exist. Minimum operating conditions are given for temperature and oxygen, and a maximum for carbon monoxide, because these are the three key parameters that assure complete combustion of the chemical wastes.

If the temperature and oxygen levels fall below the specified minimum or carbon monoxide rises above the specified maximum, automatic devices shut off the flow of the waste to the incinerator. Prior to feeding the waste into the incinerators, a temperature 50°C higher than the average must be attained to provide a margin of safety against possible variations in the operating efficiency of the incinerator.

The average operating conditions specified are the averages that were measured on the trail burns which demonstrated that the incinerators on the M/T VULCANUS I and M/T VULCANUS II achieved a destruction efficiency of greater than 99.99 percent on the POHCs tested. The average operating parameters are to be calculated every two hours, which corresponds to the approximate time it takes to run a destruction efficiency test while recording the operating parameters during a trial burn. Buy using the same timeframe, there is greater assurance that the proper destruction will be maintained throughout the incineration.

The minimum operating conditions and the averages that must be maintained during incineration for the M-T VULCANUS II, when incinerating wastes containing TCDD and PCBs, are the same as those for the M/T VULCANUS I. The reason for this is that the waiver of trial burns for TCDD and PCBs on the M/T VULCANUS II was based, in part, on the determination that the incinerator equipment on both vessels is the same, so that identical operating conditions should yield identical performance (destruction efficieny).

In the Research Permit, HQ 83-003, only minimum (or maximum for carbon monoxide) operating conditions are specified. The Research Permit will establish average operating conditions for future incineration of DDT as a result of the trial burn.

Automatic Waste Feed Shut-off Device

1. *Permit Conditions.* Automatic devices shut off the waste feed to the incinerator whenever:

- Minimum temperature or oxygen levels in the combustion gases, or maximum carbon monoxide levels in the combustion gases are reached; or
- Monitoring devices fail for temperature, air flow, draft (negative pressure) in the combustion chambers, oxygen, carbon monoxide, carbon dioxide, waste feed and/or auxiliary fuel (if used).

2. *Rationale.* Automatic waste feed shut-off devices stop the flow of the wastes to the incinerators whenever the flame goes out, or the minimum temperature, minimum level of oxygen in the combustion gases or, the maximum level of carbon monoxide in the combustion gases are reached. These parameters were selected because temperature, oxygen, and carbon monoxide are the key parameters in determining the operating efficiency of the incinerators. In addition, whenever the devices monitoring temperature, air flow, draft (negative pressure) in the combustion chambers, oxygen, carbon monoxide, carbon dioxide and waste feed flow and/or auxiliary fuel (if used) fail, the automatic waste feed shut-off devices are activated. Continuous monitoring and recording of these parameters are required in order to calculate combustion efficiency, dwell time and to assure overall incinerator performance and safety to shipboard personnel.

Monitoring and Recording Requirements

1. *Permit Conditions:*

- Automatic, tamper proof devices are to *continuously* monitor and record temperature, air flow, oxygen, carbon monoxide, carbon dioxide, draft (negative pressure) in the combustion chamber and waste feed and/or auxiliary fuel (if used).
- At least hourly recordings of time, date, wind speed and direction and vessel position, course and speed are to be made.
- All monitoring data are to be submitted to the Permit Program Manager for evaluation of compliance with the performance standard, operating conditions and monitoring requirements of the Permit.
- All raw data resulting from the activities of this Permit shall be available for public inspection in the Office of the Permit Program Manager.

2. *Rationale.* In EPA's judgment, the readings for temperature, air flow, oxygen, carbon monoxide, carbon dioxide and waste feed and/or auxiliary fuel (if used) together with other vessel operating information listed above are needed to verify that the performance standards and operating conditions have been met, that the incineration took place at the designated site and that there were no direct discharges of wastes into the water.

Instrument Calibration

1. *Permit Conditions:*

- Calibration of the instruments

measuring temperature, air flow, draft (negative pressure) in the combustion chambers, oxygen, carbon monoxide, carbon dioxide, waste feed flow and auxiliary fuel (if used) is to be performed before each cruise and in accordance with manufacturer's recommendations, or more frequently if conditions warrant.

• A permanent record is to be made of each calibration.

2. *Rationale.* Instrument calibrations are necessary to assure that the measuring devices are giving true readings. Frequent calibrations may be necessary if the vessel has been operating under unusual circumstances such as long and severe vibrations or in severe weather.

Instrument calibrations are to be done according to the manufacturer's instructions and a permanent record is to be kept of each calibration. This record will be examined as part of EPA's analysis and evaluation of the monitoring data following each burn.

Other Requirements

Permit Conditions and Rationales

• The draft (negative pressure) in the combustion chamber shall be maintained at greater than one (1) inch of water column below atmospheric pressure.

This is to ensure that: (1) The oxygen content of the stack gas results exclusively from sufficient air flow from the blowers, and (2) to protect shipboard personnel by preventing fugitive emissions from the incinerators.

• No black smoke or extension of the flame is to be above the plane of the stack.

These occurrences indicate incomplete combustion and are prohibited by the London Dumping Convetion's Incineration Regulations.

• Ammonia is to be added to the plume, if necessary, to make it visible.

This is to assure that any ships which wander off course or do not hear the "Broadcast to Mariners" will be aware of and avoid the incineration operations.

• If tanks are washed, they are to be washed with a combustible solvent and such washings and any residues or ash remaining after incineration are to be either incinerated at-sea or, upon return to port, incinerated in EPA-approved facilities, or otherwise properly disposed of in accordance with applicable EPA regulations.

This provision is in keeping with TSCA Compliance Program Policy No. 6 PCB–2—Physical Separation Techniques (August 16, 1983) to assure PCBs are disposed of in accordance with TSCA regulations (40 CFR 761.60).

