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Federal Register

Friday
November 4, 1983

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Marketing Agreements
Agricultural Marketing Service

Motor Vehicle Pollution
Environmental Protection Agency

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Pipeline Safety
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Waste Treatment and Disposal
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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and from the Assistant Secretary for Administration to reflect the abolishment of the Office of Administrative Systems and to transfer its functions to the Office of Finance and Management.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Wilson, Deputy Director, Office of Finance and Management, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7557.

SUPPLEMENTARY INFORMATION: The Office of Finance and Management (OFM) is responsible for providing Departmental leadership, development, and evaluation of programs in finance, accounting, Federal assistance management, occupational safety and health, productivity, and management improvement. The Director serves as the Department's Finance Officer, Management Improvement Officer, and Comptroller of the Working Capital Fund. OFM provides budget, accounting, and fiscal services for the Departmental Staff Offices and the Office of the Secretary.

The Office of Administrative Systems (OAS) was responsible for managing the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting System, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collection, and related reporting systems and program and administrative accounting systems that are either requested by USDA agencies or required by the Department.

The delegations are being revised to reflect a transfer of functions to OFM formerly delegated to OAS, and to reflect the abolishment of OAS. This consolidation will provide more efficient and effective management of the NFC by clarifying and strengthening lines of reporting responsibility and better integrating the Department's financial and fiscal policymaking with administrative systems and accounting operations. Further, when the delegations were revised to reflect a reorganization in Departmental Administration (47 FR 24101, June 3, 1982) a delegation to the Assistant Secretary for Administration authorizing him to provide management support services for agencies as may be agreed upon was inadvertently omitted. That omission is corrected in the document. Finally, minor editorial changes have been made. This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

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

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies)

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

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

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

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

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

2. Section 2.25 is amended by adding a new paragraph (d)(2) and by revising paragraphs (b)(5)(viii), (b)(7)(i), and (j)(1)(iii) to read as follows:

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

(b) * * *

(5) * * *

(viii) Coordinating the activities of the Office of Finance and Management, the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

* * * * *

(7) * * *

(i) Implementation of the policies and procedures set forth in OMB Circulars No. A-76: Performance of Commercial Activities, and No. A-117: Management Improvement and the Use of Evaluation in the Executive Branch.

* * * * *

(d) * * *

(2) Provide such of the above services as may be agreed, for other officers and agencies of the Department.

* * * * *

(d) * * *

(j) *Related to administrative systems.*

(1) * * *

(iii) Develop new or modified accounting systems and documentation supporting the Central Accounting System which includes working with USDA agencies to obtain General Accounting Office approval.

* * * * *

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

3. Section 2.75 is revised to read as follows:

§ 2.75 Director, Office of Finance and Management.

(a) *Delegations.* Pursuant to § 2.25 (b), (d), (i), and (j), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Finance and Management (OFM):

(1) The Director, OFM, is designated as the Department's Director of Finance and Comptroller of the Department Working Capital Fund.

(2) Establish Departmental policies, standards, techniques, and procedures applicable to all USDA agencies for the following areas:

(i) Development, maintenance, review and approval of all internal control, fiscal, financial management and accounting systems.

(ii) Operation of USDA's Central Accounting System and related administrative systems.

(iii) Selection, standardization, and simplification of program delivery processes utilizing grants, cooperative agreements and other forms of Federal assistance.

(iv) Review and approval of Federal assistance, internal control, fiscal, accounting and financial management regulations and instructions proposed or issued by USDA agencies for conformity with Departmental requirements.

(3) Establish and maintain a Washington headquarters staff to coordinate the activities of the National Finance Center and administrative systems with USDA agencies, staff offices, Office of the Secretary, and related Governmental departments and agencies.

(4) Advise the Assistant Secretary for Administration on the establishment of policies related to the Department Working Capital Fund.

(5) Approve regulations, procedures and rates for goods and services financed through the Department Working Capital Fund which will impact the financial administration of the Fund.

(6) Exercise responsibility and authority contained in paragraph (a)(2) of this section including such activities as:

(i) Financial administration, including accounting and related activities.

(ii) Reviewing financial aspects of agency operations and proposals.

(iii) Management of the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting system, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collections, and related reporting systems and those program and administrative accounting systems that are either requested by the agencies or required by the Department.

(iv) Management of the NFC automated data processing and telecommunications systems and coordination with Office of Information Resources Management to assure that the hardware and software located at the NFC will be integrated with and compatible with all other systems.

(v) Developing new or modified accounting systems and documentation supporting the Central Accounting System which includes working with the USDA agencies to obtain General Accounting Office approval.

(vi) Reviewing and approving accounting systems documentation including related development plans, activities, and controls.

(vii) Reviewing and approving the issuance of accounting and management instructions related to the operation of the NFC.

(viii) Furnishing consulting services to agencies to assist them in developing and maintaining accounting and financial management systems and internal controls, and for other purposes consistent with delegations in paragraph (a)(2) of this section.

(ix) Monitoring agencies' progress in developing and revising accounting and financial management systems and internal controls.

(x) Evaluating financial systems to determine the effectiveness of procedures employed, compliance with regulations, and the appropriateness of policies and practices.

(xi) Coordinating with the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

(xii) Reviewing and monitoring agency implementation of Federal assistance policies.

(xiii) Promulgation of the Department schedule of fees and charges for reproductions, furnishing of copies and making searches for official records pursuant to the Freedom of Information Act, 5, U.S.C. 552.

(7) Provide budget, accounting, fiscal and related financial management services, with authority to take action required by law or regulation to provide such services for Working Capital Funds and general appropriated and trust funds for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Any other officers and agencies of the Department as may be agreed.

(8) Provide management support services for the NFC, and by agreement with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as listed in § 2.25(e)(10) of this part, and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

(9) The Director, OFM, is designated as the Department's Chief Management Improvement Officer.

(10) Establish Department programs, policies, standards, systems, techniques and procedures to improve the management and operational efficiency and effectiveness of the USDA including:

(i) Implementation of the policies and procedures set forth in OMB Circular No. A–76: Performance of Commercial Activities, and OMB Circular A–117: Management Improvement and the Use of Evaluation in the Executive Branch.

(ii) Increased use of operations research and management science in the areas of productivity and management.

(iii) All activities financed through the Department Working Capital Fund.

(11) Designate the Commercial Industrial Officer and administer a program to implement the provisions of Circular A–76 for:

(i) Office of Finance and Management.

(ii) All activities of staff offices reporting to the Assistant Secretary for Administration financed through the Department Working Capital Fund, and

(iii) Other offices and agencies as agreed upon.

(12) Develop Departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of State and local governments, other Federal agencies and of the private sector in domestic program operations.

(13) Represent the Department in contacts with the Office of Management

and Budget, General Services Administration, General Accounting Office, Department of the Treasury, Office of Personnel Management, Department of Health and Human Services, Department of Labor, Environmental Protection Agency, Department of Commerce, Congress of the United States, State and local governments, and universities, and other public and private sector individuals, organizations or agencies on matters related to assigned responsibilities.

(14) Maintain the Departmental inventory of commercial activities required by OMB Circular A–76 and provide Departmentwide technical assistance to accomplish Circular objectives.

(15) Improve Departmental management by: performing management studies and reviews in response to agency requests for assistance or as directed by the Assistant Secretary for Administration; enhancing management decisionmaking by developing and applying analytic techniques to address particular administrative operational and magagement problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods, and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department which shall be coordinated with other staff offices reporting to the Assistant Secretary for Administration whenever they impact upon their delegated policy authorities.

(16) Administer a productivity program in accordance with Executive Order 12089 and other policy and procedural directives and laws to:

(i) Assess and improve productivity of the Department.

(ii) Assist agencies in developing, implementing and maintaining productivity measurement systems.

(17) Establish Departmental policies and procedures for, and administer that portion of the Department's Small and Disadvantaged Business Program related to minority bank deposits, and grants and loan and other Federal assistance activities affecting small and minority business not delegated to the Director, Office of Small and Disadvantaged Business Utilization, in § 2.79 of this part.

(18) Establish Departmentwide safety and health policy and provide leadership in the development, coordination and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances related to occupational safety and health within the Department.

(19) Represent the Department in all rulemaking, advisory or legislative capacities on any group, committee, or Governmentwide activities that affect the USDA Occupational Safety and Health Management Program.

(20) Determine and/or provide Departmentwide technical services and regional staff support for the safety and health programs.

(21) Design, develop and maintain computerized management information systems for the collection, processing and dissemination of data related to the Department's occupational safety and health programs.

(22) Administer the Department's Occupational Health and Preventive Medical Program, as well as design and operate employee assistance and workers' compensation activities.

(23) Provide education and training on a Departmentwide basis for safety and health related issues and develop resource and operational manuals.

4. Section 2.77 is removed and reserved.

§ 2.77 [Reserved]

For Subpart C:

Dated: October 25, 1983.

John R. Block,

Secretary of Agriculture.

For Subpart J:

Dated: October 25, 1983.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 83-29068 Filed 11-3-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 436; Lemon Regulation 435; Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 6–12, 1983, and increases the quantity of lemons that may be shipped during the period October 30–November 5, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective November 6, 1983, and the amendment is effective for the period October 30–November 5, 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 the 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 November 1, 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 weeks. 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 and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open

meeting, and the amendment relieves restrictions on the handling of lemons. 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.

PART 910—[AMENDED]

1. Section 910.736 is added as follows:

§ 910.736 Lemons Regulation 436.

The quantity of lemons grown in California and Arizona which may be handled during the period November 6, 1983, through November 12, 1983, is established at 225,000 cartons.

2. Section 910.735 Lemon Regulation 435 [48 FR 49837] is revised to read as follows:

§ 910.735 Lemon Regulation 435.

The quantity of lemons grown in California and Arizona which may be handled during the period October 30, 1983, through November 5, 1983 is established at 220,000 cartons.

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

Dated: November 3, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

FR Doc. 83-30132 Filed 11-3-83; 11:25 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants; Summer 1982 Addenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Summer 1982 Addenda of the American Society of Mechanical Engineers (ASME) Boiler Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction on nuclear power plant components. Adoption of these amendments will permit the use of improved methods for construction of nuclear power plants.

DATES: effective date: December 7, 1983.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. N. J. Miegel, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 443–7860.

SUPPLEMENTARY INFORMATION: On December 22, 1982 the Nuclear Regulatory Commission published in the **Federal Register** proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." The proposed amendment would revise § 50.55a to incorporate by reference the Summer 1982 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code.

The incorporation of the new Addenda does not change any of the previous supplementary requirements included in the regulation.

Some of the changes effected in the addenda that are incorporated by this rule follow:

1. The foreword of all sections of the Code was revised regarding interpretations of the Code to restrict the authority to issue such interpretations to the American Society of Mechanical Engineers. Previously, paragraph thirteen of the foreword had permitted the National Board of Boiler and Pressure Vessel Inspectors to issue interpretations of the ASME Boiler and Pressure Vessel Code.

2. Paragraph NCA–8230(b) was revised to delete the requirement that the location of the nameplate for component supports be shown on the support drawing.

3. Code Case N–100, "Pressure Relief Valve Design," was adopted into the body of the Code as paragraph NB–3590. The Code Case will be annulled when the Summer 1982 Addenda become effective.

4. Paragraph NB–5520 was revised to update the reference to the American Society for Nondestructive Testing (ASNT) standard SNT–TC–1A, from the 1975 to the 1980 Edition. It was also revised to clearly state that even if an outside agency or ASNT provided the qualification examinations, the employer is still responsible for certifying its own personnel.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by February 22, 1983. One comment was received on the proposed rule. The Summer 1982 Addenda invoke the June 1980 Edition of Recommended Practice No. SNT–TC–1A, "Personnel Qualification and Certification in Nondestructive Testing," in paragraph NB–5520 in lieu of the 1975 Edition of SNT–TC–1A which was previously invoked. The commenter objected to updating the edition of SNT–TC–1A referenced by the Code because the commenter was of the opinion that the 1980 Edition of SNT–TC–1A no longer requires Level III individuals to demonstrate their ability to perform the examinations for which they are being qualified. A detailed comparison of the 1975 and 1980 Editions of SNT–TC–1A reveals that although the requirements for qualifications of Level III individuals were changed, neither edition specifically requires a demonstration of the individual's ability to perform the examination. No changes to the rule were made in response to the comment.

The NRC staff is currently working with a committee of industry representatives that is developing an improved requirements document for the qualification and certification of nondestructive examination personnel. Additionally, the staff is involved in a study of the qualification and certification of various quality assurance and quality control personnel that includes consideration of nondestructive examination personnel. At this time, the staff has not concluded that hands-on practical examinations for Level III nondestructive examination personnel are warranted, and finds that the provisions of the June 1980 Edition of SNT–TC–1A are acceptable for Section III Code activities, pending the development of any new requirements.

In addition to the public comment, there was a concern raised by the NRC staff on the change in the 1980 Edition of SNT–TC–1A to the use of the word "should" in numerous places in the standard where the word "shall" had been used in the past. The concern centered around whether or not the change in language resulted in a change in the enforceability of the provisions of SNT–TC–1A. Because of the staff's concern, an inquiry, NI 83–033, was submitted to the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code Committee, asking for an interpretation of the Code's endorsement of SNT–TC–1A. The response to the inquiry was that regardless of the language used in SNT–TC–1A, the Code's endorsement of SNT–TC–1A makes the provisions of SNT–TC–1A mandatory for Code activities.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork

Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act of the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. **Authority:** Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Sec. 50.7 also issued under Pub. L. 95–601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Secs. 50.58, 50.91 and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sec. 50.78 also issued under sec. 122, 68 Stat. 939 (43 U.S.C 2152). Secs. 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Secs. 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55 Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1982 Addenda.

* * * * *

Dated at Bethesda, Maryland, this 5th day of October 1983.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 83-30001 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-75-AD; Amdt. 39-4763]

Airworthiness Directives; Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F182Q, and FR182 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F182Q, and FR182 airplanes. It requires a one time inspection of the aileron hinges for correct location of the cotter pins which retain the aileron hinge pins and if necessary, replacement or correction of aileron hinges having incorrectly located cotter pins. It has been determined that the hole for the cotter pin which retains the aileron hinge pin may have been mislocated on some aileron hinges. This may result in loss of the aileron hinge pin and aileron control. The inspection and corrective action will preclude loss of the hinge pin.

DATES: Effective date: November 8, 1983.

Compliance: As prescribed in the body of this AD.

ADDRESSES: Copies of Cessna Service Information Letter SE83–18 dated July 29, 1983, applicable to this AD may be obtained from Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201, Telephone No. (316) 685–9111. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone No. (316) 269–7005.

SUPPLEMENTARY INFORMATION: A Cessna Model TR182 airplane experienced an in-flight aileron control problem. Upon landing it was found that the outboard hinge pin on the right aileron was missing. The normal airloads, coupled with the loss of the hinge pin caused the right aileron to bend upward, temporarily jamming the controls. The pilot was able to stop the resulting right roll by applying left rudder. The airplane assumed a nose down attitude although full nose up trim was applied. Subsequently the aileron broke loose and the airplane was landed without further incident.

A hole is drilled on each end of this piano style hinge through which a cotter pin is installed to retain the hinge pin. On the airplane involved in this incident the cotter pin holes were mislocated and the installed cotter pins did not retain the hinge pin in the hinge.

Investigation into the manufacturing of the aileron hinge revealed that it was possible to misalign the hinge piece in the tool used to locate and drill the cotter pin hole. Inspection failed to find the discrepant parts due to the sampling techniques utilized. The manufacturer has, however, isolated the time period during which this specific tooling was used and in-turn, the airplanes potentially affected. Cessna has issued Service Information Letter SE83–18 dated July 29, 1983, requiring a one time inspection, plus corrective action if necessary, on the affected airplanes.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring a one time visual inspection and replacement or correction of aileron hinges with mislocated cotter pin holes in accordance with Cessna Service Information Letter SE83–18 dated July 29, 1983, on certain Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F180Q, and FR182 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Cessna: Applies to the following airplanes certificated in any category:

Model	Serial No.
152	15282032 thru 15284659, 15284661 thru 15284684, 15284686 thru 15284851, 15284853 thru 15285417, 15285419 thru 15285621, 15285623 thru 15285625, 15285627 thru 15285651, 15285653 thru 15285681, 15285683, 15285685 thru 15285693, 15285695 thru 15285700, 15285702 thru 15285713, 15285716 thru 15285719, 15285722 thru 15285724, 15285726, thru 15285728, 15285730 thru 15285731, 15285733 thru 15285744, 15285748 thru 15285750, 15285751 thru 15285753, 15285756, 15285757, 15285759, 15285760, 15285764, 15285765, 15285767, 15285769, 15285772, 15285773, 15285778, 15285779, 15285781, 15286783.
A152	A1520809 thru A1520990, A1520992 thru A1520997, A1520999 thru A1521020, A1521022.
172N	17271035 thru 17274009.
172P	17274010 thru 17275806, 17275809, 17275817 thru 17275854, 17275857, 17275861 thru 17275881, 17275883 thru 17275910, 17275912 thru 17275947, 17275949 thru 17275953, 17275955 thru 17275958, 17275960 thru 17275971, 17275973, 17275974, 17275976, 17275978, 17275980 thru 17275982, 17275984, 17275986 thru 17275992, 17275994, 17275995, 17275997, 17275999 thru 17276002, 17276005, 17276010, 17276012, 17276014.
172Q	17275869 thru 17275881, 17275883 thru 17275910, 17275912 thru 17275947, 17275949 thru 17275953, 17275955 thru 17275958, 17275960 thru 17275971, 17275973, 17275974, 17275976, 17275978, 17275980 thru 17275982, 17275984, 17275986 thru 17275992, 17275994, 17275995, 17275997, 17275999 thru 17276002, 17276005, 17276010, 17276012, 17276014.
172RG	172RG001 thru 172RG1134, 172RG1137
R172K	R1722930 thru R1723454.
180K	18053001 thru 18053203.
182Q	18266591 thru 18267715.
182R and T182	18267716 thru 18268103, 18268105 thru 18268107, 18268109 thru 18268129, 18268131 thru 18268141, 18268143, 18268144, 18268146 thru 18268293, 18268295, 18268310, 18268312 thru 18268322, 18268324 thru 18268327, 18268330 thru 18268332, 18268335, 18268336, 18268339, 18268343, 18268345, 18268348, 18268350.
R182 and TR182	R18200584 thru R18201912, R18201914 thru R18201933, R18201935 thru R18201938, R18201940, R18201942, R18201943, R18201945, R18201946, R18201949, R18201950, R18201953, R18201954.
A185F	18503684 thru 18504334, 18504336, 18504337, 18504339 thru 18504395, 18504397, 18504398, 18504400.
F152	F15201529 thru F15201883, F15201885 thru F15201896, F15201898 thru F15201931, F15201933, F15201935, F15201936.
FA152	FA1520348 thru FA1520382.
F172N	F17201750 thru F17202039.
F172P	F17202040 thru F17202146, F17202148 thru F17202175, F17202177 thru F17202181, F17202183 thru F17202186, F17202189 thru F17202194, F17202197, F17202200, F17202202.
FR172K	FR17200631 thru FR17200675.
F182Q	F18200095 thru F18200169.
FR182	FR18200021 thru FR18200070.