• Any wash waters, ballast waters or pump room bilge water found to be contaminated with chemical waste beyond background levels are to be incinerated at-sea, or, on return to port, either incinerated in EPA-approved land-based facilities or treated in accordance with applicable EPA regulations. In no case are these contaminated waters to be discharged directly to the ocean or into the harbor.

This provision ensures that all possible measures will be taken to protect the environment.

• Vessel and incinerator certificates required as a condition of the Permit.

The permit specifies that a "Certificate of Fitness" issued by the International Maritime Organization, a "Letter of Compliance" issued by the U.S. Coast Guard and a "Survey Report" and "Form of Approval" for the incinerators issued by a Contracting Party to the London Dumping Convention be onboard the vessels and prominently displayed as required by the London Dumping Convention and U.S. laws and treaties. These certificates indicate that the vessels and the incinerators have met all international and U.S. requirements necessary for the safe operation of the vessels and that all reasonable safety precautions have been taken.

• The Permitees are to notify the Permit Program Manager of any decrease in their liability insurance.

Permittees have $350,000,000 in insurance policies which appear adequate to fully protect the United States, States and the public against any and all liability arising out of the Permittees' acts or omissions in the performance of the permits. EPA is not necessarily endorsing this specific amount. The Agency is requesting recommendations on appropriate methods for determining an adequate level of liability insurance.

• Compliance with the requirements of other laws.

The Permittees must comply with all applicable Federal or State requirements for hazardous waste generation, collection, storage, transportation, reporting, labelling and disposal, whether or not they are specifically mentioned in the permits. Particularly pertinent are Section 6(e) of the Toxic Substances Control Act and the Solid Waste Dispoal Act, as amended by the Resource Conservation and Recovery Act (RCRA). The Assistant Administrator for Pesticides and Toxic Substances must give written approval of the incinerators before any incineration of wastes containing PCBs may take place.

Verification of Permit Conditions

1. *Permit Condition. Verification is by:*

• automatic tamper proof monitoring devices; and

• 24 hour per day independent observation of the incineration activities by shipriders, approved by and responsible to EPA.

2. *Rationale.* EPA is requiring that shipriders be onboard the vessels during each incineration cruise to provide 24 hour per day coverage of all activities. The shipriders may be EPA employees or independent parties selected by the Permit Program Manager. If independent parties, the shipriders are paid by the Permittees but report directly to the Permit Program Manager. A Shiprider, appointed by the Permit Program Manager, has the authority to terminate the burn if, in the Shiprider's opinion, any term of the permit is not being met. Shipriders are included as a condition of the permits to provide *full* and *continuous* observation of incineration activities because the nature of incineration activities at-sea precludes unannounced spot checks.

Contingency Plan

1. *Permit Condition.* The Contingency Plan, approved by the U.S. Coast Guard and EPA, is to be followed during any accident or emergency.

2. *Rationale.* The Contingency Plan describes the safety precautions built into the vessels, and the notice, communication networks and action which would be implemented by the Permittees and the U.S. Coast Guard should an incident occur. Both vessels are classified as Type II chemical ships which means that to be certified by the International Maritime Organization and the U.S. Coast Guard there must be a significant degree of cargo containment capability. Since both vessels have double hulls and double bottoms and the wastes in both vessels are stored in several compartments in the interior of the vessels are stored in several compartments in the interior of the vessels, there is little likelihood that any collision would cause the rupture of the storage compartments. In addition, the safety equipment and its placement onboard the vessels is governed by the Safety of Life at Sea Convention (SOLAS). The Contingency Plan also covers responses to potential incidents including spills, collisions, fires, explosions, etc. EPA believes a Contingency Plan is essential to rapidly respond to emergencies and to minimize

environmental and human health consequences of any emergency.

The permits require a full written report of any incident and any activities carried out under the Contingency Plan within 10 working days after the termination of the burn in which the incident occurs. However, if jettisoning the cargo due to life threatening incidents is contemplated or is carried out, immediate verbal notification of the U.S. Coast Guard and the Permit Program Manager is required.

In addition to the safety precautions built into the vessels and the procedures included in the Contingency Plan, the U.S. Coast Guard issues Broadcast to Mariners warning other ships of the vessels' progress to and from incineration at the site. Also, the Captain of the Port, Mobile must be notified 24 hours before sailing; the vessels are precluded from sailing if there are pending storms which would interfere with the safe passage of the vessels to the incineration site.

Modifications to or Revocation of the Permit

As provided by 40 CFR 223.3(a)(1–4), the following are grounds for modification or revocation of the Permit:

(1) The cumulative impact of the permittee's dumping activities or the aggregate impact of all dumping activities at the dump site designated in the permit should be categorized as Impact Category I, as defined in § 228.10(c)(1) of this subchapter; or

(2) There has been a change in circumstances relating to the management of the disposal site designated in the permit; or

(3) The dumping authorized by the permit would violate applicable water quality standards; or

(4) The dumping authorized by the permit can no longer be carried out consistent with the criteria set forth in Parts 227 and 228.

In addition, the permit may be modified or revoked for:

- The violation of any provision of the Permit, including any misrepresentation, inaccuracy, or failure to disclose all relevant facts in the permit application.
- A change in any condition or fact upon which the permit is based that adversely affects human health or welfare or the environment.
- Failure to meet the performance standards or operating conditions.

Penalties

The following penalties are provided in the Marine Protection, Research and Sanctuaries Act.

- Civil penalty of up to $50,000 per violation per day.
- Criminal penalty of up to $50,000 per violation per day and/or one year in prison.

Permit Issued by the Assistant Administrator for Water

The Administrator delegated the authority to issue special at-sea incineration permits to the Assistant Administrator for Water on September 16, 1983.