Compliance: Required as indicated, unless already accomplished. To prevent possible loss of an aileron hinge pin, accomplish the following:

(a) Within the next 100 hours time in service, after the effective date of this AD, visually inspect each aileron hinge (6 total) for correct location of the cotter pin in accordance with Figure 1. of this AD or Cessna Service Information Letter SE83–18 dated July 29, 1983.

1. If the cotter pin holes are correctly located the airplane may be returned to service without further action.

2. If the cotter pin holes are incorrectly located, prior to further flight modify or replace aileron hinges in accordance with instructions in Figure 1. of this AD or Cessna Service Information Letter SE83–18 dated July 29, 1983.

(b) Airplanes may be flown in accordance with FAR 21.197 to a base where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Wichita, Kansas 67209, Telephone (316) 269–7000.

This amendment becomes effective on November 8, 1983.

(Secs. 313(a), 601 and 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); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

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

Issued in Kansas City, Missouri, on October 21, 1983.

John E. Shaw,

Acting Director Central Region.

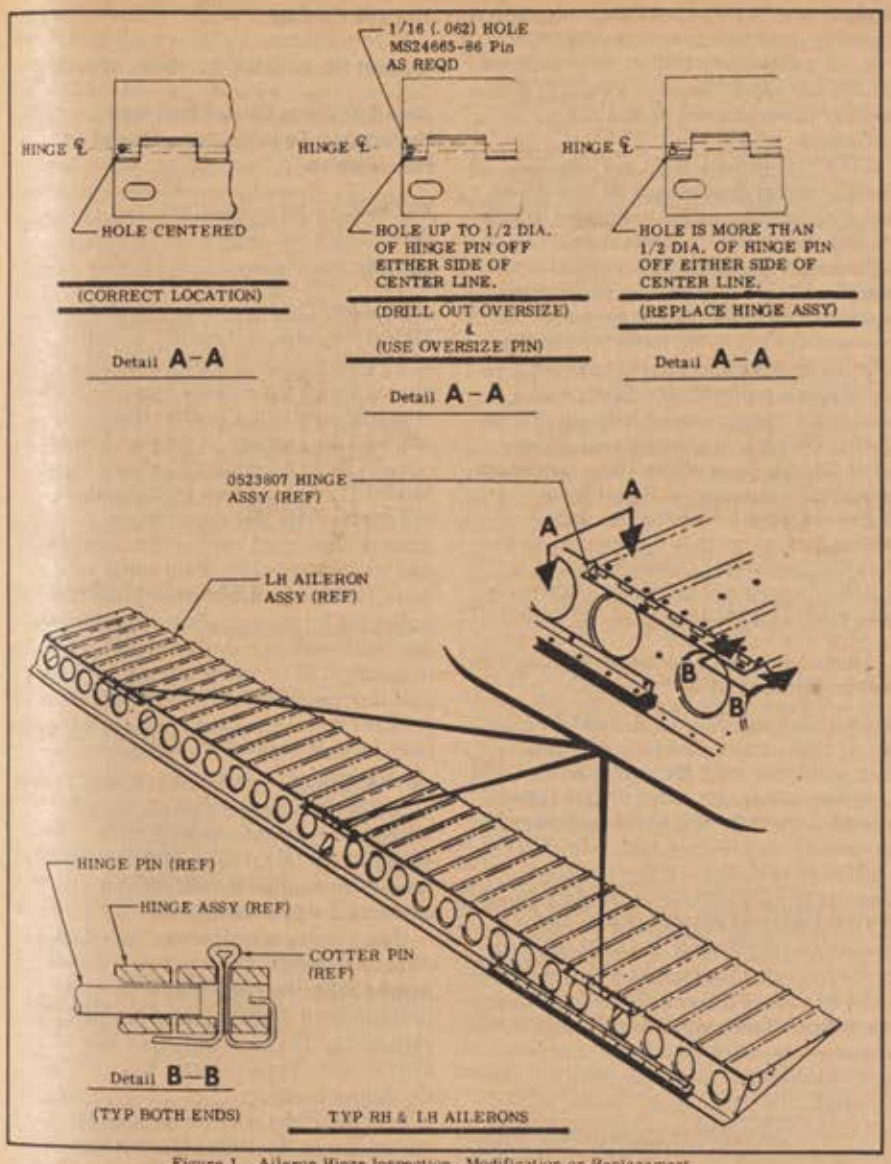

Figure 1. Aileron Hinge Inspection, Modification or Replacement.

[FR Doc. 83-30015 Filed 11-3-83; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 83-ANE-18; Amdt. 39-4748]

Airworthiness Directives; AVCO Lycoming Reciprocating Engine Series IO-540, TIO-540, LTIO-540, TIO-541, TIGO-541 and Model AEIO-540-L1B5D

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) requiring the replacement of Fuel Diaphragm Assy. P/N 2539806 installed in certain Bendix RSA-10 Fuel Injector Units, with an improved Fuel Diaphragm Assy., P/N 2541803, performing a flow bench calibration of the injector unit, and reidentifying the nameplate. The AD is necessary to prevent separation of the fuel diaphragm from the stem resulting in the cutoff of fuel supply to the aircraft's engine and subsequent engine failure.

DATES: Effective date: November 4, 1983. The Director of the Office of the Federal Register approved the incorporation by reference of certain publications in 14 CFR 39.13 effective on November 4, 1983.

Compliance schedule—As prescribed in the body of the AD.

Comments must be received on or before December 5, 1983.

ADDRESSES: The applicable service bulletins may be obtained from Bendix Energy Controls Division, 717 North Bendix Drive, South Bend, Indiana 46620. Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 83-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01038.

A copy of each of the service bulletins is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and in the New York Aircraft Certification Office, 181 South Franklin Avenue, Rm. 202, Valley Stream, New York 11581. The service bulletins and all comments received may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. I. Mankuta, ANE-174, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791-7421.

SUPPLEMENTARY INFORMATION: There have been reports of engine failures, loss of power, and at least one accident caused by the separation of the fuel diaphragm stem from the fuel diaphragm. Although the failure mode could not be duplicated, it has been determined that certain P/N 2539806 stem assemblies manufactured from AMS 5646 steel annealed during the latter part of 1979, may not have adequate strength to withstand the stresses during operation and are susceptible to fatigue fracture. Earlier fabricated stem assemblies (work hardened) are exempt from this AD. Bendix tests on a tougher, higher tensile strength material, indicate that the new P/N 2541803 diaphragm stem will adequately withstand operational stresses experienced in service.

Request for Comments on thc Rule

Although this action is in the form of a final rule, which involves requirements affecting flight safety and therefore was not preceded by notice and public procedure, comments are invited on the

rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

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

Engines, Aircraft, and Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

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

Avco Lycoming: Applies to all Avco Lycoming *IO-540-G1B5*, -G1C5, -G1D5, -K1A5, -K1A5D, -K1B5, -K1C5, -K1D5, -K1F5, -K1F5D, -K1G5, -K1G5D, -K1J5, -K1J5D, -M1B5D, -S1A5, -AA1A5; *AEIO-540-L1B5D*; *TIO-540-F2BD*, -J2BD, -N2BD, -S1AD, -U2A, -V2AD; *LTIO-540-F2BD*, -J2BD, -N2BD, -U2A, -V2AD; *TIO-541-E1A4*, -E1B4, -E1C4; *TIGO-541-E1A*, series engines equipped with Bendix Models RSA-10DB1, RSA-10DB2, RSA-10ED1, and RSA-10ED2 fuel injectors as identified in Bendix Service Bulletin RS-88, including Supplement 1, Section 1.A. (1), (2) and (3).

Compliance required within the next 50 hours in service after the effective date of this AD, unless previously accomplished.

To prevent engine failure due to fatigue failure of the injector fuel diaphragm stem, replace P/N 2539806 fuel diaphragm assembly with P/N 2541803 and perform flow calibration and nameplate reidentification in accordance with Section 2 Accomplishment Instructions of Bendix Energy Controls Division Service Bulletin RS-85, or FAA Approved equivalent.

An equivalent method of compliance with this AD, may be used if approved by the Manager, New York Aircraft Certification Office, FAA, New England Region. Upon submission of substantiation data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

In accordance with FAR 21.197 and 21.199, the aircraft may be flown to a location where the alterations required by this AD can be performed.

AVCO Lycoming S/B No. 467, Bendix Energy Control Service Bulletin Nos. RS-85 including Supplement No. 1, Revised August 10, 1983, and RS-88 including Supplement No. 1, Revised August 10, 1983, identified and described in this directive are incorporated herein and made by reference a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive who have not already received these documents may obtain copies upon request to Bendix Energy Control Division, 717 North Bendix Drive, South Bend, Indiana 46620. These documents may also be examined at the Office of Regional Counsel, FAA New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained at the New England Regional Office.

This amendment becomes effective on November 4, 1983.

(Secs. 313(a), 601, and 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); 14 CFR 11.89)

Note:—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or signficant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) on the basis that the total cost impact is under $3 million. It is certified that the final rule will not have a significant economic impact on a substantial number of small entities because of the phase-down schedule of compliance and because the cost of the action is less the $200 per engine which is nominal compared to the overall cost of the aircraft involved.

A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 83-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01803.

Note:—The incorporation by reference provisions of this document were approved on November 4, 1983. The referenced Bulletins are available at the Office of the Federal Register.

Issued in Burlington, Massachusetts, on October 11, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-29659 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ASW-82; Amdt. 39-4760]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 412 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Fedral Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., Model 412 helicopters by individual telegrams. The AD requires an immediate reduction in retirement life of certain part number main rotor yokes, installation of a main rotor yoke flex indicator kit on certain main rotor hub assemblies, and a daily visual inspection of certain main rotor yokes and flex indicators. The AD is needed to prevent main rotor yoke failure which could result in loss of a helicopter.

DATES: Effective December 2, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T82-26-51, issued December 8, 1982, which contained this amendment.

Compliance required on the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, Attention: Customer Support.

A copy of the service bulletin is contained in the Rules Docket located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: H. A. Armstrong, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, telephone number (817) 877-2079.

SUPPLEMENTARY INFORMATION: On December 8, 1982, telegraphic AD T82-26-51 was issued and made effective immediately as to all known U.S. owners and operators of Bell Helicopter Textron, Inc., Model 412 helicopters. The AD required a reduction in retirement life of certain part number main rotor yokes. Additionally, the AD required installation of a main rotor yoke flex indicator kit on certain main rotor hub

assemblies. The AD also required a continuing daily visual inspection of the main rotor yokes and the flex indicators. The AD action was necessary to prevent main rotor yoke failure which could result in loss of a helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued December 8, 1982, to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., Model 412 helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

Bell Helicopter Textron, Inc.: Applies to Bell Helicopter Textron, Inc., Model 412 helicopters certificated in all categories that are equipped with main rotor yokes P/N 412-010-101-109, -113, -117, and -121. (Airworthiness Docket No. 82-ASW-82).

Compliance is required as indicated (unless already accomplished).

To prevent failure of the main rotor yoke, accomplish the following:

(a) Effective immediately, the retirement life of yoke assemblies P/N 412-010-101-113, -117, and -121 is reduced to 700 hours. Yokes with more than 675 hours' time in service on the effective date of this AD may be operated and additional 25 hours maximum.

(b) Install flex indicator kit, Bell P/N 412-703-006-101, on yoke assemblies P/N 412-010-101-113, -117, and -121 within 25 hours' time in service after the effective date of this AD. Before the first flight of each day perform an inspection of the flex indicators and perform corrective action when deflection is indicated in accordance with the instructions in Bell Alert Service Bulletin 412-82-9, dated 12-9-82, or an equivalent procedure approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Southwest Region.

(c) Before the first flight of each day perform a visual inspection of yoke assemblies P/N 412-010-101-109, -113, -117, and -121 in the area of the flexure concentrating on the area from the mast to the damper bridges including the transition radii from the flexure to the damper bridge mounting area, on both upper and lower surfaces of the yoke.

(d) In accordance with FAR 21.197, flight is permitted to a base where the requirements of this AD may be accomplished.

(e) Any equivalent means of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Southwest Region.

Note.—Refer to Bell Helicopter Textron, Inc. Service Bulletin 412-82-9, dated 12-9-82, or FAA approved equivalent for flex indicator installation procedures.

This amendment becomes effective December 2, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T82-26-51 issued December 8, 1982, which contained this amendment.

(Sec. 313(a), 601, and 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); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsuquently 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 Fort Worth, Texas, on October 19, 1983.

Roger G. Knight,

Acting Director, Southwest Region.

[FR Doc. 83-29936 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-94-AD; Amdt. 39-4765]

Airworthiness Directives; BFGoodrich Emergency Evacuation Slide/Rafts P/N's 7A1340 Series, 7A1342 Series, 7A1371 Series, and 7A1373 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, repair, or replacement, as necessary, of BFGoodrich Emergency Evacuation Slide/Rafts P/N's 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series installed in Boeing 747 airplanes in accordance with STC SA574GL or SA575GL. This AD is prompted by reports of leakage due to fabric porosity which in one case was severe enough to significantly degrade to functioning as a slide after approximately one minute of inflation, and in several cases was severe enough to prevent continued functioning as a raft. It has been determined that the inspection and repair procedure contained in BFGoodrich Service Bulletin 25-081 will correct the problem.

DATES: Effective November 15, 1983.

Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from BFGoodrich Company, ATTN: Mr. Earl Lucas, Dept. 1809, Bldg. 17F, 500 South Main Street, Akron, Ohio 44318, telephone (216) 374-2193.

A copy of the service bulletin is contained in the Rules Docket located at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Charles Smalley, Aerospace Engineer, Systems Equipment Branch, ACE-130C, FAA, Central Region, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7126.

SUPPLEMENTARY INFORMATION: There have been 15 reports of high leakage rates in BFGoodrich Emergency Evacuation Slide/Rafts, P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series. The leakage is believed to be caused by abrasion by the packboard and the screws on the aspirator assembly and fungus infestation. The problem was uncovered by an airline during normal overhaul procedures. The leakage rates are such that in one case the use of the slide/raft as a slide was severely degraded approximately one minute after inflation, and in several cases use as a raft was degraded because the leakage rates exceeded the capability of the handpump packed with the slide/raft.

Also, during the inspections of the slide/rafts, three of the handpumps were found to be inoperative. Both problems are believed to be limited to a specific set of serial numbers called out in the service bulletin for immediate inspection. The remaining units of the same design but different fabric lots and

handpump design are scheduled for inspection within 120 days.

Since this situation is likely to exist or develop on other slide/rafts of the same type design, an airworthiness directive is being issued which requires a recurring inspection and repair, as necessary, of BFGoodrich Emergency Evacuation Slide/Rafts P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series.

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

PART 39—[AMENDED]

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

BFGoodrich: Applies to BFGoodrich Emergency Evacuation Slide/Rafts P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series. These slide/rafts are installed on Boeing Model 747-100 and 747-200B airplanes in accordance with Supplemental Type Certificate (STC) SA574GL, and on Boeing Model 747-100B, 747SR, and 747-300 airplanes in accordance with STC SA575GL. Compliance required as indicated below. To assure proper functioning of BFGoodrich Slide/Rafts, accomplish the following unless previously accomplished in accordance with the procedures in BFGoodrich Service Bulletin 25-081, Revision 1, dated September 27, 1983.

A. For BFGoodrich Slide/Rafts P/Ns 7A1340 series or 7A1371 series S/Ns G001 thru G289, and P/Ns 7A1342 series or 7A1373 series, S/Ns G001 thru G087: Within 20 calendar days after the effective date of this AD perform the maintenance procedures contained in BFGoodrich Service Bulletin 25-081, Revision 1, dated September 27, 1983, or subsequent FAA approved revisions, on installed slide/rafts or on slide/rafts prior to installation. Repeat inspections per paragraph C., below.

B. For all BFGoodrich Slide/Rafts, P/N's 7A1340 series, 7A1342 series, 7A1371 series and 7A1373 series, inspect all serial numbers installed prior to September 1, 1983, and not inspected per paragraph A., above, in accordance with BFGoodrich Service Bulletin 25-081, Rev. 1, dated September 27, 1983, or subsequent FAA approved revision, within 120 days of the effective date of this AD. Slides installed subsequent to August 31, 1983 must be inspected in accordance with BFGoodrich Service Bulletin 25-081, Revision 1, dated September 27, 1983, or subsequent FAA approved revision, within 180 days of last leak check inspection. (Reference Service Bulletin Section 2B) Repeat inspections per Paragraph C., below.

C. To prevent undetected deterioration repeat the inspection of all installed BFGoodrich Slide/Rafts, P/N's 7A1340 series, 7A1342 series, 7A1371 series and 7A1373 series, in accordance with Section 2B of BFGoodrich Service Bulletin 25-081, Rev. 1, dated September 27, 1983, or subsequent FAA approved revision, within 180 days of last inspection or within 180 days of installation.

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

E. Upon request of operator, an FAA Principal Maintenance Inspector, subject to prior approval by Manager, Chicago Aircraft Certification Office, FAA, Central Region, can adjust the compliance times if the request contains substantiating data to justify the increase for the operator.

F. 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 these documents from the manufacturer may obtain copies upon request to BFGoodrich Company, Attn: Mr. Earl Lucas, Dept. 1809, Bldg. 17F, 500 South Main Street, Akron, Ohio 44318.

These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

This amendment becomes effective November 15, 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 Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on October 26, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-29934 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-74-AD; Amendment 39-4766]

Airworthiness Directives; British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 airplanes, which supersedes Emergency Airworthiness Directive 83-14-11 issued by priority letter dated July 19, 1983. This superseded AD established limitations prohibiting flight of these airplanes into known or forecast icing conditions and extension of flaps beyond 20 degrees because of possible short period pitch oscillations under these conditions. Subsequent to the issuance of AD 83-14-11, the manufacturer has developed a modification which precludes short period pitch oscillations caused by an accumulation of ice on the tail or extension of the flaps beyond 20 degrees. This modification is incorporated in the superseding AD as an alternate corrective action. Compliance with the restrictions contained in AD 83-14-11 or incorporation of this alternate modification will reduce the possibility of development of short period pitch oscillations and subsequent loss of airplane control.

DATES: Effective date: November 10, 1983.