II. Findings

EPA is authorized by the Marine Protection, Research and Sanctuaries Act of 1972 (the Act), as amended (33 U.S.C. 1412), to issue permits for dumping of material into the ocean "where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities." The criteria for the review and evaluation of permit applications and for making the determination to issue the permits are set forth in the Ocean Dumping Regulations, 40 CFR Parts 220–228. However, EPA has not yet promulgated specific criteria for incineration at sea. Unitl such criteria are promulgated, the Agency will evaluate permit applications on a case-by-case basis. In making those evaluations, the Agency will apply the standards and criteria binding on the United States under the London Dumping Convention to the extent that application of such criteria do not relax the requirements of the Act.

As part of its tentative determination to issue the permits, EPA also examined:

- The regulations in 40 CFR 761.70(a) implementing the Toxic Substance Control Act (15 U.S.C. 2601, Pub. L. 94–466, Oct. 11, 1976), because the applications proposed to incinerate polycholrinated biphenyls (PCBs) in the mixed chemical wastes;
- The regulations in 40 CFR 264.340–264.351 implementing the requirements for land-based incinerators under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6905, 6912(a), 6924, 6925, and 6927), because it is Agency policy to have incineration at-sea permits at least equivalent to land-based incinerator permits, unless there is a specific reason which renders the land-based requirements unnecessary for incineration at-sea.
- The guidance of the U.S. Coast Guard on the adequacy of the Contingency Plan in implementing procedures to protect the environment, if accidents or life threatening incidents should occur in the harbor or at-sea.

A full and complete analysis of each provision in the above regulations and the guidance of the U.S. Coast Guard are provided in the Background Document referenced earlier. A summary follows:

1. Compliance with the Ocean Dumping Regulations

(a) *Section 220.3(f)—Special Permits.* The Ocean Dumping Regulations require in 40 CFR 220.3(f) that:

> "permits for incineration at-sea are to be issued only as research permits * * * until specific criteria to regulate this type of disposal are promulgated, except in those cases where studies on the waste, the incineration method and vessel, and the site have been conducted and the site has been designated for incineration-at-sea in accordance with the procedures of Section 228.4(b). In all other respects the requirements of Parts 220–228 apply."

EPA has not promulgated any specific criteria for incineration-at-sea permits. However, EPA has concluded that adequate studies have been conducted on the wastes, incineration method and vessel and the site:

- Trial burns conducted on the M/T VULCANUS I and M/T VULCANUS II have demonstrated destruction efficiencies of greater than 99.99 percent on principal organic hazardous constituents (POHCs) tested under specific operating conditions. Wastes to be incinerated will be limited to those which EPA concludes are very likely to be destroyed under the same operating conditions.
- Environmental monitoring studies conducted at the site showed no short term increases in background concentrations of organochlorines in the water, and no short term effects on water chemistry or biota exposed to the incineration plume.
- Air monitoring studies, including those by the Texas Air Quality Control Board, indicated no detectable air-borne emissions of PCBs or other organochlorine residues from the incineration process.
- EPA designated the Gulf Incineration Site on September 15, 1976 (41 FR 39319) and redesignated the Site on April 26, 1982 (47 FR 17817).

(b) *Section 227—Criteria for the Review and Evaluation of Ocean Dumping Permits.* The criteria that are used in reviewing and evaluating ocean dumping permits, as required by Section 102 of the Act, are set forth in 40 CFR Part 227. Subpart A of Part 227 states that:

> (a) If the applicant satisfactorily demonstrates that the material proposed for

ocean dumping satisfies the environmental impact criteria set forth in Subpart B, a permit for ocean dumping will be issued unless:

(1) There is no need for the dumping, and alternative means of disposal are available, as determined in accordance with the cirteria set forth in Subpart C; or

(2) There are unacceptable adverse effects on esthetic, recreational or economic values as determined in accordance with the criteria set forth in Subpart D; or

(3) There are unacceptable adverse effects on other uses of the ocean as determined in accordance with the criteria set forth in Subpart E.

In applying the criteria for incineration at-sea permits, EPA evaluated the *emissions* resulting from the incineration of mixed liquid chemical wastes as the materials to be disposed of by ocean dumping. The emissions may include: hydrochloric acid, carbon dioxide, carbon monoxide, water vapor and trace amounts of metallic oxides, silicate ash, surviving organic compounds and partially combusted organic compounds.

(1) *Subpart B—Environmental Impact.* Subpart B, Sections 227.5–227.13, sets specific environmental impact prohibitions, limits and conditions for the dumping of materials in the ocean. Section 227.4 states that "if the applicable prohibitions, limits and conditions are satisfied, it is a determination of EPA that the proposed disposal will not unduly degrade or endanger the marine environment and that the disposal will present:

- No unacceptable adverse effects on human health and no significant damage to the resources of the marine environment;
- No unacceptable adverse effect on the marine ecosystem;
- No unacceptable adverse persistent or permanent effects due to the dumping of the particular volumes or concentrations of these materials; and
- No unacceptable adverse effect on the ocean for other uses as a result of direct environmental impact.

EPA finds that the proposed permits meet these requirements because:

- Wastes, such as high level radioactive wastes or materials used for radiological, chemical, or biological warfare are prohibited from the wastes eligible for incineration;
- The stack emissions will not contain any of the prohibited constituents in § 227.6(a) except those which are "rapidly rendered harmless" as provided for under § 227.6(h). The determination that the wastes are "rapidly rendered harmless" is being made on the basis that the permits meet or exceed the Incineration Regulations and Technical Guidelines of the London Dumping Convention and on the basis that incinerator plume modelling and oceanic dispersion modelling have demonstrated that any organic compounds or metals contained in emissions, resulting from incinerations which achieve destruction efficiencies of 99.99 percent, will not cause marine water quality criteria or the marine aquatic life "no effect" concentrations for these materials to be exceeded.
- The stack emissions contain only products of the incineration process which are totally soluble, sterile, rapidly neutralized by the ocean after allowance for initial mixing and which are biodegradable within the limits defined under § 227.7;
- The permits limit the quantities of metals allowed in the wastes and require performance standards such that any emission products of metals or organochlorines are below the limiting permissible levels as required in § 227.8;
- The permits are consistent with § 227.9 because the quantity of material in the emissions will not damage the ocean environment or reduce its amenities based on the monitoring conducted thus far which shows no detectable adverse environmental impact and because EPA is limiting the use of the site to one vessel at a time; [2]
- The activities conducted under the permits meet the requirements of § 227.10 because the incineration site is away from fishing areas, outside normal shipping fairways for commercial and recreational vessels, and as monitoring data has indicated, the emissions pose no threat to fishing, navigation, shorelines or beaches.

(2) *Subpart C—Need for Ocean Dumping.* Subpart C of Part 227 (40 CFR 227.14–227.16) states the basis on which an evaluation will be made of the need for ocean dumping, and alternatives to ocean dumping. Section 227.15 lists the factors to be considered in determining the need for dumping, and § 227.16 lists the determinations that must be made, after thorough evaluation of those factors. The determinations that must be made are set forth below:

(i) There are no practicable improvements in process technology or overall waste treatment to reduce the adverse impact of the waste in the total environment.

(ii) There are no practicable alternative locations and methods of disposal or recycling available, including without limitation, storage until treatment facilities are completed, which have less adverse environmental impact or potential risk to other parts of the environment than ocean dumping.

In making these determinations, EPA evaluated:

(A) The relative environmental risks, impact and cost for ocean dumping as opposed to other feasible alternatives including but not limited to:

(1) Land-fill;
(2) Well injection;
(3) Incineration;
(4) Spread of material over open ground;
(5) Recycling of material for reuse;
(6) Additional biological, chemical, or physical treatment of intermediate or final waste streams;
(7) Storage

(B) Irreversible or irretrievable consequences of the use of alternatives to ocean dumping.

EPA has determined that incineration of the mixed liquid organic wastes under the terms of this permit constitutes a very effective means of treating those wastes. The Agency is unaware of any treatment method for the wastes which would be useful, in the sense of further reducing the potential impact on the environment from the emissions of at-sea incineration. Therefore, EPA concludes that the wastes will be treated to an appropriate degree prior to their release to the environment.

There is, in fact, no "single" method of disposal which is appropriate for all hazardous wastes generated in the United States. EPA examined each of the alternatives to ocean dumping in terms of liquid hazardous wastes which are to be incinerated at sea. While balancing hypothetical pollution problems is always difficult, EPA believes that incineration at sea compared favorably with other available means of waste treatment.

The environmental risks associated with the incineration at-sea of *liquid* organic compounds are less than landfilling. Most hazardous waste constituents are persistent. Since landfilling does not result in destruction of wastes, even when precautions are observed, there remains some potential for wastes to leak out of landfills.

EPA finds that the environmental risks associated with incineration-at-sea are no greater than deepwell injection of liquid hazardous wastes into Class I wells. These wells provide a much greater degree of security than landfills.

[2] EPA is restricting, at this time, the use of the Gulf Incineration Site and any other site which is designated to one vessel at a time. This is being done for navigational safety and until the Agency evaluates the monitoring data from the site. This does not mean that only one Permittee may use a site. Rather, EPA will assure that there is an equitable distribution of the use of a site among all Permittees.

EPA also finds that the overall environmental, human health and safety risks associated with at-sea incineration are no greater than those associated with land-based incineration. Land-based and at-sea incineration are subject to similar performance criteria and therefore result in the discharge of similar amounts of particulates and surviving and/or partially combusted organochlorines. Land-based incineration is conducted much closer to areas of human habitation, thus exposing more people to stack emissions than at-sea incineration. Also any accidents at land-based facilities would potentially affect more people than an accident at sea. However, while accidents are unlikely at either land-based facilities or at sea, an accident at sea could result in contamination of a much larger area and would be much more difficult to clean up fully than an analogous incident at a land-based facility.

EPA believes that there is a high potential for use of new processes and technology to substantially reduce the amount of hazardous waste generated in this country. However, the Agency is unaware of any generally available technological modifications which would substantially reduce those types of wastes that would be incinerated over the period of these permits.

While waste reduction technologies need to be encouraged, the timing of their implementation is a factor to be considered in evaluating the need for ocean dumping under this permit. Even if there were changes which were known and could be made in all the processes involved in generating the wastes covered by the proposed permit, these process changes, product substitutions, recovery operations, etc. take time to implement. General adoption of such changes may take years. The regulations indicate that generally EPA is supposed to take action on a permit within 180 days of a completed application. Unless public comments on the proposed permits demonstrate that there are generally available waste reduction technologies applicable to a large proportion of the wastes that are to be incinerated under this permit, EPA will not deny these permits *solely* on the premise that in the future these technologies may be available. However, as changes in technology and process design occur, EPA will reevaluate these alternatives for each new permit or renewal according to the availability of process and raw material alternatives known at that time.

Storage only postpones and delays for future generations the inevitable need to dispose of the wastes. Although the storage of hazardous wastes over 90 days requires a permit and requires precautions be taken, there is potential for leakage and adverse effects on human health and the environment. Therefore, EPA does not believe this is a viable alternative to incineration at-sea.