Compliance: As prescribed in the body of the AD

ADDRESSES: British Aerospace Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983, and Flight Test Schedule FTS 397/JM dated August 2, 1983, applicable to this AD, may be obtained from British Aerospace Incorporated, 13850 McLearen Road, Dulles Industrial Aerospace Park, Herndon, Virginia 22070. A copy of this information is also contained in the Rules Dockets, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30; or Mr. L. Werth, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: As a result of two reports of a pronounced and rapid pitch oscillation during flight in icing conditions on a Jetstream Series 3100 aircraft, British Aerospace issued an urgent temporary revision to the Jetstream Airplane Flight Manuals (AFM) which established limitations prohibiting flight of these airplanes into known or forecast icing conditions and extension of flaps beyond 20 degrees. The FAA found that the condition addressed by this United Kingdom Civil Aviation Authority (UKCAA) approved temporary revision to the AFM was an unairworthy condition likely to exist on airplanes certificated for operation in the United States. As a result AD 83-14-11 applicable to Jetstream 3101 airplanes, was issued by priority letter dated July 19, 1983, establishing limitations prohibiting flight into known or forecast icing conditions and extension of the flaps beyond 20 degrees. Subsequently the manufacturer conducted extensive flight and wind tunnel testing and has developed an airframe modification which will reduce the possibility of developing these oscillations. As a result British Aerospace issued Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983, and Flight Test Schedule FTS 397/JM dated August 2, 1983, which contain instructions for incorporation of Modification JM7328, Part B, and for flight testing the modified airplane. The UKCAA, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness to the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of British Aerospace Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983, and the mandatory classification of this Service Bulletin by the UKCAA.

Based on the foregoing, the FAA has determined that the condition addressed by this Service Bulletin is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, and AD superseding AD 83-14-11 is being issued that requires limitations prohibiting flight into icing conditions and flap extension beyond 20 degrees, or, incorporation of Modification JM7328, Part B, and subsequent flight test per the instructions in Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983, on British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

British Aerospace: Applies to British Aerospace Model 3101 (all serial numbers) airplanes certificated in any category.

Compliance: Required prior to further flight, unless already accomplished.

To reduce the possibility of development of short period pitch oscillations, accomplish either paragraphs (a) or (b) as follows:

(a) Placard the airplane and modify the AFM as follows:

(1) Fabricate and install in full view of the pilot a temporary placard using letters of minimum .10 inch in height which states: "FLIGHT IN ICING CONDITIONS PROHIBITED. MAXIMUM PERMITTED FLAP ANGLE IS 20 DEGREES."

and operate the airplane in accordance with these limitations.

(2) Add the following information to page 37, Section 5 of the AFM:

"Landings must be made with no more than 20 degrees of flap selected. Increase approach speed by 10 knots."

(3) Add the following information to pages 45 and 47, Section 5 of the AFM:

"Landings must be made with no more than 20 degrees of flap selected. The scheduled field lengths are increased by 20 percent."

(4) Insertion of a copy of this AD in front of the pages specified in paragraphs (a)(2) and (a)(3) above satisfies the requirements of these paragraphs.

(5) The requirements of paragraphs (a)(1) through (a)(4) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

or

(b) Incorporate British Aerospace Modification JM7328, Part B, in accordance with the accomplishment instructions of British Aerospace Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983

(1) Until AFM revisions are received and incorporated, make the following amendments in the AFM of the modified airplane:

(A) In Section 2 of page 3, the aft limit of the center of gravity envelope is moved from 228 inches aft of datum to 226 inches aft of datum at all weights.

(B) In Section 5 of page 31, the weight limited both engines operating enroute climb speed is increased to the following values:

Airplane weight (thousands of pounds)	Airspeed (knots IAS)
10	109.0
11	114.5
12	119.5
13	124.3
14	129.1
14.55	131.8

(2) Following incorporation of British Aerospace Modification JM7328, Part B, perform a flight test in accordance with British Aerospace Flight Test Schedule FTS 397/JM dated August 2, 1983, as referenced in British Aerospace Service Bulletin 27-A-JM7328, Revision 2, dated September 12, 1983. This flight test is to be accomplished either by a British Aerospace factory test pilot or under the supervision of an FAA test pilot, or by a British Aerospace factory approved pilot.

(c) An equivalent means of compliance with this AD may be used, if approved, by the Manager, Aircraft Certification staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium. This AD supersedes AD 83-14-11, issued by priority letter dated July 19, 1983. This amendment becomes effective on November 10, 1983.

(Sec. 313(a), 601 and 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); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order

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

Issued in Kansas City, Missouri, on October 25, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-29932 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-44; Amdt. 39-4762]

Airworthiness Directives; Robinson Model R-22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters by individual letters. The AD requires replacement of certain Robinson main rotor blades prior to further flight. The AD is prompted by a report of fatigue failure of a main rotor blade which would result in the crash of the helicopter.

DATES: Effective November 21, 1983, as to all persons except those persons to whom it was made immediately effective by priority letter AD 83-15-07, issued July 28, 1983, which contained this amendment.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505. A copy of the service bulletin is contained in the Rules Docket at the office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Charles Matheis, ANM-172W, Western Aircraft Certification Field Office, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Hawthorne, California 90009-2007, telephone number (213) 536-6378.

SUPPLEMENTARY INFORMATION: On July 28, 1983, a priority letter AD 83-15-07 was issued and made effective immediately as to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters. This final rule is different from the letter AD in that the main rotor blade serial numbers have been correlated with the affected design revision letter and insignificant editorial changes have been made for clarity. The AD required removal from service of Robinson main rotor blades, part number (P/N) AO16-1, Revision "W" (serial numbers (S/N) 0001 through 0810). After the letter AD was issued, it was noted that the Revision "W" blades are S/Ns 0600 through 0810. This AD is applicable to main rotor blades S/Ns 0600 through 0810. Previous FAA AD action has removed from service all Robinson main rotor blades P/N AO16-1, original (no revision) through Revision "V," (S/Ns 0001 through 0593). Main rotor blades S/Ns 0594 through 0599 were Revision "W" test articles which were scrapped at the end of the test program. The AD was prompted by a report of a fatal crash apparently caused by a main rotor blade failure. The blade, which had been determined to have a 1000-hour fatigue limited service life, failed at approximately 950 hours' of time in service. It has been determined that the blade failure originated as a fatigue failure through the first attachment, nearest the root, of the root fitting (P/N A161-1) to the spar (P/N A160-1). This area is completely enclosed and can only be viewed after destructive separation of main rotor blade components. Since this condition is likely to exist on other helicopters of the same type design, an airworthiness directive is being adopted which requires that, prior to further, flight certain main rotor blades be removed from service on Robinson Model R-22 series helicopters.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued July 28, 1983, to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

Robinson Helicopter Company: Applies to Model R-22 series helicopters, certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To detect cracks and to prevent possible fatigue failure of main rotor blades, accomplish the following prior to further flight after the effective date of this AD:

(a) Conduct an inspection of the main rotor blades to determine the serial number of the installed main rotor blades.

(b) Remove from service all Robinson main rotor blades P/N A016-1 Revision "W." Revision "W" main rotor blades have S/Ns 0600 through 0810.

Note.—Section 9.100 of the R-22 Maintenance Manual contains pertinent assembly/disassembly instructions, and Robinson Helicopter Company Bulletin #33 dated July 25, 1983, contains the same instructions as this airworthiness directive as will as shipping/warranty information. Main rotor blades removed by (b) should be either cut up in accordance with Robinson Helicopter Company Service Bulletin #33, or marked "UNAIRWORTHY" on both surfaces at approximately mid-span with lettering at least 2 inches high and "UNAIRWORTHY" impressed on the data plate using a metal stamp.

(c) Equivalent means of compliance with the AD may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA, P.O. Box 92007, Worldway Postal Center, Hawthorne, California 90009-2007

This amendment becomes effective November 21, 1983, as to all persons except those persons to whom it was made immediately effective by priority letter AD 83-15-07, issued July 28, 1983, which contained this amendment.

(Secs. 313(a), 314(a), 601, through 610, and 1102, 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)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an

unsafe condition in aircraft. It is certified that this action 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 Fort Worth, Texas, on October 20, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-29935 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-37]

Alteration of Transition Area; Wetumpka, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Wetumpka, Alabama, transition areas by correcting a deficiency that has gone unnoticed for several years. On March 23, 1978, the transition area was altered by reducing it in size. When the transition area was redescribed the geographical coordinates of the Wetumpka Municipal Airport, upon which the area is centered, were inadvertently omitted from the new description. This action will correct the deficiency. No change in airspace designation is intended by this action.

DATES: Effective date: 0901 GMT, January 19, 1984. Comments must be received on or before December 1, 1983.

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

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

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request For Comments on the Rule

Although this action is in the form of a final rule, which involves an editorial correction to the description of the transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to insert the geographical coordinates of the Wetumpka Municipal Airport in the description of the Wetumpka, Alabama, transition area so that the description will be technically correct. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. The change is so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Wetumpka, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, January 19, 1984, as follows:

Wetumpka, AL—[Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wetumpka Municipal Airport (Lat. 32°31'33" N., Long. 86°19'42" W.), excluding the portion that coincides with the Montgomery, AL, 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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on October 14, 1983.

William J. McGill,

Acting Director, Southern Region.

[FR Doc. 83-29937 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Schedule of Fees for Requests for Commission Records, Reports of the Commission, and Transcripts of Commission Meetings

Correction

In the correction to FR Doc. 83-27403 beginning on page 49839 in the issue of Friday, October 28, 1983, the references to "§ 145.96" should read "§ 145.9b".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Benzoate and Testosterone Propionate, Progesterone and Estradiol Benzoate

Correction

In FR Doc. 83-28531 appearing on page 48659 in the issue of Thursday, October 20, 1983, in the middle column, the first complete paragraph, the tenth line should be corrected to read "Administration, Rm. 4-62, 5600 Fishers Lane,".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-83-1129]

Housing for the Elderly to Implement Cost Savings Procedures

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts higher per unit cost limits for projects for the elderly or handicapped under Section 202 of the Housing Act of 1959 in order to compensate for the higher costs incident to the construction of elevator-type buildings.

EFFECTIVE DATE: Effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver. Further notice of effectiveness of this final rule will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 246-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 18, 1983, HUD published a final rule (48 FR 11432) which, among other things, adopted for the Program of Housing for the Elderly or Handicapped under Section 202 of the Housing Act of 1959 the per unit cost limits for non-profit borrowers in the mortgage insurance program contained in section 221(d)(3) of the National Housing Act. The rule lowered the per unit limits for all categories of elevator and non-elevator type structures, except non-elevator units with three or more bedrooms.

In the preamble to the final rule, HUD recognized that in certain cases the reduced per unit limits could be too low to permit construction of Section 202 projects. Specifically, the preamble noted:

> If documentation is provided that, in an individual case, development of a project is infeasible because costs in the area exceed the high cost limit, the Assistant Secretary would consider a waiver, pursuant to § 899.101, of that limit. 48 FR 11434.

Since adoption of the rule, a significant number of HUD field offices have received a substantial number of requests to waive the elevator structure limits. A preliminary review of the requests indicates that they are justified and, therefore, most will likely be granted. Because of this, HUD is revising § 885.410(c) to reinstate the higher cost limitations that were in effect for elevator type structures before the March 18, 1983 amendments. No change is proposed in the limits for non-elevator type structures.

HUD believes that the amendment will significantly reduce the number of justifiable waiver requests submitted for review. This will save the delay and consequent increases in project development costs for projects requiring waiver of the cost limits. The Department does not believe that reinstatement of the former elevator limits will undermine the goal of cost-containment in the Section 202 Program. The increased limits set forth in this rule represent a ceiling that will exceed what is required by most Section 202 projects processed under the Department's current cost-containment guidelines.

The final rule will save both Section 202 loan authority and Section 8 subsidy costs over the term of the Section 8 contract by not delaying pending projects that would have to await Departmental review of waiver requests. In light of this, and the fact that the amendment is directly responsive to public comments on the reduction of per unit cost limits in the final rule making proceeding, the Department believes that it is in the public interest to implement the changes made by this rule promptly. Offering an opportunity for public comment before the effective date of this rule would cause a significant delay in implementation of this change, unnecessarily adding to project development costs. Accordingly, the Secretary has determined that prior public comment would be contrary to the public interest, and that good cause exists for publishing this amendment as a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations (24 CFR Part 50) implementing Section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The amendment to increase the per unit cost limits will give small entities greater flexibility in designing elevator type structures, thus keeping overall development costs at reasonable levels.

This rule is listed at 48 FR 47446 as Item H-58-83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47418), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.157, Housing for the Elderly or Handicapped (202).

List of Subjects in 24 CFR Part 885

Aged, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, Part 885 is amended as follows:

Section 885.410(c) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit as provided in paragraph (b) of this section, not to exceed:

(1) $26,400 per family unit without a bedroom,

(2) $30,550 per family unit with one bedroom,

(3) $36,200 per family unit with two bedrooms,

(4) $42,750 per family unit with three bedrooms, restricted to non-elderly handicapped families, and

(5) $48,700 per family unit with four or more bedrooms, restricted to non-elderly handicapped families.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q) and sec. 7 (d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: October 28, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing.

[FR Doc. 83-29981 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Change in Required Cash Deposits

Correction

In FR Doc. 83-28343 beginning on page 48661 in the issue of Thursday, October 20, 1983, the heading at the beginning of the document incorrectly cited 30 CFR Part 223. The correct reference is 36 CFR Part 223.

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services, Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to require that solicitations state more clearly whether offers will be evaluated on a carload, truckload, or less-than-truckload rate basis. Another amendment makes two provisions mandatory only when a less-than-truckload shipment is expected and the items procured fall within the size and weight requirements for fourth-class mail. Certain editorial changes are also made.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 83-8, dated October 25, 1983.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

Section 26-207.2 is revised so that solicitations state more clearly whether carload, truckload, or less-than-truckload will be used to evaluate transportation rates.

Section 26-207.3(b) is revised to make the clauses at (i) and (ii) mandatory only in contracts where a less-than-truckload shipment is expected and the individual shipping units fall within the size and weight requirements for fourth-class mail.

"Shall" was changed to "must" wherever it appeared.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 83-29988 Filed 11-3-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-4-FRL 2464-7]

Hazardous Waste Management Programs; Georgia; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of Georgia has applied for Interim Authorization Phase II, Component C. EPA has reviewed Georgia's application for Phase II, Interim Authorization Component C, and has determined that Georgia's hazardous waste program is substantially equivalent to the Federal program covered by Component C. The State of Georgia is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program covered by Component C in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II, Component C, For Georgia shall become effective November 4, 1983.

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

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that state in lieu of a federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, interim status standards for owners and operators of treatment, storage and disposal facilities, and requirements for State programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and

disposal facilities in preparing permits. In the July 26, 1982, **Federal Register** (47 FR 32373), the Environmental Protection Agency announced that States could apply for Component C of Phase II of Interim Authorization. Component C published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting facilities that dispose of hazardous waste in waste piles, surface impoundments, land treatment, and landfills.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 271, Subpart B (48 FR 14249) April 1, 1983.

The State of Georgia received Interim Authorization for Phase I on February 3, 1981, and Interim Authorization for Phase II, Components A and B, on May 21, 1982.

Draft Application

The State of Georgia submitted its draft application for Phase II, Component C, Interim Authorization on April 25, 1982. After detailed review, EPA identified only minor concerns and transmitted comments to the State on June 9, 1983, for its consideration. Some of the issues raised by EPA follow.

EPA requested the Attorney General to certify that: (1) Georgia can execute the public participation requirements in section 7004(b) of RCRA; (2) Georgia's adoption by reference of 40 CFR Parts 122 and 123 is not affected by EPA's recodification of those Parts of the regulations; and (3) Georgia's Hazardous Waste rule adopting 40 CFR 270.61–.63 by reference is substantially equivalent to the federal requirements. EPA also requested that Georgia approve a revised MOA which includes new reporting dates, new language on delisting and information sharing, and a new "major facility" definition.

State officials resolved these issues by submitting the Final Phase II, Component C, Interim Authorization application on July 25, 1983, which included revisions in the Attorney General's Statement and the MOA.

Final Application

On July 15, 1983, Georgia submitted to EPA a Final Application for Interim Authorization, Phase II, Component C, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Georgia's Hazardous Waste Management Program.

EPA comments were forwarded to the State on September 1, 1983. No *major* questions were raised in the comments. The comments requested minor clarification and correction to the application. Also, a revised MOA was submitted for the State's approval.

By letter dated September 15, 1983, the State responded satisfactorily to the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on August 22, 1983, (48 FR 38010), EPA gave the public until September 19, 1983, to comment on the State's application. EPA also issued a public notice for a hearing in Atlanta, Georgia, on September 29, 1983 if significant public interest was expressed.

EPA, Region IV, received no written or oral comments, inquiries, or requests for a hearing.

Decision

EPA has reviewed Georgia's complete application for Interim Authorization Phase II, Component C, and has determined that the state program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 271, Subpart B (48 FR 14249) April 1, 1983. In accordance with Section 3006(c) of RCRA and implementing regulations, Georgia is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program for permitting the contruction and operation of facilities that dispose of hazardous waste in lieu of the Federal program.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

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

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental regulations, 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: October 14, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-29974 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-36

[FPMR Amdt. F-58]

Hardware and Federal Telecommunication Standards

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides standard terminology for use in requirements documents, including solicitations, regarding the application of Federal Information Processing Standards (FIPS) and Federal Telecommunication Standards (FED-STD). The purpose of this action is to implement these standards into Federal Government information resources management procedures. The intent is to increase economy and efficiency by applying standards for automatic data processing and communication systems.

EFFECTIVE DATE: December 1, 1983, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: P. Patton, Policy Branch, Office of Information Resources Management Policy (202-566-0194).

SUPPLEMENTARY INFORMATION:

1. The following changes are made in Subpart 101-36.13:

a. Section 101-36.1304-15 is modified to cross-reference the data encryption standard described in FIPS PUB 46 to FED-STD 1027. It also references other pertinent documents relating to security and privacy.

b. Section 101-36.1304-30 is added to provide standard terminology for use in requirements documents, including solicitations, for all automatic data processing equipment and services involving character imaging that meet

certain conditions. They must employ the character set and encoding conventions prescribed in FIPS PUB 1–1 and FIPS PUB 35, employ primarily character-oriented controls, and be consistent with the architectural assumptions for devices given in Appendix B, American National Standard X3.64–1979.

c. Section 101–36.1307–1 is modified to add an entry to reference FIPS PUB 95, Codes for the Identification of Federal and Federally-Assisted Organizations. This data standard provides a four-character identifier for each Federal and Federally-assisted organization.

d. Section 101–36.1308–17 is added to provide standard terminology for use in requirements documents, including solicitations, for crytographic components, equipment, systems, and services offered to meet encryption requirements for unclassified digital information in a telecommunications environment.

e. Section 101–36.1308–21 is added to provide standard terminology for use in requirements documents, including solicitations, for the design, development, and procurement of Group 3 facsimile apparatus for use over voice band analog circuits.

f. Section 101–36.1308–22 is added to provide standard terminology for use in requirements documents, including solicitations, for the design, development, and procurement of facsimile terminals/systems that follow the procedures specified in FED–STD 1063.

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, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in cost to consumers or others; or significant adverse effects. The General Services Administration's decisions are based on adequate information concerning the need for and consequences of this rule. This is a Government-wide management regulation that will have little or no effect on society.

List of Subjects in 41 CFR Part 101–36

ADP, Computer technology, Government procurement, Government property management, Security measures.

PART 101–36—ADP MANAGEMENT

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

Subpart 101–36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards Into Solicitation Documents

2. The table of contents of Subpart 101–36.13 of Subchapter F is amended by adding four entries as follows:

Sec.
101–36.1304–30 FIPS PUB 86, Additional Controls for Use with American National Standard Code for Information Interchange.
101–36.1308–17 FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.
101–36.1308–21 FED–STD 1062, Group 3 Facsimile Apparatus for Document Transmission.
101–36.1308–22 FED–STD 1063, Telecommunication: Procedures for Document Facsimile Transmission.

3. Section 101–36.1304–15 is amended by adding paragraphs (e) and (f) to read as follows:

§101–36.1304–5 FIPS PUB 46, Data Encryption Standard (DES).

* * * * *

(e) FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard (FPMR § 101–36.1308–17), contains security requirements in telecommunications equipment and systems used by the U.S. Government when a need exists for encryption of unclassified information during transmission using the Data Encryption Standard (DES) algorithm described in FIPS PUB 46.

(f) The following documents provide additional information in this regard: FIPS PUB 31, Guidelines for ADP Physical Security and Risk Management; FIPS PUB 39, Glossary for Computer Systems Security; FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 65, Guidelines for ADP Risk Analysis; FIPS PUB 73, Guidelines for Security of Computer Applications; and FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

4. Section 101–36.1304–30 is added to read as follows:

§ 101–36.1304–30 FIPS PUB 86, Additional Controls for Use With American National Standard Code for Information Interchange.

(a) FIPS PUB 86 specifies a set of encoded control functions to supplement the basic control functions defined in FIPS PUB 1–1 and FIPS PUB 35 to facilitate data interchange between data processing equipment and two dimensional character-imaging input-output devices.

(b) The architectural assumptions for devices for use with FIPS PUB 86 are contained in ANS X3.64–1979, which is part of the FIPS PUB.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Additional ASCII Controls for Character-Imaging ADP Equipment or Services

All applicable ADP character-imaging equipment or services (e.g., interactive ADP terminals of the dsisplay and printer type, line printers, microfilm printers, typesetting composers, word processors, and related devices or services using such devices) offered as a result or the requirements of which this is a part must comply with the requirements set forth in FIPS PUB 86 when such equipment or services employ the character set and encoding conventions prescribed in FIPS PUB 1–1 and FIPS PUB 3&5, employ primarily character-oriented controls, and are consistent with the architectural assumptions for devices in Appendix B, ANS X3.64–1979. All ADP terminals that meet these conditions are included in this requirement if they contain alphanumeric keyboards and CRT displays or printers that may be used in any form of on-line interactive application or standalone off-line data preparation. Computer resident control software may be used, but is not required, to implement specific features of FIPS PUB 86, unless specified otherwise in this document [insert reference].

(End of requirements statement)

5. Section 101–36.1307–1 is amended by revising paragraph (b) as follows:

§ 101–36.1307–1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

* * * * *

(b) The standard terminology for use in requirements documents, including solicitations, is:

Interchange of Application Programs

All application programs resulting from this requirement that have been identified as those that will be interchanged or that will record data that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing standards (FIPS):

FIPS PUB 4, Calendar Date.
FIPS PUB 5–1, States and Outlying Areas of the United States.
FIPS PUB 6–3, Counties and County Equivalents of the States of the United States and the District of Columbia.
FIPS PUB 8–4, Standard Metropolitan Statistical Areas.
FIPS PUB 9, Congressional Districts of the United States.
FIPS PUB 10–2, Countries, Dependencies, and Areas of Special Sovereignty.
FIPS PUB 58, Representations of Local Time of the Day for Information Interchange.

FIPS PUB 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.
FIPS PUB 66, Standard Industrial Classification (SIC) Codes.
FIPS PUB 70, Representation of Geographic Point Locations for Information Interchange.
FIPS PUB 95, Code for the Identification of Federal and Federally-Assisted Organizations.

(End of requirements statement)

6. Section 101–36.1308–17 is added to read as follows:

§ 101–36.1308–17 FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.

(a) FED–STD 1027 specifies the security requirements in telecommunications equipment and systems used by the U.S. Government when unclassified information is required to be encrypted for transmission. FED–STD 1027 implements the Data Encryption Standard (DES) algorithm described in FIPS PUB 46. Since FIPS PUB 46 is incorporated, by definition, into FED–STD 1027, a citation for FIPS PUB 46 is not required in the requirements document when FED–STD 1027 is specified.

(b) The heads of departments and agencies are responsible for determining when unclassified information must be encrypted during transmission.

(c) Implementation Date: Requirements and/or solicitation documents released on or after April 1, 1984.

(d) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FED–STD 1027

(Cryptographic Components, Equipment, Systems, and Services)

If a requirement for the encryption protection of unclassified digital information in the telecommunications environment is specified elsewhere in this requirements document, all cryptographic components, equipment, systems, and services offered to meet that requirement must comply with FED–STD 1027 and be endorsed as so complying by the National Security Agency prior to being proposed. These items include standalone DES cryptographic equipment as well as any Data Terminal Equipment and Data Circuit-Terminating Equipment utilizing the DES algorithm (described in FIPS PUB 46) for digital encryption. Arrangements for endorsement may be made with the Communications Protection Special Projects Office (S84), National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755.

(End of requirements statement)

(e) Listings of cryptographic components, equipment, and systems that have been previously endorsed as complying with FED–STD 1027 are available from the Executive Secretary, National Communications Security Committee, Operation Building 3, Room C2A40, 9800 Savage Road, Fort George G. Meade, MD 20755.

(f) The following documents provide additional information in this regard: NCSC–10, National Policy for Protection of U.S. National Security-Related Information Transmitted Over Satellite Circuits; NCSC–11, National Policy for Protection of Telecommunication Systems Handling Unclassified National Security-Related Information; and Presidential Directive 24, "Telecommunications Protection Policy."

7. Section 101–36.1308–21 is added to read as follows:

§ 101–36.1308–21 FED–STD 1062, group 3 facsimile apparatus for document transmission.

(a) FED–STD 1062 establishes machine specifications for Group 3 facsimile apparatus, as defined in the FED–STD, for use over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188–161 applies to tactical users within the Department of Defense.

(b) FED–STD 1062 does not apply to the transmission of mixed mode information such as coded character data and image data. (Technical specifications of the standard are contained in Electronic Industries Association Standard RS–465.)

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 3 Facsimile Apparatus

All Group 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED–STD 1062.

(End of requirements statement)

8. Section 101–36.1308–22 is added to read as follows:

§ 101–36.1308–22 FED–STD 1063, Telecommunication: Procedures for document facsimile transmission.

(a) FED–STD 1063 specifies procedures for transmitting facsimile documents over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188–161 applies to tactical users within the Department of Defense.

(b) FED–STD 1063 does not apply to the transmission of mixed mode information such as coded character data and image data. (Technical specificaitions of the standard are contained in Electronic Industries Association Standard RS–466. Groups 1, 2, and 3 facsimile apparatus are described in Electronic Industries Association Standard RS–465.)

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 1, 2, and 3 Facsimile Apparatus

All group 1, 2, and 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED–STD 1063.

(End of requirements statement)

Dated: October 20, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-29946 Filed 11-3-83; 8:45 am]

BILLING CODE 6820-25-M

41 CFR Part 101–47

[FPMR Amdt. H–143]

Delegating Authority to the Secretary of the Interior

AGENCY: Federal Property Resources Service, GSA.

ACTION: Final rule.

SUMMARY: This rule provides the Secretary of the Interior with authority to maintain custody, control, and accountability for mineral resources transferred to the Secretary by the Administrator of General Services and to dispose of mineral resources by lease.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: James M. Kearns, Jr., Office of Real Property (202) 535–8284.

SUPPLEMENTARY INFORMATION: GSA has determined this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual impact on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has made all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweight the potential costs and has

maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

The Administrator of General Services has delegated authority to the Secretary of the Interior to dispose of mineral resources by lease on a case-by-case basis. This revision will delegate to the Secretary of the Interior continuing blanket authority to maintain custody, control, and accountability for any mineral resources transferred to the Secretary by the Administrator, and to dispose of minerals by lease.

List of Subjects in 41 CFR Part 101–47

Surplus government property, Government property management.

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

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

1. The authority citation for Part 101–47 is as follows:

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

Subpart 101–47.6—Delegations

2. Section 101–47.603 is revised to read as follows:

§ 101–47.603 Delegations to the Secretary of the Interior.

(a) Authority is delegated to the Secretary of the Interior to maintain custody and control of an accountability for those mineral resources which may be designated from time to time by the Administrator or his designee and which underlie Federal property currently utilized or excess or surplus to the Government's needs. Authority is also delegated to the Secretary to dispose of such mineral resources by lease and to administer any leases which are made.

(1) The Secretary may redelegate this authority to any officer, official, or employee of the Department of the Interior.

(2) Under this authority, the Secretary of the Interior, as head of the holding agency is responsible for the following: (i) Maintaining proper inventory records, and (ii) monitoring the minerals as necessary to ensure that no unauthorized mining or removal of the minerals occurs.

(3) Under this authority, the Secretary of the Interior, as head of the disposal agency, is responsible for the following: (i) Securing, in accordance with § 101–47.303–4, any appraisals deemed necessary by the Secretary; (ii) coordinating with all surface landowners, Federal or otherwise, so as not to unduly interfere with the surface use; (iii) ensuring that the lands which may be disturbed or damaged are restored after removal of the mineral deposits is completed; and (iv) notifying the Administrator when the disposal of all marketable mineral deposits has been completed.

(4) The Secretary of the Interior, as head of the disposal agency, is responsible for complying with the applicable environmental laws and regulations, including (i) the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.*) and the implementing regulations issued by the Council on Environmental Quality (40 CFR Part 1500); (ii) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); and (iii) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, *et seq.*) and the Department of Commerce implementing regulations (15 CFR Parts 923 and 930).

(5) The Secretary of the Interior will forward promptly to the Administrator copies of any agreements executed under this authority.

(6) The Secretary of the Interior will provide to the Administrator an annual accounting of the proceeds received from leases executed under this authority.

(b) Authority is delegated to the Secretary of the Interior to determine that excess real property and related personal property under his control having a total estimated fair market value, including all components of the property, of less than $1,000 as determined by the Secretary, is not required for the needs and responsibilities of Federal agencies; and thereafter to dispose of the property by means most advantageous to the United States.

(1) Prior to such determination and disposal, the Secretary of the Interior shall determine that the property is not required for the needs of any Federal agency.

(2) The authority conferred in this § 101–47.603 (b) shall be exercised in accordance with the Act and regulations issued pursuant thereto, except that the reporting of such property to GSA under Subpart 101–47.2 shall not be required.

(3) The authority delegated in this § 101–47.603(b) may be redelegated to any officer or employee of the Department of the Interior.

Dated: October 18, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–29944 Filed 11–3–83; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6440

[AA–2793, AA–4721, A–051615]

Partial and Total Revocation of Three Public Land Orders for Selection of Lands by the State of Alaska

Correction

In FR Doc. 83–19995 beginning on page 33714 in the issue of Monday, July 25, 1983, make the following corrections:

1. On page 33714, second column, middle of the page, "Seware Meridian" should read "Seward Meridian".

2. On the same page, third column under *Crescent Creek Campground* ninth line, "N. 62°44' E.," should read "N. 62°00' E.,".

BILLING CODE 1505–01–M

43 CFR Public Land Order 6485

[OR–24428]

Revocation of Secretarial Order of May 17, 1905; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 5,631.80 acres withdrawn for use by the Bureau of Reclamation for the Payette-Boise Project. The surface and subsurface estates of 5,631.78 acres have been conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. The balance of 0.02 acre will be restored to surface entry. It has been and remains open to mining and mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's Second Form Reclamation Withdrawal Order of May 17, 1905, which withdrew public lands for use by the Bureau of Reclamation for the Payette-Boise Projects, is hereby revoked as to the following described lands:

Willamette Meridian

T. 21 S., R. 46 E.,
Sec. 13, lots 4 to 8, inclusive, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 14, lots 4 and 5;
Sec. 22, lot 1;
Sec. 23, lots 3, 4, 5, and 6, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Secs. 24 and 25;
Sec. 26, N½, SW¼, N½SE¼;
Sec. 27, lots 5, 6, 7, and 8, and E½SE¼;
Sec. 34, lots 5, 6, 7, and 8, E½E½, and SW¼SE¼;
Sec. 35, N½NE¼, SW¼NE¼, W½, and SE¼;
Sec. 36.
T. 22 S., R. 46 E.,
Sec. 1, lots 1 to 8, inclusive;
Sec. 2, lots 1 to 7, inclusive, S½N½, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 3, lots 1, 2, 3, 6, 7, and 10, S½NE¼, and E½SE¼;
Sec. 10, lots 1 and 2;
Sec. 11, lot 5.

The areas described aggregate 5,631.80 acres in Malheur County.

2. The lands described in paragraph 1, except as provided in paragraphs 3 and 4, have been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

3. At 9:30 a.m., on December 2, 1983, the following described land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on December 2, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing:

Willamette Meridian

T. 21 S., R. 46 E.,
Sec. 22, lot 1.

The area described contains 0.02 acre in Malheur County.

4. The land described in paragraph 3 has been and remains open to location and entry under the mining laws and to applications and offers under the mining leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30003 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6486

[W-71806]

Revocation of Secretarial Order of June 21, 1940, Air Navigation Site 141; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order affecting 80 acres of public land withdrawn for use by the Federal Aviation Administration for maintenance of air navigation facilities. This action will restore the land to surface entry and mining. It has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of June 21, 1940, which withdrew the following described public land for use by the Federal Aviation Administration for air navigation facilities, is hereby revoked:

Sixth Principal Meridian

T. 16 N., R. 115 W.,
Sec. 8, N½NW¼.

The area described contains 80 acres in Uinta County.

2. At 10 a.m. on December 2, 1983, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 2, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on December 2, 1983, the land will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30005 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6487

[W-20042]

Revocation of Powersite Reserve Nos. 139, 169, and 413; Wyoming

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Executive orders insofar as they affect 2,553.29 acres withdrawn for Powersite Reserve Nos. 139, 169, and 413. This is a record clearing action because the lands have been open to surface entry and mining subject to Section 24 of the Federal Power Act for many years. The Section 24 restriction, as imposed by the Act of August 11, 1955, was lifted by Public Land Order No. 6140, dated February 5, 1982. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818 (1976), and pursuant to the determination of the Federal Energy Regulatory Commission in DA-164-Wyoming, it is ordered as follows:

1. The Executive Order of April 15, 1910, as modified July 2, 1910, and the Executive Orders of December 28, 1910, and January 24, 1914, creating Powersite Reserves No. 139, 169, and 413, are hereby revoked insofar as they pertain to the following described lands. The lands were relieved of the restriction of Section 24 of the Federal Power Act as imposed by the Act of August 11, 1955, by Public Land Order No. 6140, dated February 5, 1982.

Sixth Principal Meridian

T. 27 N., R. 69 W.,
Sec. 19, lot 4, SE¼SW¼, and S½SE¼ (formerly S½S½);
Sec. 20, SE¼;
Sec. 21, NW¼SW¼, and NE¼SE¼;
Sec. 22, SW¼NE¼, SE¼NW¼, and N½SW¼;
Sec. 23, SW¼;
Sec. 24, N½SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, SW¼NW¼;
Sec. 28, NE¼, and S½NW¼;
Sec. 29, S½NE¼, and NE¼NW¼.
T. 27 N., R. 70 W.,
Sec. 14, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 15, S½N½, and N½S½;
Sec. 22, NE¼NE¼;
Sec. 23, NE¼, NE¼NW¼, and SW¼NW¼;
Sec. 24, SW¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼.
T. 14 N., R. 84 W.,
Sec. 24, lots 8 through 20, and SW¼NW¼.
T. 22 N., R. 86 W.,
Sec. 24, E½NE¼.

The areas described aggregate 2,553.29 acres in Carbon and Platte Counties, Wyoming.

2. The above described lands were previously restored to the operation of the public land laws, subject to any valid existing rights, the requirements of applicable law, and the provisions of existing withdrawals, subject to the provisions of Section 24 of the Federal Power Act, by the Executive Orders of March 19, 1921, and June 23, 1950, and Public Land Order No. 2527, dated October 30, 1961.

3. The lands have been and will remain open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 27, 1983.

[FR Doc. 83-30008 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6488

[C-28632]

Partial Revocation of the Secretarial Order of June 24, 1925; Removal of Section 24 Federal Power Act Restriction; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Powersite Classification No. 110, removing the restrictions of Section 24 of the Federal Power Act on 641.76 acres. This action will permit the acreage to be clearlisted to the State under its State indemnity selection program. The land has been and remains open to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2592.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission by DA-521-Colorado, dated May 17, 1983, it is ordered as follows:

1. The Secretarial Order of June 24, 1925, creating Powersite Classification No. 110 as modified by Restoration Order No. 1218, dated July 23, 1947, and Restoration Orders No. 9, dated August 14, 1953, and July 27, 1955, is hereby revoked insofar as it affects the following described land:

New Mexico Principal Meridian

T. 48 N., R. 17 W.,
Sec. 34.

The area described aggregates approximately 641.76 acres in Montrose County.

This land is hereby relieved of the restrictions of Section 24 of the Federal Power Act.

Inquiries concerning the land should be directed to the State Director, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 27, 1983.

[FR Doc. 83-30004 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6489

[WASH-02621, OR-22201 (WASH)]

Revocation of Executive Order No. 7594, and Partial Revocation of Public Land Order No. 2249; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order and partially revokes a public land order as to 188.09 acres of public land withdrawn from the Jones Island National Wildlife Refuge. In accordance with instruction contained in the Act of October 15, 1982 (96 Stat. 1624), the surface and subsurface estates have been conveyed from Federal ownership. Consequently, the land will not be open to surface entry, mining, or mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughn, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 7594 of March 30, 1937, as modified by Presidential Proclamation No. 2417 of July 25, 1940, which withdrew the following described land for use by the U.S. Fish and Wildlife Service, for the Jones Island National Wildlife Refuge, is hereby revoked:

Willamette Meridian

T. 36 N., R. 3 W.,
Sec. 11, lots 1, 2, and 3;
Sec. 14, lots 1 to 5, inclusive, and NE¼NW¼.

The area described contains 179.07 acres in San Juan County.