The irreversible consequence of land-based incineration is similar to that of ocean incineration. Only trace amounts of uncombusted materials are discharged to the environment. Land filling of wastes requires, as a practical matter, the restriction of land areas for other uses for an indefinite basis, because many of the wastes are likely to remain hazardous for a long time. Land filling of wastes also poses the potential threat of contaminating surface or ground waters at some future time. Once wastes are land filled, it becomes very difficult to excavate them and provide for an alternative disposal method. While cleanup of contaminated ground water is technically possbile, as a practical matter, the cleanup is very difficult and expensive. The advantage of either at-sea or land-based incineration is that the wastes are destroyed.

There are risks associated with both land-based and at-sea incineration alternatives. EPA does not believe that at-sea incineration has any greater irreversible or irretrievable consequences than the other alternatives.

Therefore, based on the foregoing analysis of the factors to be considered in determining a need for ocean dumping, EPA finds that:

- There are no practicable improvements which can be made in process technology or in overall waste treatment to reduce the adverse impacts of the waste released to the environment from the incineration at-sea emissions.
- There are no practicable alternative locations and methods of disposal or recycling available which have less adverse environment impact or potential risk to other parts of the environment than incinerations at-sea.

(3) *Subpart D, Part 227—Impact of the Emissions on Recreational, and Economic Values; and Subpart E, Part 227—Impact of the Proposed Ocean Dumping on Other Uses of the Ocean.* Under Subpart D, Part 227, EPA is to assess the potential for impacts on the esthetic, recreational and economic values of the ocean which might be affected by these emissions based on the characteristics of the emissions. Subpart E requires an evaluation of the impact for specific uses of the ocean rather than on overall esthetic, recreational and economic values. By their nature, Subparts D and E are dependent on the characteristics of the Gulf Incineration Site. The Gulf Incineration Site is fully described in:

U.S. EPA, *Final Environmental Impact Statement. Designation of a Site in the Gulf of Mexico for Incineration of Chemical Wastes.* Washington, D.C. July, 1976.

The Gulf Incineration Site was selected, in part, because it is far from normal shipping fairways; it is beyond the reach of most recreational vessels; it is low in marine resources of commercial or recreational value; and it is far enough from shore that trace contaminants from the emission plume would be in such minute amounts or so diluted by the ocean that on-shore or near-shore activities would not be affected. Therefore, EPA concludes that incineration at-sea would have no adverse impact on commercial or recreational activities.

Monitoring data collected at the site indicate that the incineration emissions have no impact on the quality of the water or on the biota and therefore do not present a risk to human health directly or through contamination of fisheries or shellfisheries. Nor does the emission plume, 300 kilometers from the nearest shore, pose any esthetic nuisance for recreational areas.

Therefore, based on the nature of the site and the contents of the emissions, EPA finds that incineration at-sea conducted in accordance with the proposed permits will not have an adverse impact on esthetic, recreational or economic values of the ocean according to the factors outlined in Subpart D.

According to the factors outlined in Subpart E, incineration at-sea will not have an unacceptable impact on commercial and recreational fishing in open areas, incoastal areas or in estuarine areas because the Gulf Incineration Site is located over the continental slope, 300 kilometers from the nearest shore. Available evidence indicates that consistent with its location, the water at the incineration site has a low level of biological activity and would not or could not support a viable fishery.

The site is 75 miles from the nearest commercial shipping fairway and beyond the reach of most recreational vessels and would not affect their activities. Also the site is beyond the area which would interfere with any sand or gravel operations, oil or gas

exploration and/or exploitation, and beyond any known natural or cultural features which would draw scientific research or study.

(4) *Conclusion.* Based on the foregoing analyses, EPA finds that the proposed permits meet all the requirements of the Ocean Dumping Regulations applicable to incineration at-sea and Section 102 of the Act.

2. The London Dumping Convention

In establishing criteria for evaluating ocean dumping permit applications, EPA is required to apply the London Dumping Convention Regulations for the Control of Incineration of Wastes and Other Matter at Sea, and is required "to take full account of" the Technical Guidelines implementing the Regulations.

As shown in the Background Document, the proposed incineration at-sea permits meet or exceed the London Dumping Convention's Incineration Regulations and Technical Guidelines.

3. Compliance With TSCA Regulations When Incinerating PCBs.

Section 6(e)(1) (A) and (B) of the Toxic Substances Control Act [3] (TSCA), requires the Administrator "to promulgate regulations to prescribe methods for the disposal of polychlorinated biphenyls and to require polychlorinated biphenyls to be marked with clear and adequate warnings, and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of activities." Based on this mandate, EPA promulgated regulations controlling the incineration of wastes containing PCBs in 40 CFR 761.70.

Because the special permits apply only to liquid PCB wastes, for the purposes of complying with TSCA regulations for PCB incineration, EPA focused on those TSCA regulations which apply to *liquid* PCB wastes.

The PCB regulations issued under TSCA set out certain requirements which must be met for incineration, unless a waiver is obtained. These regulations include a minimum combustion efficiency,[4] in addition to specific temperature, incineration dwell time, and oxygen requirements, etc. The proposed permits incorporate the TSCA requirements for liquid PCBs, except for the TSCA regulatory requirement for dwell time.

Dwell time, the time the liquid waste and its gaseous combustion by-products are in the lower combustion chamber and upper incineration stack, is a parameter which was once believed to be of major significance. It is currently overshadowed, however, by the more important parameter of destruction efficiency. While EPA formerly believed that dwell times of 2 seconds or more were universally needed to achieve good incinerator performance for PCBs, the Agency now has an extensive data base which indicates that as little as tenths of one second may be sufficient in well designed incinerators. TSCA has a waiver provision for dwell time which relies on destruction removal efficiency as the primary measure of incinerator performance.