2. Public Land Order No. 2249 of December 24, 1960, which withdrew public land for use by the U.S. Fish and Wildlife Service as an addition to the Jones Island National Wildlife Refuge, is hereby revoked as to the following described land:

Willamette Meridian

T. 36 N., R. 3 W.,
Sec. 10, Tract B;
Sec. 11, Tracts A and B;
Sec. 14, Tract C.

The area described contains 9.02 acres in San Juan County.

3. The Act of October 15, 1982 (96 Stat. 1623), removed the above described land from the National Wildlife Refuge System and mandated that it be transferred to the State of Washington. The land has been conveyed out of Federal ownership and will not be restored to the operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operation, Bureau

of Land Management, P.O. Box 2965, Portland, Oregon 97208.

October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30007 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6490

[CA 3618]

Partial Revocation of Reclamation Withdrawals; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order and a Bureau of Reclamation order insofar as they affect 7,439 acres of lands withdrawn for the American River Division of the Central Valley Project. This order will open approximately 3,423 acres of public and national forest lands to mining, of which 1,109 acres will also be opened to surface entry. The remaining 4,016 acres are either privately owned or lie within Federal Energy Regulatory Commission licensed power projects and are not affected by this order. All lands involved, except those which are privately owned, have been and remain open to mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated September 14, 1942, and the Order of the Bureau of Reclamation dated February 19, 1952, concurred in by the Bureau of Land Management on February 26, 1952, are hereby revoked insofar as they affect the following described lands:

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lots 1, 2, W½NE¼, E½NW¼, N½SW¼, NW¼SE¼;
Sec. 12, lot 7;
Sec. 14, NE¼SW¼SE¼, NE¼SE¼.
T. 11 N., R. 9 E.,
Sec. 2, SE¼NE¼;
Sec. 10, NW¼NW¼, S½;
Sec. 12, W½NE¼SE¼NW¼, E½SW¼, SW¼SE¼, SW¼NW¼SE¼;
Sec. 14, S½S½;
Sec. 20, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 24, SW¼SE¼;
Sec. 28, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 32, NE¼NE¼, W¼NE¼, W½, S½ SE¼.
T. 12 N., R. 9 E.,
Sec. 34, SE¼SW¼, NW¼SE¼.
T. 11 N., R. 12 E.,
Sec. 11, SW¼SE¼;
Sec. 12, N½SW¼, NW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½SW¼;
Sec. 15, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼;
Sec. 16, S½SW¼, E½SE¼;
Sec. 20, NE¼, S½NW¼, N½SW¼, N½SE¼;
Sec. 21, N½;
Sec. 22, N½N½;
Sec. 23, NW¼.
T. 13 N., R. 12 E.,
Sec. 4, W½NE¼, N½NW¼;
Sec. 6, lot 3.
T. 14 N., R. 12 E.,
Sec. 28, S½SE¼;
Sec. 32, S½SW¼, SW¼SE¼;
Sec. 34, N½N½, SE¼NE¼.
T. 11 N., R. 13 E.,
Sec. 3, lots 7 and 8;
Sec. 4, lots 5 to 11, inclusive;
Sec. 5, lots 2, 3, and 5 to 12, inclusive;
Sec. 6, lots 8 to 13, inclusive;
Sec. 7, lots 6 to 11, inclusive;
Sec. 18, lots 7 and 8.
T. 12 N., R. 13 E.,
Sec. 32, SE¼SE¼;
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, N½SE¼, S½S½.
T. 11 N., R. 14 E.,
Sec. 1, lots 2, 3, 4, SW¼NW¼, NW¼ SW¼.

The area described aggregates 7,439 acres in Placer and El Dorado Counties.

2. Of the lands described in paragraph 1, the following described public lands shall at 10 a.m. on December 2, 1983, be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 2, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lot 2, NW¼SE¼;
Sec. 12, lot 7.
T. 11 N., R. 9 E.,
Sec. 12, W½NE¼SE¼NW¼;
Sec. 20, NE¼SW¼, N½SE¼;
Sec. 28, S½SW¼;
Sec. 32, SW¼NE¼, SW¼SW¼, SW¼ SE¼.
T. 12 N., R. 9 E.,
Sec. 34, W½SE¼SW¼, NW¼SE¼.

The area described aggregates 480.88 acres in Placer and El Dorado Counties.

3. The public lands described in paragraph 2 will be opened to location under the United States mining laws at 10 a.m. on December 2, 1983.

4. At 10 a.m. on December 2, 1983, the following described national forest lands which lie within the Eldorado National Forest will be opened to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations.

Mount Diablo Meridian

T. 11 N., R. 12 E.,
Sec. 14, SE¼SW¼;
Sec. 15, SW¼SE¼;
Sec. 16, SE¼SE¼;
Sec. 22, Portion of NE¼NE¼.
T. 14 N., R. 12 E.,
Sec. 28, S½SE¼.
T. 11 N., R. 13 E.,
Sec. 4, lot 11;
Sec. 5, lots 10 and 11;
Sec. 7, lots 6, 10 and 11.
T. 12 N., R. 13 E.,
Sec. 32, SE¼SE¼.

The area described aggregates 618.21 acres in Placer and El Dorado Counties.

5. The following described public and national forest lands shall at 10 a.m. on December 2, 1983, be opened to location under the United States mining laws. These lands remain withdrawn from operation of the public land laws by virtue of Federal Energy Regulatory Commission licensed power project withdrawals.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lot 1, franctional SW¼NE¼, fractional SE¼NW¼, N½SW¼.
T. 11 N., R. 9 E.,
Sec. 2, SE¼NE¼;
Sec. 10, NW¼NW¼, S½;
Sec. 12, E½SW¼, SW¼SE¼, SW¼NW¼SE¼.
Sec. 14, S½SE¼;
Sec. 20, SE¼SE¼;
Sec. 24, SW¼SE¼;
Sec. 28, SW¼NW¼, NW¼SW¼, except M.S. 5163;
Sec. 32, N½NE¼, NW¼, NW¼SW¼, E½SW¼, SE¼SE¼.
T. 12 N., R. 9 E.,
Sec. 34, E½SE¼SW¼.

Eldorado National Forest

T. 11 N., R. 12 E.,
Sec. 12, N½SW¼, NW¼SE¼;
Sec. 14, W½SW¼;
Sec. 15, N½SW¼;
Sec. 16, NE¼SE¼;
Sec. 22, Portion of NE¼NE¼;
Sec. 23, NE¼NW¼.
T. 13 N., R. 12 E.,
Sec. 4, lots 2, 3, and 4.
T. 11 N. R. 13., E.,
Sec. 4 lot 10;
Sec. 5, lots 3 and 12;
Sec. 6, lot 13;
Sec. 18, lots 7 and 8.
T. 12 N., R. 13 E.,
Sec. 35, N½SE¼.

T. 11 N., R. 14 E.,
Sec. 1, lot 2.

The area described aggregates 2,314.34 acres in Placer and El Dorado Counties.

6. Public Land Order No. 2128 dated June 15, 1960, revoked a Departmental Order dated September 9, 1942, as to the following described lands. The land shall at 10 a.m. on December 2, 1983, be opened to applications and offers under the public land laws generally, and to location under the United States mining laws, but shall not be opened to application under the General Allotment Act of February 8, 1887, as amended.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 14, NE¼SW¼SE¼.

The area described aggregates 10 acres in El Dorado County.

7. Of the lands described in paragraph 1, the following lands which lie within the Eldorado National Forest remain withdrawn from the public land laws generally and from the United States mining laws by virtue of Federal Energy Regulatory Commission licensed power projects.

Mount Diablo Meridian

T. 11 N., R. 12 E.,
Sec. 11, SW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 15, SE¼NE¼, S½SW¼, E½SE¼.
Sec. 16, S½SW¼;
Sec. 20, NE¼, S½NW¼, N½S½;
Sec. 21, N½;
Sec. 22, NW¼NE¼,N½NW¼;
Sec. 23, NW¼NW¼, S½NW¼.
T. 13 N., R. 12 E.,
Sec. 6, lot 3.
T. 14 N., R. 12 E.,
Sec. 32, S½SW¼, SW¼SE¼.
Sec. 34, N½N½, SE¼NE¼.
T. 11 N., R. 13 E.,
Sec. 3, lots 7 and 8;
Sec. 4, lots 5 to 9, inclusive;
Sec. 5, lots 2, 5 to 9, inclusive;
Sec. 6, lots 8 to 12, inclusive;
Sec. 7, lots 7 to 9, inclusive.
T. 12 N., R. 13 E.,
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, S½S½.
T. 11 N., R. 14 E.,
Sec. 1, lots 3, 4, SW¼NW¼, NW¼SW¼.

The area described aggregates 3,845.54 acres in Placer and El Dorado Counties.

8. Of the lands listed in paragraph 7, the following are privately owned and not subject to disposition under the public land laws or the mining laws.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 14, NE¼SE¼.
T. 11 N., R. 9 E.,
Sec. 14, S½SW¼,
Sec. 28, MS–5163.
T. 13 N., R. 12 E.,
Sec. 4, SW¼NE¼.

The area described aggregates 170.03 acres in Placer and El Dorado Counties.

9. Appropriation of the lands described in paragraphs 3, 4, 5, and 6 under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All of the lands described in paragraph 1 have been and continue to be open to applications and offers under the mineral leasing laws, except those privately owned lands described in paragraph 8.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E–2341, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior

October 27, 1983.

[FR Doc. 83–30006 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 74, and 94

[Gen. Docket No. 79–188; RM–3247; RM–3497; FCC 83–392]

Use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for Provision of Digital Electronic Message and Other Specific Services

Correction

In FR Doc. 83–28794 beginning on page 50322 in the issue of Tuesday, November 1, 1983, make the following correction:

On page 50329, first column, second paragraph, tenth line, "November 1, 1983" should have read "December 1, 1983".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 346 (Sub-No. 8)

49 CFR Part 1039

Rail Carriers; Exemption From Regulation; Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Modification of final rules (exemption).

SUMMARY: In a decision issued May 2, 1983, the Commission adopted a regulation, to be codified at 49 CFR 1039.14, partially exempting railroad boxcar service from regulation. A notice of the decision was published May 6, 1983 at 48 FR 20412. The Commission has issued a further decision in this proceeding in which it denies petitions for reconsideration. The Commission also extended the effective date of the exemption to January 1, 1984, in order to allow time for consideration of petitions for stay by the Commission and by the reviewing court before the exemption becomes effective. The car hire portion of the exemption, as it pertains to Class III carriers, was further extended to July 1, 1984, in order to afford these carriers adequate time to negotiate bilateral car hire agreements.

DATES: The exemption is effective on January 1, 1984, except that the car hire portion of the exemption, as it applies to cars owned or leased by Class III carriers 49 CFR 1039.14(c), is effective July 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275–7245

or

Thomas Gire, (202) 275–7759.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

List of Subjects in 49 CFR Part 1039

Agricultural Commodities, Intermodal transportation, Railroads.

§ 1039.14 [Amended]

The citation of authority for 49 CFR 1039.14 is amended by removing the reference to 49 U.S.C. 11122.

(49 U.S.C. 10321(a) and 10505)

Decided: October 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29995 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 215
Friday, November 4, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-99-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require structural inspections and modifications of certain Boeing Model 767 series airplanes to ensure that the structural integrity of the horizontal stabilizer pivot hinge fitting and adjacent structure are maintained. This action is prompted by the discovery of cracking of this structure during The Boeing Company's fatigue testing of the airplane. This condition, if not corrected, could result in a catastrophic structural failure.

DATES: Comments must be received on or before January 1, 1984.

ADDRESSES: The service documents cited in this notice may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION, CONTACT: Mr. Richard Yarges, Airframe Branch, ANM-120S, at the above address, telephone, (206) 431-2925. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments, specified above, will be considered by the Administrator before taking action on the proposed rule. The 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. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Attention: Airworthiness Rules Docket No. 83-NM-99-AD, Office of the Regional Counsel, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During fatigue testing of the Boeing Model 767 airplane performed by the manufacturer, several cracks were found in both the left and right upper support fittings that support the upper end of the horizontal stabilizer pivot hinge fitting. The cracks initiated at approximately 5600 flight cycles. These cracks are attributed to landing and taxiing loads and propagated by fatigue. If the corrective action contained in this notice is not accomplished, the structural integrity of the horizontal stabilizer pivot fitting and major structural components would progressively deteriorate and separation of the horizontal stabilizer from the airplane could ultimately occur. Such separation would render the airplane uncontrollable.

The manufacturer has designed a modification for the airplane which should eliminate the possibility of cracking. This modification consists of replacement of the existing upper support fitting with a redesigned fitting and reinforcement of the upper and lower backup intercostal fittings. This notice proposes that the manufacturer's modification, or an equivalent modification acceptable to the Manager, Seattle Aircraft Certification Office, be accomplished on affected Boeing 767 series airplanes prior to the accumulation of 6000 landings and prior to such modification, repetitive inspections of the affected area be commenced upon accumulation of 3000 landings. Repetitive inspections are proposed to be accomplished at intervals not to exceed 300 landings. If cracks are found during inspection, the modification must be accomplished before further flight.

Thirty airplanes of U.S. registry and 4 U.S. operators would be affected. It is estimated that 64 manhours would be required to modify each aircraft at a labor rate of $35 per hour. The manufacturer will supply parts at no charge. This would result in a total cost for modification of less than $68,000.

The total annual cost for the inspections is estimated to be $54,000. This is based on 7 inspections per year per aircraft and 8 manhours per inspection. Therefore, the total annual cost of this proposed AD is estimated to be less than $100,000.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration (FAA) proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 767-200 series airplanes, certificated in all categories, listed in Boeing Service Bulletin No. 767-53-2, dated August 19, 1983, or later FAA approved revisions. Compliance required as indicated in the body of the AD.

To ensure the structural integrity of the horizontal stabilizer pivot hinge fitting and

adjacent structure accomplish the following, unless already accomplished:

A. Prior to the accumulation of 3000 landings, and thereafter at intervals not to exceed 300 landings, perform the following inspections:

1. Penetrant inspect the upper support fittings for cracks, and check the bolts common to the pivot hinge fitting and the BS 1809.5 bulkhead intercostal fitting for breakage in accordance with Boeing Service Bulletin 767–53–2 dated August 19, 1983, or later FAA approved revisions; and

2. Visually inspect the surrounding structure for cracks. If cracks are found in the upper support fitting and not in the surrounding structure accomplish the modification described in the Service Bulletin before further flight. If cracks are found in the surrounding structure, repair the airplane before further flight in a manner approved by the Manager, Seattle Aircraft Certification Office.

B. Prior to accumulation of 6000 landings, accomplish the modification described in Boeing Service Bulletin 767–53–2 dated August 19, 1983, or later FAA approved revisions. This action terminates the repetitive inspections required by paragraph A., above.

C. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

D. 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.

E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period.

F. For the purpose of this AD, and when approved by an FAA Maintenance Inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

All persons affected by this directive who have not already received Boeing Service Bulletin 767–53–2 dated August 19, 1983, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on October 26, 1983.

Charles R. Foster,

Northwest Mountain Region.

[FR Doc. 83-29838 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[Special Regulations Policy Statements; SPDR-90; PSDR-82; Docket 41164; Dated: October 14, 1983]

14 CFR Parts 380 and 399

Public Charters and Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes to prohibit the practice of advertising the price of air transportation packages as a base amount plus an additional amount which must be paid to obtain the advertised package. This action is taken in response to a petition from Donald Pevsner.

DATES:

Comments by January 3, 1984.

Reply comments by January 18, 1984.

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: November 28, 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 41184, 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: Paul Wallig, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5937.

SUPPLEMENTARY INFORMATION: Donald L. Pevsner filed a petition for rulemaking on December 27, 1982, asking the Board to amend 14 CFR 380.30(b). That section currently sets standards for the materials used by public charter operators to solicit charter passengers. Mr. Pevsner would have the Board add a requirement that states: "Any solicitation material that states a price per passenger shall state such price as a single figure of total cost, including taxes and services."

In support of his petition, Mr. Pevsner alleged that a number of large charter operators have engaged in deceptive advertising, in violation of section 411 of the Act and 14 CFR 380.27, by failing to list the total cost of charter trips in sales literature. Mr. Pevsner offered an example of this practice, sometimes called 'lowballing', as an advertisement that lists a tour price such as "$499" in conspicuous type, while stating "plus 15% taxes and service" in smaller, less conspicuous type. Pevsner alleged that this type of advertising made valid price comparisions by consumers impossible.

Pevsner also stated that his suggested rule change was similar to a past Board proposal involving affinity charters (EDR–311, 41 FR 46464, October 21, 1976), and would offer the same protection to public charter passengers as is now given to travelers on group inclusive tours (GIT's), under 14 CFR 399.84. Mr. Pevsner concluded that the current prohibition on unfair and deceptive practices by charter operators in 14 CFR 380.27 does not provide sufficient protection.

Several answers were filed in support of this petition. Economy Traveler, a travel periodical, had complained about "add-on" or "lowball" pricing by tour operators in a letter to the Board's Office of Congressional, Community and Consumer Affairs on November 11, 1982. Economy Traveler also wrote to the Board on March 9, 1983, in support of Mr. Pevsner's petition. Economy Traveler's March 9th letter stated that the allegedly deceptive practice was no longer confined to winter vacation markets, such as Florida and the Caribbean, but had spread to the summer vacation markets, especially Europe. Further, Economy Traveler alleged that travel agents as well as consumers were affected by the charter operators' attempts to disguise true price levels, since the tax and service portion of the total tour price have been excluded from the base on which agents compute their commissions. Economy Traveler suggested that the Board adopt a "truth in tour promotion" requirement, with only a single price advertised. This price would include: all tour components that ads or brochures indicate are included; all services, taxes, or charges that must be paid to governments, airports, land package operators, and

carriers; all service charges and taxes normally "bundled" with the transportation such as accommodations, food services, and other tour components in the countries where such charges are normally added to hotel and restaurant bills; and all markups, handling charges, fees, sales commissions, and profits of the tour operator. Economy Traveler was convinced that such a move would protect consumers and travel agents, and would be supported by all ethical tour operators. One travel agency wrote in support of the petition and Economy Traveler's answer, stating that "plus tax and service" tour pricing was deceptive, and deprived travel agents of part of their legitimate commissions. One individual comment also supported Pevsner's petition.

The National Indirect Air Carrier Association (NIACA) filed an answer questioning the petition. NIACA acknowledged that the public has a right to know all charges associated with a charter but cautioned that excessive regulation may unduly constrain comparative price advertising, restrict decisions to "bundle" or "unbundle" charter trip elements, and block meaningful disclosure of the value of different elements of a charter package. It also urged the Board, if it decides to issue a rule, to include tours operated on scheduled service. It stated that coverage of scheduled service was called for by both common sense and competitive equity.

The Board previously addressed the issue of whether the practice of stating taxes and incidental charges as an item separate from the basic tour price was unfair or deceptive in two separate rulemakings. In PSDR-39 FR 15309, April 29, 1974, the Board asked for comment on a proposal to declare the advertising of prices for Group Inclusive Tours (GIT's) to be an unfair or deceptive practice and an unfair method of competition violating section 411 of the Act, unless the advertisement included a clear statement of the total tour price. The proposal was adopted as a policy statement and issued as PS-62, 40 FR 4906, February 3, 1975. The advertising of the total tour price for GIT's was not limited to a single amount, however. Rather, PS-62 stated that operators should be permitted to advertise the air and land portions of a tour separately, provided both portions were prominently displayed, and the advertisement clearly stated that both portions would have to be added in order to determine the total tour price.

In EDR-328/SPDR-58/PSDR-48, 42 FR 30376, June 14, 1977, which incorporated EDR-311, the Board sought comment on changing the rules on advertising charters generally. In EDR-328B, 45 FR 61640, September 7, 1980, however, the Board terminated this rulemaking. Among the reasons cited for the termination were: the establishment of a new charter category, *Public Charters*, in Part 380 of the Board's regulations (SPR-149, 43 FR 36604, August 18, 1978), which replaced several categories of charters and their separate, inconsistent rules, and added significant consumer protection provisions; the absence of complaints from consumers about charter price advertising; and, the fact that a mechanism already existed (section 411 of the Act) to handle any problems that might arise.

In response to Mr. Pevsner's petition, the Board's Enforcement Division conducted an investigation of charter price advertisements. It sent an industry letter to all airlines and charter operators warning them that advertising charters by stating a basic charter price plus a percentage add-on may be unfair and deceptive in violation of section 411 of the Act if the add-on is less conspicuous than the basic price or if the add-on does not represent actual taxes and services. It stated that add-ons themselves are not necessarily unfair or deceptive provided they are clear, noticeable, and honest.

In following up on its industry letter, the Enforcement Division requested tour operators that continued to use percentage add-ons to justify the percentage attributed to taxes and services. None could without attributing a significant portion of the add-on to the tour operator's own overhead, profit, or commission to travel agents. Indeed, it was clear that the percentage used was but an arbitrary amount that the tour operator alone decided were not part of the base price.

Further, the Enforcement Division discovered that for some advertisers the use of percentage add-ons was a matter of competitive pressure—they are used only when other competitors in the market use them. In one instance, which occurred shortly after the Enforcement Division's letter was sent, an operator advertised a tour at "$343" while another advertised a similar tour at "$299" but with an asterisk stating "plus 15% tax and service." Shortly thereafter the first tour operator changed its advertisements to "$299 plus 15% tax and service."

The Better Business Bureau of Metropolitan New York, Inc., has provided the Board with a copy of a letter it sent print media in the New York area, and a copy of its August 17, 1983 advertising review case report, both of which express the opinion that the use of percentage add-ons may mislead consumers and that they should not be used.

The Enforcement Division's investigation indicates that the use of add-ons is a problem that cannot be rectified through informal methods. The Board believes that competition will best be served if consumers can easily determine the price of the product. The Board is therefore granting Mr. Pevsner's petition and proposing a rule that would required all price advertisements to state the total price the consumer must pay the seller in order to purchase the advertised air transportation package. The proposed rule would not prohibit the listing of options separately. Although Mr. Pevsner's petition was directed toward the advertising of charter prices, there have been similar problems in the advertising of prices for scheduled service. See Orders 79-12-184, December 27, 1979 and 82-12-119, December 27, 1982 where the Board found price ads for scheduled service to be unfair and deceptive because they did not comply with the tax laws. The proposed rules therefore would apply to the advertising of prices for all types of air service. The provision in § 399.84 that now regulates price advertising of only Group Inclusive Tours (GITs) would be broadened to cover all carriers and all forms of air transportation regardless of how it is sold.

The rules as proposed would prohibit add-ons or the practice of stating some mandatory charges separately from the basic price. They would require advertisements to clearly state as one figure the total amount of money that the passenger will have to pay for the services described.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule would not, if adopted, have a significant economic impact on a substantial number of small entities. The rule would not affect the prices carriers charge the public for their services. It merely ensures that the public is aware of all carrier charges for services, and the advertising of those prices is not done in a deceptive manner.

List of Subjects in 14 CFR Parts 380 and 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Charter flights, Consumer protection,

Educational study programs, Freight Forwarders, Grant programs—Transportation, Hawaii, Motor Carriers, Puerto Rico, Railroads, Reporting and recordkeeping requirements, Surety bonds, Travel agents, Virgin Islands.

PART 380—[AMENDED]

Accordingly, the Board proposes to amend Chapter II of 14 CFR as follows:

1. In Part 380, *Public Charters*, § 380.27 would be revised by redesignating the current paragraph as paragraph (a) and adding a new paragraph (b), as follows:

§ 380.27 Methods of competition.

(a) No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

(b) Any advertisement for a public charter that includes any price shall clearly state in one figure the total amount of money, including taxes, that a passenger must pay to the seller for the advertised flights or packages.

2. Also in Part 380, paragraph (b) of § 380.30 would be revised, as follows:

§ 380.30 Solicitation materials.

* * * * *

(b) Any solicitation material that states a price per passenger shall comply with the requirements for advertisements in § 380.27 and shall also include one of the following:

* * * * *

PART 399—[AMENDED]

3. In Part 399, *Statements of General Policy*, § 399.84 would be revised to read:

§ 399.84 Price advertising.

The Board considers any advertisement or solicitation material for air transportation of persons that includes the price of that transportation to be unfair and deceptive in violation of section 411 of the Act unless the advertisement clearly states in one figure the total amount of money, including taxes, that a passenger must pay to the seller.

(Secs. 204, 401, 402, 403, 411, 416, Pub. L. 85-726, 72 Stat. 743, 754, 757, 758, 769, 771; 49 U.S.C. 1324, 1371, 1372, 1373, 1381, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc. 83-30018 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1908

[Docket No. C-1]

Consultation Agreements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments and notice of additions to the record.

SUMMARY: On October 5, 1983, OSHA published a notice describing proposed amendments to 29 CFR Part 1908 (48 FR 45411-45420). Comments were requested to be submitted on or before November 4, 1983. Recently, OSHA has received requests from interested parties for an extension of this comment period. These requests indicated that additional time is needed to prepare an adequate response. OSHA believes that the information-gathering process will be improved if all interested parties are granted additional time for submission of comments. Thus, OSHA has decided to extend the date for submission of comments to December 23, 1983.

OSHA, Additionally, has received a request that various documents relevant to the proposed amendments to 29 CFR Part 1908 be placed in the record for public inspection. In the interest of improving the information gathering-process, additional documents are being added to the record. (See Supplementary Information for list of added documents).

DATES: Comments in response to the October 5, 1983 notice of proposed rulemaking (48 FR 45411-45420) should be submitted on or before December 23, 1983.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Office, Docket No. C-1, Room S-6212, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Room N-3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-8151.

In the interest of improving the information-gathering process, the following documents are being added to the record at this time.

A list of State agencies providing, or scheduled to provide, consultative services under the current and proposed regulations.

OSHA Notice TED 2 (July 25, 1983), Experimental Program for Inspection Exemption Through Consultation.

A letter from Emmett Jones, Director Cal/OSHA Consultation Service, describing the impact of the California experimental exemption program.

The most recent evaluation reports on the State consultation projects participating in the program.

Testimony on proposed revisions to the consultation regulation before the National Advisory Committee on Occupational Safety and Health.

Comments by a Subcommittee of the National Advisory Committee on Occupational Safety and Health on an earlier draft of the proposed revisions, and a brief summary of the rationale for OSHA's response to these comments.

A Solicitor of Labor opinion on release to the public of consultant reports to employers.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Secs. 7(c)(1), 21(c), 84 Stat. 1598, 1619 (29 U.S.C. 656(c) (1) 670(c)); 29 CFR Part 1908, Secretary of Labor's Order No. 9-83 (48 FR 35736))

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-29884 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS FRL 2464-5]

Air Pollution Control; Importation of Nonconforming Motor Vehicles and Motor Vehicle Engines

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Workshops.

SUMMARY: This announces that EPA will conduct two workshops to discuss options for revising portions of the EPA regulations at 40 CFR 85.1501 *et seq.*, which control the importation of nonconforming motor vehicles and motor vehicle engines. The purpose of the workshops is to provide interested individuals and organizations an additional opportunity to comment on the revisions proposed in a Notice of Proposed Rulemaking (NPRM) published on July 21, 1980 (45 FR 48812), and on other options for revising these regulations. Discussion is also solicited

regarding the adequacy of EPA small volume certification procedures and assigned deterioration factors at 40 CFR 86.082–14 and 40 CFR 86.084–24 for certifying imported vehicles for resale. Changes to these regulations, if necessary, will be considered in a separate rulemaking.

Since publication of the NPRM, EPA has implemented several changes to the administrative procedures and enforcement policy applicable to imported motor vehicles (see 48 FR 16485, April 18, 1983). As a result of comments received in response to the NPRM, and experience gained from monitoring the automotive imports program since publication of the NPRM and from changes in the certification program, EPA believes that additional comments on revisions proposed in the NPRM plus other options for revising these regulations may be useful in forming the basis for final rulemaking. A range of options is described in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The workshops are scheduled as follows:

Workshop #1: 9 a.m. EDT, Tuesday, November 29, 1983—Washington, D.C.
Workshop #2: 9 a.m. PDT, Wednesday, December 7, 1983—San Diego, California

Interested parties desiring to participate at either workshop should notify EPA, at the address given below, not later than November 22, 1983, for the Washington, D.C. workshop and not later than November 30, 1983, for the San Diego, California workshop. A copy of this notification should also be sent to the contact listed below. Any relevant written comments must be received on or before January 9, 1984.

ADDRESSES: All comments should be submitted to the Central Docket Section (LE–131), ATTN: Docket EN–79–9, West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. If possible, a copy of the comments should be submitted to the contact listed below.

Copies of testimony presented at the workshops, written comments and all relevant information submitted in response to the NPRM will be available for public inspection and copying in Public Docket No. EN–79–9 at the address given above. The docket is open Monday through Friday from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying services.

The November 29, 1983 workshop will be held in Room S353, EPA Headquarters, Waterside Mall, 4th and M Streets, SW., Washington, D.C. 20460.

The December 7, 1983 workshop will be held at The Holiday Inn Embarcadero, 1355 North Harbor Drive, San Diego, California 92101. Telephone: (619) 232–3861.

FOR FURTHER INFORMATION CONTACT: Stanley B. Durkee, Investigation/Imports Section, Manufacturers Operations Division (EN–340F), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 382–2496.

SUPPLEMENTARY INFORMATION:

I. Discussion

The Clean Air Act, as amended (the "Act"), 42 U.S.C. 7401 *et seq.*, prohibits the importation of any motor vehicle or engine (hereinafter "vehicle"), 42 U.S.C. 7522, unless it is covered by a certificate of conformity with Federal emission requirements applicable during the model year in which it was built or unless it is excluded from the Act or exempted by the Administrator of EPA. Joint EPA and U.S. Customs Service (Customs) regulations at 40 CFR 85.1501 *et seq.* and 19 CFR 12.73, respectively, allow the conditional importation of a nonconforming vehicle, provided that a bond is posted with Customs and the vehicle is then brought into conformity with EPA emission requirements. This may be done either by modifying the vehicle to make it identical to a vehicle certified for sale in the U.S. or by successfully testing the vehicle in accordance with the Federal Test Procedure ("FTP") at a laboratory which has demonstrated to EPA that it can perform a proper FTP.

EPA's NPRM, published on July 21, 1980, proposed revising these regulations by abolishing the "modification" and "testing" options and by banning the importation of nonconforming vehicles, subject to certain exemptions. One proposed exemption was to allow an individual to import one such vehicle, for personal use and not for resale, without bringing it into conformity with Federal emission requirements. EPA also proposed making several other changes to the regulations, including clarification of the definition of a racing vehicle and of the procedures and restrictions applicable to the importation of vehicles under several other exemption categories.

EPA has received more than 520 written comments on this NPRM from various individuals in both private and public sectors, as well as testimony from 12 parties at a public hearing held at EPA headquarters on November 3, 1980. Most commenters were individuals who favored the proposed revision because it would allow them to import exotic European automobiles not available in U.S.-certified configurations, or not similar to those available in the U.S. Several manufacturers (both foreign and domestic), automotive dealership associations and three states objected to the proposed revisions. They cited possible adverse air quality impacts, loss of sales by U.S. domestic dealers who sell certified domestic and foreign vehicles, and the inequity of requiring domestic vehicles to meet Federal emission requirements while allowing the importation of foreign vehicles which do not.

Based on these comments, EPA decided to conduct additional analyses before proceeding to final rulemaking. These analyses of the numbers and ages of vehicles imported by individual and commercial importers led to the changes in EPA administrative procedures and enforcement policy which were implemented in October and November 1981 (and which were announced in an EPA press release at that time).

The changes in procedures and policy are discussed more fully in a Notice published on April 18, 1983 (48 FR 16485). In brief, these revised procedures provide that EPA will request that Customs release the EPA obligation on the bond for a nonconforming vehicle imported by an individual, without requiring that it be brought into conformity with Federal emission requirements, provided that: (a) It is the first nonconforming vehicle imported by that person since 1970; (b) it is being imported for personal use and not for commercial resale; (c) the vehicle is at least five model years old at the time of importation. Similar changes in policy but without model year age restriction, were implemented at the same time with respect to importations by immigrants, handicapped persons and others experiencing special hardships. Additionally, final rulemaking was deferred while the 97th Congress was considering revisions to the Act which would have affected the provisions applicable to the importation of nonconforming vehicles.

II. Recent Trends

Since the publication of the NPRM and these other changes, the approximate number of nonconforming vehicles imported annually has increased from 1,500 vehicles in 1980 to 5,000 in 1982. In 1983, EPA estimates 8,400 such vehicles will be imported. Although the total number of bonded importations is increasing, the relative proportions between commercial and individual bonded importations and the relative ages of imported vehicles have not materially changed. Specifically, in

1980 approximately 47% of bonded nonconforming vehicles were imported by commercial importers for resale and approximately 53% by individuals. Of the individual importations, approximately 54% were more than five model years old at the time of importation. In 1983, EPA estimates that these percentages will be approximately 44% for commercial and 56% for individual importations with 55% of the individual importations (i.e., approximately 2,600 vehicles) being vehicles which were five or more model years old when imported.

Other changes have occurred in areas related to the imports program which may affect the final rulemaking. First, at the time of the NPRM, ten testing laboratories had demonstrated the ability to conduct the FTP on imported vehicles and were submitting test documentation regularly on these types of vehicles to EPA; this number since has grown to twenty and EPA has received inquiries concerning establishment of other such laboratories. However, an increasing number of allegations have been made of possible falsification of test data by some test laboratories, and of modifications made on vehicles to pass an FTP that are not safe or not durable, and of violations of various State laws and regulations. The investigation of such allegations is difficult and expensive. If such allegations are true, importers, modifiers and test laboratories who comply fully with the regulations may be at a competitive disadvantage to other parties who may perform unsafe or non-durable modifications or inaccurate tests. Consumers may also be adversely affected if they purchase imported vehicles which are unsafe or which do not meet emission requirements. Such vehicles may fail State safety or emission tests and may not be covered by any warranties.

A second important change is in the certification procedures. Under Section 216(1) of the Act, importers for resale are deemed to be manufacturers. Thus such importers can apply for certification as manufacturers for vehicles that were originally manufactured by someone else. In accordance with regulations at 40 CFR 86.082–14, promulgated on March 12, 1981 (46 FR 16266), manufacturers whose U.S. sales of motor vehicles are less than 10,000 units per year may certify such vehicles under the "small-volume" certification procedures. These procedures reduce paperwork and, in some instances, allow for reduction in the number of test vehicles. The Agency is concerned that these "small volume" certification rules, which were designed to reduce the certification burdens of small manufacturers who use emission control systems previously demonstrated to be durable in full certificate durability testing, may be inadequate to assure durable emission performance when used by small manufacturers, including certain importers, to certify systems whose durability has not previously been demonstrated. As a result, the Agency may consider policy and regulatory changes to these rules as a separate matter.

An additional concern regarding the imports regulation is an apparent increasing violation of the prohibition on the sale of nonconforming vehicles imported by "nonresidents." Under the Customs regulations at 19 CFR 12.73(b)(v), a nonresident of the U.S. may import a nonconforming vehicle for personal use for up to one year without posting a bond or bringing the vehicle into conformity. This provision of the regulations also prohibits sale of the vehicle in the U.S. While it appears that most nonresidents who import vehicles abide by the requirements of the regulations, a small, but apparently increasing, number sell the vehicles they import without bringing them into conformity with U.S. requirements. A violation of this type is particularly difficult to detect or remedy since the importer has not posted a bond, and experience has shown that the address given on the importation documents by some nonresidents may be temporary or inaccurate.

III. Issues

EPA has identified seven issues concerning importation of motor vehicles on which it specifically solicits additional comments. Interested parties are also encouraged to identify and discuss other issues which they believe are useful in forming the basis for final rulemaking. The Agency requests, however, that any comments be as factual as possible (e.g., the exact effect in numbers of lost sales, the quantitative effect on air quality or model availability of the current and proposed regulatory requirements). These issues are as follows:

1. *Equity.* Major manufacturers who wish to sell vehicles in the United States must conduct extensive certification programs to demonstrate that their vehicles will meet Federal emission requirements for five years or 50,000 miles. These vehicles are required to be covered by emission and product warranties, must meet fuel economy requirements and are subject to gas guzzler taxes and the assembly line testing and recall provisions of the Act. On the other hand, nonconforming vehicles which are imported under the current imports regulations may either be modified to be identical to a U.S. certified-version vehicle or must pass the FTP. This results in differential treatment between U.S.-certified versions and imported-and-modified or tested versions of the same model vehicles. Due to the increasing numbers of imported nonconforming vehicles, the magnitude of the potential inequity of this differential treatment has increased. EPA requests further comments on whether such differential treatment affects prices and, if so, the magnitude of the price differentials. For example, how much does a U.S. version of a vehicle cost the consumer at a U.S. dealership compared to the same vehicle when purchased in Europe and imported and brought into conformity under the current imports regulations? What is the cost, in dollars or as a percentage of the purchase price, that a dealer must incur to provide warranties and other mandated coverage on U.S. version vehicles? Is service for foreign version modified vehicles available at U.S. dealers and service facilities? If not, why not? Are warranty costs incurred? If so, estimate the costs.

2. *Improper Modifications.* EPA has received allegations that conversion work done on nonconforming vehicles so they can pass an FTP is either not done or is not durable for the useful life of the vehicle. EPA requests specific information to support such allegations including examples of inadequate workmanship and supporting emissions data, if available, which shows lack of durability or safety of emission modification work.