Compliance with the TSCA regulations is to be demonstrated by a trial burn or submission of data sufficient for a determination to be made that the incinerator facility can demonstrate compliance with the performance and operating requirements. Based on the August 1982, trial burn under Research Permit HQ 81-002, the M/T VULCANUS I demonstrated a 99.99 percent destruction efficiency on PCBs and a 99.9 percent combustion efficiency on the entire load of mixed chemical wastes. The operating conditions monitored during incineration met or surpassed the applicable requirements in 40 CFR 761.70(a). Therefore, the Office of Pesticides and Toxic Substances concluded that the proposed Special Permit HQ 83-001 meets the applicable requirements of 40 CFR 761.70(a) for the purposes of incinerating liquid PCB wastes.

The Office of Water, after recommendation from the Office of Pesticides and Toxic Substances, determined that a trial burn was not required for the M/T VULCANUS II based on: (1) A finding by EPA's Industrial Environmental Research Laboratory (IERL-CI.) that the incinerator equipment on the M/T VULCANUS II is the same as that on the M/T VULCANUS I and (2) EPA's accumulated experience in the incineration of PCBs. Since the proposed Special Permit HQ 83-002 for the M/T VULCANUS II requires that the M/T VULCANUS II must adhere to the minimum and average operating conditions specified in Special Permit HQ 83-001 for the M/T VULCANUS I when incinerating PCBs, the Office of Pesticides and Toxic Substances also concluded that HQ 83-002 would meet the applicable requirements of 40 CFR 761.70(a).

4. Consistency With Land-Based Incenerators Permitted Under RCRA

With the exception of incinerating PCBs, which are regulated under TSCA and the rules in 40 CFR 761.70, land-based incineration facilities are regulated under RCRA and the rules in 40 CFR 264.340-264.351. Although RCRA regulations do not apply to the incineration of hazardous wastes at-sea, it is EPA's policy to establish or impose requirements in at-sea incineration permits that are equivalent to the requirements in land-based permits unless there is a specific reason which renders the land-based requirements unnecessary for incineration at-sea.

Both RCRA and at-sea incineration permits are performance based; there are no generic operating conditions. Each facility's operating conditions are determined by the conditions necessary for the particular incinerator to achieve the performance standard.

Both programs require a trial burn in which the incinerators must demonstrate a destruction efficiency or a destruction removal efficiency of 99.99 percent on a principal organic hazardous constituent (POHC). Waste mixtures eligible for incineration are those that contain compounds with heats of combustion equal to or greater than that compounded with the lowest heat of combustion for which a 99.99 destruction efficiency or destruction removal efficiency was demonstrated in the trial burn.

Destruction efficiency, the term used in at-sea incineration permits, and destruction removal efficiency, the term used in connection with RCRA permits for land-based facilities, are equivalent. The formula for determining destruction removal efficiency and destruction efficiency is the same:

$$DE/DRE = \frac{W_{in} - W_{out}}{W_{in}} \times 100$$

Where:

W_{in} = Mass feed rate of one POHC in the waste stream feeding the incinerator

W_{out} = Mass emission rate the same POHC in exhaust emissions prior to release to the atmosphere.

[3] 5 U.S.C. 2601, Pub. L. 94-469, October 11, 1976, 90 Stat. 2003.

[4] For non-liquid PCBs, 40 CFR 761.70(b) establishes the following requirement: "The mass air emissions from the incinerator shall be no greater than 0.001g PCB/kg of the PCB introduced into the incinerator. (Section 761.70(b)(1)). This translates into a destruction removal efficiency of 99.9999 percent. Although the TSCA regulation does not establish such a requirement for incineration of liquid PCBs, EPA has concluded that if the land-based or at-sea incinerators meet the operating requirements, and attains the required combustion efficiency under TSCA, then the incinerators will achieve a destruction removal efficiency or destruction efficiency of 99.9999 percent.

The difference in terminology stems from the fact that auxiliary air pollution control devices such as scrubbers, are required on land-based facilities to remove or neutralize the hydrochloric acid and to remove particulate matter. Scrubbers are not needed on at-sea incinerators because hydrochloric acid from at-sea incineration is buffered and neutralized by the ocean and particulate matter is controlled by limiting the concentration of metals that can be in a waste mixture so that the ambient water quality criterion for a specific metal or its limiting permissible concentration as defined in 40 CFR 227.27 are not exceeded.

The proposed at-sea incineration permits require that the waste feed rate be monitored but do not specify a thermal input rate as RCRA permits do. Nor do the proposed permits specify "an appropriate indicator of combustion gas velocity" as is required in RCRA permits. In lieu of these operating parameters, the proposed incineration at-sea special permits require demonstration of the performance standard of 99.9 percent combustion efficiency after each burn to control the performance of the incinerator.

While the proposed incineration at-sea permits do not require that the incinerator and associated equipment be inspected daily for leaks, spills, fugitive emissions and signs of tampering as RCRA permits do, the proposed permits provide for the maintenance, continuous monitoring, and continuous recording of a minimum draft (negative pressure) in the combustion chambers. This requirement will prevent the release of fugitive emissions, thereby protecting shipboard personnel and help to insure proper incinerator operation. In addition, shipriders will inspect for leaks, spills, signs of tampering, and provide 24 hour per day coverage of all incineration operations. This provision is included in at-sea permits because the nature of incineration activities at sea precludes unannounced spot checks of the incineration activities.

Based on the above, EPA has concluded that the proposed permit conditions are at least as stringent as the RCRA requirements.

5. U.S. Coast Guard's Findings on the Contingency Plan

As indicated elsewhere, a significant degree of cargo containment capacity is built into the vessels, and the vessels must be certified as meeting the safety requirements of international and U.S. regulations by the International Maritime Organization and the U.S. Coast Guard. In addition, the applicants were required to submit, as part of their applications, a Contingency Plan outlining the procedures to be implemented in case of accident or other emergency at sea. The Contingency Plan specifies the safety precautions and the coordination mechanisms and responses if fires, explosions, spills, collisions, etc. should occur in the harbor or at sea. A major focus of the Contingency Plan is the steps that will be taken to minimize the environmental effect of any incident.