3. *Small Volume Certification Procedures/Assigned Deterioration Factors.* Various importers for resale have requested EPA certification of specific imported models, including use of the "small volume" procedures (40 CFR 86.082–14). The "small volume" procedure applies a 10,000 unit limit to a small manufacturer's total U.S. sales to determine eligibility. Also, any large manufacturer may use assigned deterioration factors for any segment of its product line up to 10,000 units annually (40 CFR 86.082–24).

This application of the "small volume" certification and deterioration factor procedures to importers, however, poses two concerns. The first is, since experience has shown that these vehicles may use emission control systems that have not been previously demonstrated to be adequate to meet air pollution standards over a useful life,

the assigned deterioration factor may be inappropriate. EPA's second concern, since achieving compliance through retrofit modification is very difficult and expensive under today's stringent standards, is that commercial importers may be tempted to cut corners to remain profitable in this very competitive market. This possibility is particularly troublesome because EPA has limited resources to conduct compliance investigations and such compliance slippage could quickly erode confidence in the integrity of this program.

An additional concern is that large manufacturers may attempt to avoid the durability testing requirements of certification when marketing a small sales volume engine family by marketing such models through an importer for resale under the "small volume" certification rules. EPA is aware of one major manufacturer planning such a marketing tactic to bring in a small number of special units which it has not currently certified.

Such practices raise questions regarding whether the applicability of the 10,000 unit limit for eligibility should be changed so as to apply to the aggregate U.S. sales of the original manufacturer of foreign vehicles rather than to apply, as it does now, to each importer's total individual sales. Or, should applicability of the "small volume" certification procedures and assigned deterioration factors to the situation of imported nonconforming vehicles simply be eliminated entirely? Is the technology which is used or may be expected to be used by importers for resale similar to that used by original manufacturers and is it likely to exhibit similar durability? If not, should importers for resale be permitted to certify under such "small volume" provision, and if so, should modification to certified configurations not demonstrated to be durable be permitted under the imports rules? As mentioned earlier, EPA may also consider changes in the "small volume" certification procedure in a separate proceeding.

4. *Effectiveness of Regulations.* EPA requests comments on whether the modification and test provisions of the current regulations are effective in assuring that vehicles comply with Clean Air Act requirements. If appropriate, provide specific evidence of abuse. Does improved compliance result from use of the certification process (as opposed to use of modifications)? If so, how? If not, why not?

5. *Effect on Businesses.* If the imports regulations were changed to abolish the testing and modification options, how would this affect parties currently engaged in such activities? EPA request comments on the possible specific effects with respect to each of the options described below.

6. *Air Quality.* The number of vehicles imported under the current imports regulations is very small compared to the annual sales of new domestic and imported certified vehicles. EPA requests commenters to submit any data (e.g., air quality analyses) which might indicate the presence of (or the absence of) air quality impacts attributable to these uncertified vehicles. EPA also requests comments on whether imported nonconforming vehicles tend to be operated in certain areas (e.g., California or Texas), and whether this has resulted in any local adverse air quality impacts.

7. *Sales by Nonresidents.* EPA requests specific information concerning sales of nonconforming vehicles that were imported under the "nonresident" category. How many vehicles are so sold and what percentage of total nonresident importations do they represent? What problems do individuals encounter when they unknowingly purchase such vehicles? Are they able to obtain title and register the vehicles?

IV. Options for Revision of Regulations

Given the issues discussed above, EPA has determined that there is good cause to hold workshops to discuss additional options for revising these regulations and receive comments regarding various options. After the close of the comment period and analysis of the testimony presented at the workshops and submitted to the docket, EPA intends to proceed to a final rulemaking.

EPA has developed four options which it believes represent the range of alternatives available for revising the current regulations. Interested persons are also invited to suggest additional options.

Option A. Finalize NPRM as Proposed

This option would require individual and commercial importers of vehicles to demonstrate that all vehicles are certified to meet applicable air pollution requirements *prior* to entry into the United States, with exemptions for vehicles that are imported by individuals for personal use. Other exemptions or exclusions for vehicles falling into a special listed category (e.g., diplomatic and test vehicles) also apply.

A key point of controversy with this option which emerged from comments received in response to the NPRM in 1980 involved the personal use exemption. Although the exemption is limited to one non-conforming vehicle per person, and not for commercial resale, various private and public institutions, including manufacturers (both foreign and domestic), objected to this revision on the basis of possible air quality impacts, loss of sales and the inequity of requiring domestic vehicles to meet Federal emission requirements while allowing the importation of foreign vehicles which do not. On the other hand, most individuals who commented favored the exemption because it would allow them to import exotic automobiles not available in the U.S.

Since publication of the NPRM, importations have increased considerably and thus EPA solicits additional comments. Specifically:

1. What effects would this option have on sales of vehicles from U.S. dealerships?

2. What effect would this option have on repair and maintenance services, including any effects on establishments that might provide the service and on the consumers whose vehicles are being serviced?

3. What effect would this have on air quality, especially on a regional or local basis?

Option B. Maintain Current Procedures and Policies

This option would maintain the existing regulations which require individual and commercial importers of vehicles to demonstrate evidence of conformity with air pollution requirements for all vehicles within 90 days *after* entry into the United States with a "one time" exemption for vehicles imported by individuals for personal use and at least five model years old at time of entry. Other exemptions or exclusions may also apply to vehicles falling into a special listed category (e.g., diplomatic and test vehicles). Evidence of conformity is given through either 1) modification of the vehicle to make it identical in all material respects to a vehicle covered by a certificate of conformity or 2) successful testing at a laboratory in accordance with the FTP.

As noted previously, this option creates various problems for the public and for EPA and Customs in administration of the program. There are two key problem areas. The first is the modification and testing requirements themselves. As discussed in this Notice and in the NPRM, the modifications may not be adequate and their adequacy is difficult to monitor effectively by EPA. Testing requirements also have created a number of problems. For example,

allegations have arisen of possible falsification of data by some test laboratories so that some vehicles tested therein may be in violation of emission requirements. EPA monitoring of such situations is difficult. Such falsification, if it exist, can result in an unfair and costly situation for laboratories and importers who adhere to the requirements of the law. EPA requests factual information as follows:

1. Under the curent procedures and policies, what have been the effects on consumers with respect to prices of both certified and uncertified vehicles, service and availability of models?

2. What have been the quantitative effects, if any, on air quality?

3. What problems have consumers experienced under these procedures with importing nonconforming vehicles?

Option C. Tighter Restrictions than NPRM

This option would require individual and commercial importers of vehicles to certify all vehicles to meet air pollution requirements prior to entry into the United States. Exemptions and/or exclusions would apply only to vehicles falling into a special listed category (e.g., diplomatic and test vehicles). No personal use exemptions would be permitted

This option has some potential for imposing hardships on individuals who purchase vehicles overseas and then discover that they cannot import them into the U.S. EPA specifically requests factual information and comments as follows:

1. What would be the specific effects, in terms of sales and availability of vehicle models, on U.S. dealerships, commercial importers and on consumers?

2. Are there any data to indicate that this option would have a beneficial effect on air quality?

3. Should the small volume certification procedures with respect to commercial importers be modified? If so, how and on what basis?

Option D. Combine NPRM and Certain Current Procedures

This option would require individual and commercial importers of vehicles after a specified effective date to certify all vehicles to meet air pollution requirements *prior* to entry into the United States, with a "one time" exemption for vehicles at least five model years old imported by individuals. Exemptions and/or exclusions may also apply to vehicles falling into a special listed category (e.g., diplomatic and test vehicles.)

This option would implement the proposal in the NPRM to abolish the modification and testing procedures of the current regulations. In lieu of an unlimited personal use exemption, however, it would formalize in the regulations the current policy of allowing individuals to import one vehicle for personal use provided it was at least five model years old at the time of importation. Commercial importers for resale would be allowed to certify vehicles so consumers would still be permitted to purchase vehicles normally not available in the U.S. As with the other options, EPA solicits factual comments as follows:

1. What are the likely effects on this option on U.S. dealerships, commercial importers, model availability, test laboratories, service facilities and consumers?

2. What would be the magnitude of any possible effect on air quality?

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: October 26, 1983.

Richard D. Wilson,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-30034 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 421

[OW-FRL-2464-8]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: EPA proposed effluent limitations guidelines and standards for the nonferrous metals manufacturing category, on February 17, 1983 (48 FR 7032). Since the close of the comment period EPA has obtained additional data and information which will become part of the administrative record for the final regulation. EPA is now making these data and information available for public inspection and comment.

DATES: Comments must be submitted by November 25, 1983.

ADDRESSES: Send comments to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk. The supporting information is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear). (PM-213). The comments will be made available as they are received. The EPA public information regulations (40 CFR Part 2) provide that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Ernst P. Hall, at (202) 382-7126.

SUPPLEMENTARY INFORMATION: On February 17, 1983, the EPA proposed effluent limitations guidelines, pretreatment standards, and new source performance standards for phase I of the Nonferrous Metals Manufacturing Point Source Category (48 FR 7032). The comment period closed on May 27, 1983. EPA received over 1500 individual comments on this proposal from 100 commenters.

Comments were submitted by the Aluminum Association and several individual primary aluminum manufacturers stating that the cyanide treatment technology proposed by the Agency as the basis for best available technology (BAT) effluent limitations guidelines and new source performance standards cannot remove cyanide to the amounts the Agency proposed. In addition, the Association disagreed with EPA's assumption that activated carbon absorption treatment would be necessary to assure removal of polynuclear aromatic hydrocarbons (PAH) found in primary aluminum wastewater. Instead, the Association stated that data produced by its members showed that 90 percent or more of the PAH would be removed by lime precipitation and sedimentation (lime and settle) treatment. EPA agreed to conduct pilot scale studies of the treatability of cyanide and PAH in primary aluminum wastewater to help resolve those comments. The results of the two studies (conducted at a primary aluminum plant in July and August, 1983) are discussed in two draft reports available for public inspection in the EPA Public Information Unit.

The Agency also received a comment from the Aluminum Recycling Association concerning the need for a discharge allowance for ingot conveyor casting and stationary casting operations in secondary aluminum production. The Association correctly points out that the proposed regulation did not expressly discuss ingot conveyor casting as a method of casting for secondary aluminum. In order to assure

complete consideration of this comment EPA contacted 8 plants in its data base that did not clearly report the type of casting used (all other plants having reported use of casting methods other than ingot conveyor casting). We have summarized the results of that telephone survey, and of casting data submitted in the 1976 data collection portfolios, and these summaries are available for inspection in the Public Information Refernce Unit.

The Agency also is providing copies of other data collected since proposal in the Public Information Reference Unit. This information consists of trip reports and analytical data from sampling a primary tungsten, primary zinc, and two secondary lead plants, data collection portfolio data from several primary aluminum, primary copper, primary zinc, primary tungsten, secondary aluminum, secondary silver and secondary lead facilities not previously included in the data base and discharge monitoring reports collected for plants reporting use of lime and settle technology with or without polishing filtration. The data will be incorporated into the data base used for developing the final regulation.

Our preliminary analysis of the new data and information suggests the following:

a. The treatability study appears to support an increase in the achievable concentrations of cyanide used to establish BAT effluent limitations guidelines and new source of performance standards for primary aluminum production. The revised monthly average indicated by the study would be 2.0 mg/1 and the revised daily maximum would be 4.5 mg/1. This performance is based on a mean performance of 1.1 mg/1 and is achievable by use of cyanide precipitation, sedimentation and filtration. The Agency also has reviewed available literature and data submitted by Kaiser Aluminum (correspondence dated February 11, 1980) that supports a conclusion that these revised cyanide concentrations are achievable using ion exchange technology.

In addition, the Agency is considering applying a monitoring requirement for cyanide immediately after cyanide pretreatment. The treatability study appears to establish that lime and settle technology will not remove cyanide adequately. Further, not every wastestream from primary aluminum production contains cyanide. Thus, centralized lime and settle treatment not only is ineffective treatment for cyanide, but could result in dilution of cyanide below the allowable level (contrary to our conclusions in the proposed rule at 48 FR 7056). In order to assure that cyanide limitations are not achieved by dilution, an at-the-source monitoring requirement may be appropriate. If EPA promulgates an at-the-source requirement, we will include separate cyanide pretreatment costs in our cost estimates for complying with cyanide limitations.

b. The treatability study appears to support a conclusion that treatment of primary aluminum wastewater with lime precipitation, sedimentation, and filtration does remove PAH. Therefore, EPA is considering modifying its pollutant removal estimates (which assumed no removal of PAH without treatment with activated carbon) to reflect the results of the treatability study. The data also appears to support a conclusion that benzo(a)pyrene limitations based on an achievable concentration of 0.01 mg/1 are achievable without use of activated carbon treatment. Several other more soluble PAH such a pyrene and fluoranthene are removed by lime precipitation, sedimentation, and filtration, but may require treatment by activated carbon absorption in order to achieve removals to 0.01 mg/1. As such, benzo(a)pyrene removal may not be an indicator of complete PAH removal. The Agency solicits comments as to whether activated carbon pretreatment should continue to be part of BAT treatment in order to remove fully these more soluble PAH.

c. Our follow-up study of ingot conveyor casting practices in the secondary aluminum industry appears to indicate that no discharge allowance is justified for ingot conveyor casting. EPA's study identified three secondary aluminum plants achieving 100 percent recycle of contact cooling water used on ingot conveyors. In addition, the Agency has identified 18 secondary aluminum plants achieving 100 percent recycle of stationary casting contact cooling water.

Copies of this new information and data are available for public inspection in the EPA Public Information Reference Unit. Comments are solicited only on the new data and on the preliminary analysis outlined above. These comments must be received by EPA on or before November 25, 1983, to ensure their consideration.

Dated: October 28, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-29976 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Gen. Docket No. 83-1009; FCC 83-440]

Multiple Ownership of AM, FM and Television Broadcast Stations

Correction

In FR Doc. 83-28801 beginning on page 49438 in the issue of Tuesday, October 25, 1983, certain footnote references should be corrected to read as follows:

On page	In footnote	The reference to	Should have read
49443	59	59	58
49443	61	59	58
49443	63	63	62
49443	63	61	60
49445	Table 4, footnote 1.	14	71
49445	Table 5, footnote 1.	76 (3 times)	Table 4, footnote 1
49445	Table 5, footnote 1.	74	71
49445	Table 6, footnote 1.	76 (2 times)	Table 4, footnote 1
49445	Table 6, footnote 1.	77	Table 5, footnote 1
49445	73	77	Table 5, footnote 1
49445	74	78	Table 6, footnote 1
49445	75	77	Table 5, footnote 1
49446	86	89	83
49446	87	89	83
49446	88	89	83
49447	89	92	86
49447	90	95	89
49447	91	70	69
49447	91	94	88
49447	Table 8, footnote 1.	99	95
49448	96	99 (2 times)	95
49448	96	98	94
49448	99	70	69
49449	103	99	95
49449	103	90	84
49449	105	71	Table 2, footnote 1
49449	109	70	69
49449	110	92	86
49449	111	70	69
49450	114	70	69
49450	116	70	69
49450	117	96	92
49450	119	96	92
49450	120	70	69
49450	120	117A	113
49451	125	71	Table 2, footnote 1

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

Implementation of the Federal Acquisition Regulation (FAR), General Services Administration Acquisition Regulations (GSAR)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the General Services Administration proposal to establish the General Services Administration Acquisition Regulations (GSAR) as Chapter 5 of the Federal Acquisition Regulations System. The GSAR will implement and supplement the Federal Acquisition Regulations. The new GSAR will supercede the current General Services Administration Procurement Regulations. The following Parts of the proposed GSAR are available for review and comment:

Part 501—Federal Acquisition Regulations System
Part 502—Definitions of Words and Terms
Part 529—Taxes
Part 530—Cost Accounting Standards
Part 531—Contract Cost Principles and Procedures
Part 550—Extraordinary Contractual Actions

DATE: Comments are due not later than December 5, 1983.

ADDRESS: Request for copies of the proposals and comments should be addressed to the Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, Room 4026, 18th & F Streets, NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that these documents will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et. seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Chapter 5

General Services Administration Acquisition Regulations, Government procurement.

Dated: October 21, 1983.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 83–29945 Filed 11–3–83; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–78; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Design of Pipeline Components, General Requirements

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise the general requirements for design of pipeline components to recognize that limiting stresses to "unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service" is not an appropriate criterion, from a safety standpoint, for many pipeline components. In response to a petition from the American Society of Mechanical Engineers, the Materials Transportation Bureau proposes to clarify the requirements.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by January 3, 1983. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and identify the docket and notice numbers.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 426–2082.

SUPPLEMENTARY INFORMATION:

American Society of Mechanical Engineers' Petition

The Gas Piping Technology Committee of the American Society of Mechanical Engineers (ASME), by letter of April 6, 1983, petitioned the MTB to revise § 192.143, General requirements, Subpart D of Part 192. This section, limiting the stress in components to "unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service" in the context of "Each component of a pipeline . . .." is both impractical and technically inappropriate for valves, flanges, and some other components, according to the petition. These components achieve primary pressure containment through bolting, gaskets, elastomer seals, and sealing compounds. The basis for design of the metallic parts is unit strain (i.e., elastic deformation) at critical locations under rated pressure.

The ASME stated that the objective in designing such components is to limit the strain at these critical locations so that the pressure seal will remain functional. These components have an irregular contour and the stress levels at rated pressure vary from very low to highly localized conditions that approach or may exceed the yield strength. Thus, the actual stress levels can only be determined by a finite element stress analysis.

The "unit stress" language entered § 192.143 through paragraph 831 of the 1969 Edition of the B31.8 Code for Pressure Piping, Gas Transmission, and Distribution Piping Systems. The Code Committee realized the error of the statement and revised paragraph 831 in 1969. This revision would have been in a 1970 Edition, but was not published due to the adoption of Part 192. However, this revision is contained in the 1975 Edition.

The petitioner further pointed out that it has been common practice in design of pipelines to limit operating pressure of valves, flanges, and similar components in accordance with their design rating, e.g., ASA 150 (WOG 275), ASA 300 (WOG 720 psi), ASA 400 (WOG 960 psi), ASA 600 (1440 psi), etc. This practice is based upon sound engineering standards (see standards listed in Part 192, Appendix A—Incorporated by Reference) that have proven to provide safety at least equal to the pipe design level for the same design pressure. This has been the intent of the present wording of § 192.143. In addition, the listed specifications have been required for such components since Part 192 was first issued.

In view of the above, MTB concurs with the ASME petition that clarification of § 192.143 is needed. Therefore, MTB proposes to amend § 192.143 to provide an option to designing pipeline components on the basis of unit stresses by permitting the design to be based on

the pressure being rated in accordance with the requirements of an appropriate specification listed in Appendix A of Part 192. In addition, components that were manufactured to an edition of a listed specification that has not been referenced in Part 192 would be permitted to be used by compliance with § 192.144. This standard permits the use of components made to an unlisted edition of a specification listed in Appendix A. Components not covered by a specification listed in Appendix A or § 192.144 would be considered for waiver upon appropriate application and justification by the pipeline operator.