Because of the nature of the activities, in the harbor or at sea, EPA requested the U.S. Coast Guard to review and to make recommendations on the adequacy of the Contingency Plan. Based on a preliminary review, the U.S. Coast Guard concluded that both vessels have taken the precautions to prevent incidents and that the Contingency Plan is a workable plan for responding to a wide variety of potential emergencies at sea or in the harbor. During the comment period on this Notice, the U.S. Coast Guard will make further recommendations on the Plan.

6. Conclusion

Based on the above analyses, EPA concludes that the purposed incineration under the terms and conditions of the permits will not unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

Therefore, EPA has made a tentative determination to issue Special Permits to Chemical Waste Management, Inc. and Ocean Combustion Service, B.V. to incinerate on the M/T VULCANUS I and on the M/T VULCANUS II a total of 300,000 metric tons of mixed chemical wastes, including PCBs, according to the conditions and specifications in the permits. In addition, EPA has made a tentative determination to issue a Research Permit to the Applicants to incinerate 264,600 gallons of 10 percent dichlorodiphenyl trichloroethane (DDT), 90 percent solvent waste.

Dated: October 17, 1983.

Rebecca W. Hanmer,

Assistant Administrator for Water.

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Reader Aids

Federal Register

Vol. 48, No. 205

Friday, October 21, 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, OCTOBER

45093-45218.....3
45219-45370.....4
45371-45522.....5
45523-45752.....6
45753-46004.....7
46005-46258.....11
46259-46486.....12
46487-46730.....13
46731-46962.....14
46963-48214.....17
48215-48438.....18
48439-48642.....19
48643-48792.....20
48793-48996.....21

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47976
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982

7 CFR

Ch. IV.....48449
2.....46261, 48449
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
906.....45374
908.....45526, 46488, 48643
910.....45374, 45755, 46961, 48793
919.....45374
929.....45374
981.....45374
991.....45374, 48219
1065.....48793
1205.....48451
1435.....45374
1901.....45532
1951.....46967
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
Ch. V.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. IX.....47236
Ch. X.....47236
Ch. XI.....47236
Ch. XII.....47236
Ch. XIV.....47236
Ch. XV.....47236
Ch. XVI.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
Ch. XXI.....47236
Ch. XXIV.....47236
Ch. XXV.....47236
Ch. XXVI.....47236
Ch. XXVII.....47236
Ch. XXVII.....47236
Ch. XXIX.....47236
226.....45779
402.....46062
411.....48675
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343
1139.....46797
1446.....48471
1700.....48830
1701.....48472

8 CFR

100.....48794
103.....45093
214.....45093, 48452
238.....45093, 48796
248.....45093

Proposed Rules:
Ch. 1.....47530
103.....48242

9 CFR

166.....48643

Proposed Rules:
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
92.....46355
101.....48679

113.....48679
317.....45118
318.....48242
319.....45118
325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

10 CFR

2.....46489
50.....46489
55.....45223
71.....45381
95.....48644
761.....45746
710.....46499

Proposed Rules:

Ch. I.....48156
Ch. II.....47324
Ch. III.....47324
Ch. X.....47324
50.....45787
60.....48473
140.....48474

11 CFR

114.....48650

12 CFR

5.....48452
7.....46502, 48452
29.....45532
204.....46005, 46262
207.....45533, 48219, 48796
217.....45756, 46262
220.....45533, 48219
221.....45533, 48219, 48797
224.....45533
226.....48219
561.....45382
563.....45382, 48455
760.....46006

Proposed Rules:

Ch. I.....47716
Ch. II.....46996
Ch. V.....48110
Ch. VI.....48074
Ch. VII.....48150
29.....47001
701.....48830

13 CFR

101.....45224
123.....45225
133.....46008

Proposed Rules:

Ch. I.....48020
Ch. III.....47254

14 CFR

21.....48798
39.....45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71.....45094, 45095, 45536, 45537, 46010, 46503, 48805
95.....46504
97.....45096
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758

Proposed Rules:

Ch. I.....46358, 47582, 48681
Ch. II.....47003, 48038
Ch. V.....47972
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
43.....48364
61.....45214
65.....45214
71.....45118, 45566, 48244, 48831
91.....48364
107.....45214
109.....45214
121.....45214, 46218, 46250, 48364
127.....48364
135.....45214, 48364
145.....45214
320.....48832

15 CFR

Proposed Rules:

Subtitle A.....47254
Ch. I.....47254
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254
Ch. VIII.....47254
Ch. IX.....47254
Ch. XXIII.....47254

16 CFR

13.....48651
453.....45537

Proposed Rules:

Ch. I.....48120
Ch. II.....48064
300.....48682
301.....48682
303.....48683
1212.....45405
1500.....45567
1513.....45567

17 CFR

145.....46010, 48223
146.....46010, 48223
147.....46010, 48223
229.....46012
230.....46012, 46736
231.....46012, 46969
239.....45386, 46012
240.....46012, 46736
241.....46012
270.....46012
274.....46012

Proposed Rules:

Ch. I.....48056
Ch. II.....48190
33.....46797
230.....46801
240.....45119, 48245
249.....48245

18 CFR

2.....46012
35.....46012, 46970
157.....46021
270.....48223
271.....45097, 46266–46268, 48223
274.....45097
282.....45758
301.....46970
385.....45388

Proposed Rules:

Ch. I.....48104
101.....46361
104.....46361
141.....46361
154.....46361, 47003
157.....47003
159.....46361
201.....46361
204.....46361
260.....46361
271.....46071
275.....47003
282.....45787
410.....45568

19 CFR

4.....46510, 46978, 48653
7.....46740
10.....46510, 46740
18.....48655
22.....46740
101.....45538
103.....45538
113.....46740
134.....48657
145.....46740
148.....46978
158.....46740
191.....46740
210.....45544

Proposed Rules:

Ch. I.....46805, 47724
4.....46808, 46810
18.....46812
101.....45409
123.....46812
144.....46812

20 CFR

404.....46142
626.....48744
632.....48744
633.....48744
634.....48744
636.....48744
684.....48744

Proposed Rules:

Ch. I.....47538
Ch. II.....48012
Ch. III.....47340
Ch. IV.....47538
Ch. V.....47538
Ch. VI.....47538
Ch. VII.....47538
10.....48249
416.....48684
422.....46072, 47008

21 CFR

81.....45237, 45760, 46022
109.....45544
131.....45545
175.....48228
178.....46773, 46774
179.....46022
182.....48805
184.....48456, 48457, 48805
186.....48456, 48457
193.....45547
211.....46979
430.....46270
436.....46270
442.....46270
520.....46979, 48229
522.....46023, 48229, 48659
540.....45760
558.....45102, 46023, 46024, 46514, 46515, 48659
700.....46979
800.....46979
1308.....46516

Proposed Rules:

Ch. I.....47340
122.....48836
155.....48836
182.....45121
184.....45121
211.....47008
341.....48576
351.....46694
610.....46815, 47009
620.....47009
630.....47009
640.....47009
650.....47009
660.....47009
680.....47009
700.....47008
800.....47008
1040.....48837

22 CFR

41.....48660

Proposed Rules:

Ch. I.....47578
Ch. II.....47970

23 CFR

655.....46775

Proposed Rules:

Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
888.....45547, 46980
890.....46980

Proposed Rules:

Subtitle A.....47418
Subtitle B.....47418
24.....46072, 46817

25 CFR

71.....45103
114.....48806

Proposed Rules:

Ch. I.....47472
140.....45789

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

Proposed Rules:

Ch. I.....47730

1 ..... 47010, 48255
5f 48255
20 48837
25 48837
52 48837
31 47010

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524, 48810–48820
170 46526
240 46526

Proposed Rules:

Ch. I 47708
9 ..... 46387, 48685

28 CFR

2 48230
500 48968
527 48968
552 48968
571 48970
572 48972

Proposed Rules:

Ch. I 47530

29 CFR

1601 46298
1952 48822

Proposed Rules:

Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47946
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 45956
1926 45872

30 CFR

223 48661
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:

Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
917 48255
935 45420
938 46817

31 CFR

1 48460
51 46982

Proposed Rules:

Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48688

32 CFR

235 48824
251 45242

Proposed Rules:

Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48018
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779, 48663, 48664

Proposed Rules:

Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819

34 CFR

668 45670
690 45670

Proposed Rules:

Subtitle A 47308
Ch. I 47308
Ch. II 47308
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:

Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:

Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:

Ch. I 47254
1 45424
2 45424

38 CFR

1 46985

Proposed Rules:

Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 46031
447 ..... 48230, 48231

Proposed Rules:

111 ..... 45289, 48850
3001 46545

40 CFR

51 48978
52 ..... 45245, 45246, 46046, 46047, 46309, 46988, 48664, 48665, 48978
60 ..... 46535, 46536, 48328, 48368, 48669
61 46535
81 ..... 46537, 46782
86 48598
87 46481
123 48826
180 46310
192 45926
256 46787
271 48826
420 46942
433 45105
469 45249
717 45765

Proposed Rules:

Ch. I 47864
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823, 48981, 48982
60 ..... 45701, 46224, 46472, 48932, 48960
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477
228 45798
261 45210
271 ..... 46824, 48690
403 46944
420 46944
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
1–4 48827
9–1 46987
9–7 46987
9–4 45766
9–51 45766
101–11 46310
101–25 48231
101–37 48827
101–41 46788
105–61 45392

Proposed Rules:

Ch. 1 47948
Ch. 4 47236
Ch. 9 47324
Ch. 12 47582
Ch. 13 47254
Ch. 14 47472
Ch. 25 47980
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664
3160 48916

Public Land Orders:

44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

Proposed Rules:

Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:

Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014–47020, 48259

45 CFR

13 45251

Proposed Rules:

Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:

Ch. I 47582
Ch. III 47582
Ch. IV 48114
Ch. IV 45269
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 45270
536 45270
538 45272

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
61 46791
63 46791
69 48234
73 ..... 45401–45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 45652

Proposed Rules:

Ch. I 47020, 48080
67 ..... 46556, 47021
73 ..... 45428–45438, 47023–47031, 48264
83 45439

48 CFR

Ch. I 46541

Proposed Rules:

Ch. 9 47324

49 CFR

192 48669
195 48669
350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:

Ch. X 46399
27 46399
171 48483
172 48483
173 48483
195 46589
218 45272
571 ..... 48483, 48622
1039 45137
1155 45440

Proposed Rules:

Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. IV 47582
Ch. V 47582
Ch. VI 47582
Ch. X 48134
571 47032

50 CFR

17 ..... 46053, 46328–46337
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

Proposed Rules:

Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590
23 45575
611 ..... 45804, 45806
663 ..... 45274, 48265
681 48853

List of Public Laws

Last Listing October 20, 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. 1556 / Pub. L. 98-133 To authorize the conveyance of the Liberty ship John W. Brown. (Oct. 18, 1983; 97 Stat. 850) Price: $1.50

S. 1499 / Pub. L. 98-134 Mashantucket Pequot Indian Claims Settlement Act. (Oct. 18, 1983; 97 Stat. 851) Price: $1.75