Cost Impact

This rulemaking is not "major" under Executive order 12291 because it will have a positive effect on the economy of less than $100 million a year, and no adverse effects are anticipated. Also, it is not "significant" under Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects and overall effects will be minimal.

List of Subject in 49 CFR Part 192

Pipeline safety, Design of pipeline components.

PART 192—[AMENDED]

In consideration of the foregoing, MTB proposes that § 192.143 of Title 49 of the Code of Federal Regulations be revised as follows:

§ 192.143 General requirements.

Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service or must be pressure rated in accordance with the requirements of the applicable specification listed in Appendix A or meet the requirements of § 192.144.

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53; Appendix A to Part 1, and Appendix A to Part 106.

Issued in Washington, D.C., on October 31, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-29884 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Status Review for the Amber Darter (Percina antesella), Trispot Darter (Etheostoma trisella), and Reticulate Logperch (Percina sp.)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing the status of the amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and reticulate logperch (*Percina* sp.) to determine if these species and their habitat should be provided protection under the Endangered Species Act of 1973, as amended. These fishes are currently known from the Conasauga River (Murray and Whitfield Counties, Georgia; Bradley and Polk Counties, Tennessee). The amber darter is also known from one site on the Etowah River (Cherokee County, Georgia). The distribution of these fishes could be reduced if water development projects now being considered for the upper Conasauga River are implemented without adequately considering the requirements of these species. Due to the limited distribution of the three fishes, any factors which degrade water quality in this short river reach, i.e., land use changes, chemical spills, increases in agricultural and urban runoff, could threaten the survival of these species. Based on information gathered through this review process plus the results of a status survey being conducted under a Service contract and other presently available data, the Service will determine if the three fishes should be proposed for inclusion on the Federal List of Endangered and Threatened Wildlife. Comments and information are sought from the public.

DATES: Comments from all interested parties must be received by February 2, 1984.

ADDRESSES: Interested persons, organizations, agencies, and governments are requested to submit comments to Mr. Warren Parker, Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321).

Comments and material relating to this notice are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins (704/259-0321) (see above address).

SUPPLEMENTARY INFORMATION:

Background

The amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and reticulate logperch (*Percina* sp) are known from tributaries of the Coosa River drainage in Georgia and Tennessee. Specifically, the trispot darter and reticulate logperch appear to be restricted to approximately 20 miles of the Conasauga River in Murray and Whitfield Counties, Georgia and Bradley and Polk Counties, Tennessee. The amber darter exists in this same short stretch of the Conasauga River and at one locality in the Etowah River, Cherokee County, Georgia, where a single specimen of the species was found in 1980 (Etnier, *et al.*, 1981). The amber darter was once known to exist near the mouth of Shoal Creek, a tributary of the Etowah River, Cherokee County, Georgia, but this population was apparently lost in the 1950's when the Allatoona Reservoir was flooded. The trispot darter once existed in Cowans Creek, a tributary of Spring Creek which flows into the Coosa River in Cherokee County, Alabama (Bailey and Richards, 1963), and the Coosa River proper in Etowah County, Alabama (Ramsey, 1976). However, these are now flooded by backwaters of Weiss Dam and Neely Henry Dam respectively.

The Tennessee Wildlife Resources Agency and the Tennessee Heritage Program of the Tennessee Department of Conservation list all three darters as Threatened. In a publication edited by both agencies, *Tennessee Rare Wildlife Volume I: The Vertebrates*, they stated, relative to amber darter habitat, that "the combination of gently flowing runs and silt-free substrate is rare in these times of widespread siltation due to poor watershed management or impoundments. The Conasauga River in Tennessee remains clear in all but the heaviest of floods indicating its uniqueness and importance in preservation of the amber darter . . ." Ramsey (1973), in a report on extinct and rare freshwater fishes in Georgia, classified the amber and trispot darters

as "rare-1 species" which he defined, in part, as species not known to survive in reservoirs of channelized streams. Ramsey further categorized these two darters as "vulnerable" which he defined as ". . . species whose range is extremely limited and a species that could be rendered extinct by a single land-use change."

The amber and trispot darters and the reticulate logperch apparently require unpolluted clear water streams. The amber darter utilizes areas with moderate current over gravel and silt-free sand substrate (Williams and Etnier, 1977). The trispot inhabits the sluggish current along the stream margin over detritus substrate (Ryon, 1981). The reticulate logperch occurs in flowing pool areas and riffles over clean substrate of rubble, sand, and gravel (Starnes and Etnier, 1980). Siltation which often results when lands are cleared for agriculture or other land uses is a major factor affecting the quality of these habitats. Siltation changes the character of the stream so that gravel riffle areas become infiltrated with silt and the detritus substrates are smothered with fine silt particles.

The upper Conasauga River flows through the Cherokee National Forest. This provides some protection for downstream habitat sections where the fish are found. However, the fish are threatened from agricultural and urban runoff in the agricultural and developed sections of the watershed. There is also the potential that a toxic chemical spill could eliminate a major portion of the population. Another threat could come from the water development and flood control projects being studied for the upper Conasauga River near Dalton, Georgia. These projects, depending on type and extent, could severely impact the species if biological requirements of these fishes are not considered in the planning process.

Effects of This Notice of Review

This notice is a public announcement of the Service's intent to collect data on the status of the trispot and amber darters and reticulate logperch and their habitat, and to solicit information on likely impacts which could result from the species and their Critical Habitat being proposed and listed.

This notice does not formally bring either species under the protection of the Endangered Species Act. Consequently, there will be no effect on Federal activities through Section 7 of the Act. This notice also does not imply any prohibitions on taking of the species as stated in Section 9. The Service does believe, however, that these fishes may qualify for Endangered Species Act protection. For this reason and due to their apparent rarity, the amber darter, trispot darter, and reticulate logperch should be given some consideration in environmental planning for projects which could impact the Conasauga River in Whitfield and Murray Counties, Georgia, and in Bradley and extreme southwestern Polk Counties, Tennessee. The amber darter should also be considered for projects which could impact the Etowah River in the area of Cherokee County, Georgia.

Public Comments Solicited

The Service is seeking comments from State agencies in Tennessee and Georgia on the species and their potential Critical Habitat. With this Notice of Review, the Service is also inviting and requesting anyone who may have information on these species to contact Mr. Warren Parker, U.S. Fish and Wildlife Service (see Addresses section). Although all comments are welcome, the Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to these species;

2. The location of and the reasons why any habitat occupied by these species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

3. Additional information concerning the range and distribution of these species;

4. Current or planned activities which may adversely affect these species or their habitat; and

5. Possible impacts to Federal activities if Critical Habitat is designated.

The Service will analyze all existing data, as well as data resulting from this review, and from any future research. If our analysis indicates that any one or all of these species merit Endangered or Threatened status, the Service will propose the species for listing. Such a proposal would afford additional opportunity for interested parties to comment prior to any decision by the Service to formally list these species.

Author

This Notice of Review was prepared by Richard G. Biggings, U.S. Fish and Wildlife Service, Endangered Species Field Office, Plateau Building, Room A-5, 50 South French Broad Avenue, Asheville, North Carolina 28801 (704/258-2850).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

(Pub. L. 93-205, 87 Stat. 885; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 et seq.))

Dated: October 26, 1983

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-29681 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 215
Friday, November 4, 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

Food and Nutrition Service

Food Stamp Program; Thrifty Food Plan; Guam and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department is changing the Thrifty Food Plan (TFP) amount of food stamps which participating households receive. TFP changes for the 48 States and D.C., Alaska, and Hawaii have already been published. The TFP changes in this Notice are for Guam and the Virgin Islands.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issurance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Publication

The Guam and Virgin Islands State agencies must implement this action on October 1, 1983, and these offices need adequate advance notice of the new amounts to carry out all steps necessary for them to meet the implementation deadline. Based on regulations published at 47 FR 46485–46487 (October 19, 1982) annual statutory adjustments to the TFP are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1. It will not result in a major increase in costs or prices, nor will it affect competition, productivity, employment, investment, or innovation. Therefore, this action has been classified as not major.

Regulatory Flexibility Act

Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps in Guam and the Virgin Islands. However, this money will be distributed among all food vendors in these places, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets all dietary standards. As the cost of food rises, the cost of the TFP also increases.

The TFP constitutes the basis for uniform allotments for food stamp households. The TFP allotment amount is the maximum benefit level payable to a household of a particular size. The maximum benefit is paid to households which have no net income. For households which have some income, the allotment is determined by reducing the TFP amount for the household's size by 30 percent of the household's net income. As prescribed by the statute, the TFP allotment amounts for each household size are based on the TFP for a particular four-person household. There are separate TFP amounts for the 48 States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands. By law, the TFP allotment amounts for Guam and the Virgin Islands cannot exceed those in the 50 States.

The TFP amounts are adjusted periodically to reflect changes in price levels. Section 3(o) of the Food Stamp Act of 1977, as amended, provides that the next adjustment will take place October 1, 1983, based upon June 1983 TFP costs for a family of four persons consisting of a man and woman ages 20–54 and children 6–8 and 9–11. To obtain allotment amounts for each household size, this number is divided by four, reduced by one percent, multiplied by the appropriate household size and economy of scale factor, and the final result is rounded down to the nearest lower dollar.

The Department published adjusted TFP amounts for the 48 States and D.C., Alaska, and Hawaii at 48 FR 45442, October 5, 1983. TFPs developed in 1975 or prior to 1975 were used for all areas. June 1983 TFP costs for Guam and the Virgin Islands were delayed so the appropriate adjustments could not be made until now. June 1983 TFP costs for a four-person household were $376.10 in Guam and $328.10 in the Virgin Islands. After appropriate calculations were made, final amounts for Guam and the Virgin Islands were $372 and $324 respectively. These amounts were compared to results in the 50 States and D.C. to insure that they did not exceed allotment amounts there.

The following table shows the new allotments for Guam and the Virgin Islands. Allotments are increased for all household sizes.

THRIFTY FOOD PLAN AMOUNTS—JUNE 1983, AS ADJUSTED

Household size	Guam [1]	Virgin Islands [1]
1	$111	$97
2	204	178
3	293	255
4	372	324
5	442	385
6	530	462
7	586	511
8	670	584
Each additional member	+83	+73

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, 1 percent reduction, and rounding.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: October 31, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83–29999 Filed 11–3–83; 8:45 am]

BILLING CODE 3410–30–M

CIVIL AERONAUTICS BOARD

Uniform System of Accounts and Reports for Certificated Air Carriers; Passenger Origin-Destination Survey

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of extension of CAB Form 2787, "Passenger Origin-Destination Survey Report," (O & D) filed pursuant to section 19-7 of Part 241 of the Board's Economic Regulations. Extension is requested for one year through January 1, 1985.

DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673-5922

How Often the Collection of Information Must Be Filed: Quarterly

Who is Asked or Required to Report: U.S. Certificated Air Carriers

Estimate of Number of Annual Responses: 180

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 70,200

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30086 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-11-6]

Application; Aeroleon, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board proposes to dismiss as moot the applications of Aeroleon, S.A., Docket 35803 and 38823. The application in Docket 35803 requests a foreign air carrier permit to conduct non-scheduled cargo flights between points in Mexico and specified points in the United States. In Docket 38923, the applicant seeks unlimited all-cargo exemption authority.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that these applications are moot and should be dismissed, as described in the order cited above, shall, no later than November 25, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Mexico in Washington, D.C. A statement of objections must cite the docket numbers and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and dismiss the applications of Aeroleon, S.A. in Docket 35803 and 38823.

ADDRESSES:

Dockets 35803 and 38823, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Robert E. Cohn, Esquire, Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue, N.W., Washington, D.C. 20006

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 101, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—202-673-5134.

By the Civil Aeronautics Board: November 1, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30024 Filed 11-3-83; 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; Week Ended October 28, 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. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Oct. 24, 1983	41769	Arrow Air, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, 1211 Connecticut Ave., N.W., 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 for a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: A. Between the coterminal points Miami, Florida and San Juan, Puerto Rico, on the one hand, and the coterminal points Rio de Janeiro and Sao Paulo, Brazil, on the other hand, nonstop and via the intermediate point Caracas Venezuela, and other intermediate points in the Caribbean and South America; B. Between the coterminal points Miami, Florida and San Juan, Puerto Rico, on the one hand, and the coterminal points Rio de Janeiro and Sao Paulo, Brazil, and Buenos Aeries, Argentina, on the other hand, nonstop and via the intermediate point Caracas, Venezuela, other intermediate points in the Caribbean and South America. Answers may be filed by November 7, 1983.
Oct. 24, 1983	41774	Northwest Airlines, Inc., Minneapolis/St. Paul International Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. for an amendment to Segment 3 of its certificate for Route 179 which would authorize Northwest to engage in the scheduled air transportation of persons, property and mail on an unrestricted basis between Detroit and London as follows: "3. a. Between the terminal point Minneapolis/St. Paul, MN and the terminal point, London, United Kingdom; b. Between the terminal point Boston, MA and the terminal point London, United Kingdom; c. Between the terminal point Detroit, MI and the terminal point London, United Kingdom." Conforming Applications, Motions to Modify Scope and Answers may be filed by November 23, 1983.

Date filed	Docket No.	Description
Oct. 26, 1983	41776	Aerotransportes Entre Rios S.R.L. (AER), c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Aerotransportes Entre Rios S.R.L. (AER) pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seeks a renewal of its currently effective Permit to authorize it to engage in the non-scheduled foreign air transportation of property and mail over the routes described below: (i) Between a terminal point or points in Argentina, intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela, Colombia, Panama, Haiti, The Bahama Islands, Cuba, Costa Rico, Nicaragua, and Guatemala, and the terminal points, Miami, Florida and New York, New York. (ii) Between a terminal point or points in Argentina, Intermediate points in Uruguay, Paraguay, Chile, Bolivia, Colombia, Peru, Ecuador, Brazil, Venezuela, Panama, Costa Rico, Nicaragua, Guatemala, and Mexico, and the terminal point, Los Angeles. Answers may be filed by November 23, 1983.
Oct. 26, 1983	41777	Transporte Aereo Rioplatense S.A.C. e I., c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Transporte Aereo Rioplatense S.A.C. e I, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seek a renewal of its currently effective Permit to authorize it to engage in the non-scheduled foreign air transportation of property and mail over the routes described below: (i) Between a point or points in Argentina intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brasil, Venezuela, Colombia, Panama, the Bahama Islands; and terminal points Miami, Florida; Houston, Texas; Chicago, Illinois; and New York, New York. (ii) Between a point or points in Argentina, intermediate points in Uruguay, Paraguay, Chile, Bolivia, Colombia, Peru, Ecuador, Brasil, Venezuela, Panama, Costa Rica and Mexico, and the terminal point, Los Angeles, California. Answers may be filed by November 23, 1983.
Oct. 28, 1983	41783	Air Jamaica Limited, c/o Albert F. Grisard, Galland, Kharasch, Calkins & Morse, P.C., 1054 Thirty-first St., N.W., Washington, D.C. 20007 Application of Air Jamaica Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests the renewal and amendment of its existing permit to authorize it to operate the scheduled service it is now operating under the permit issued it by Order 80-11-60. In addition and as a result of the designation by the Government of Jamaica in a diplomatic note to the U.S. Department, reproduced in Exhibit JM-9, of Atlanta, Georgia as a U.S. coterminal in lieu of Boston, Massachusetts, Air Jamaica will inaugurate nonstop service between Atlanta and Jamaica and with the schedule frequency shown in Exhibit JM-10 in December 1983. Answers may be filed by November 25, 1983.
Oct. 28, 1983	41681	Baker Aviation, Inc., P.O. Box 116, Kotzebue, Alaska 99752. Corrected Application of Baker Aviation, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations. Answers may be filed by November 25, 1983.
Oct. 27, 1983	36034	Kuwait Airways Corporation, c/o G. Joseph Minetti, Dickstein, Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037 Amendment to the Application of Kuwait Airways Corporation pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seeks authorization to engage in foreign air transportation of passengers, property and mail between Kuwait and New York, New York via London, England, by substituting Frankfurt, Germany for London, England as the intermediate point on one of the four round-trip frequencies per week. Answers may be filed by November 25, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30019 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41639]

Frontier Horizon, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter will be held on November 9, 1983 at 10:00 a.m. local time in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

The conference will consider any requests for additional evidence which Board Order 83-10-90 required to be submitted no later than November 4, 1983. Parties shall also submit by November 4, 1983, proposed stipulations, statements of position and proposed dates for further procedures in this case. One copy of the foregoing shall be furnished to each party and four copies to the Judge.

Dated at Washington, D.C., October 28, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-30023 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41781]

Rainbow Air, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated: Washington, D.C., November 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-30020 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-10-112; Docket 41781]

Rainbow Air, Inc.; Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Rainbow Air, Inc. Fitness Investigation:* Order 83-10-112, Docket 41781.

SUMMARY: The Board is instituting the *Rainbow Air, Inc. Fitness Investigation* (1) to determine whether the applicant is a citizen of the United States, within the meaning of section 101(16) of the Federal Aviation Act; (2) to determine the fitness of the applicant to operate interstate, overseas and foreign charter air transportation of persons, property, and mail and to comply with the Act and our rules, regulations and requirements; and (3) to approve, exempt, or disclaim jurisdiction over any interlocking relationships which may exist under sections 408 and 409 of the Act. The complete text of Order 83-10-112 is available as noted below.

DATES: Requests for additional evidence and petitions for leave to intervene shall be filed by November 10, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41781.

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 83-10-112 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 83-10-112 to that address.

By the Civil Aeronautics Board: October 28, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30021 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40813]

Regent Air Corp., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to commence on November 7, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 31, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-30072 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-051]

Bicycle Tires and Tubes From Korea; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On September 29, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on bicycle tires and tubes from Korea manufactured by Korea Inoue Kasei Co., Ltd. (KIK). The review covers the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: John McKean or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 44601) the preliminary results of its administrative review of the countervailing duty order on bicycle tires and tubes from Korea (44 FR 25701, January 12, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately, manufactured by KIK. Such merchandise is currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981 and seven programs: (1) The foreign capital inducement law ("FCIL"), (2) short-term preferential financing, (3) tax exemptions for land acquisition, (4) tax exemptions for imported capital equipment, (5) accelerated depreciation, (6) reserve funds for export market development, and (7) reserve funds for export losses.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 1.06 percent for the period January 1, 1981 through December 31, 1981.

The Department will instruct the Customs Service to assess countervailing duties of 1.06 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or before August 9, 1981.

Because the International Trade Commission (the ITC) determined that no industry in the United States would be injured by importations of this merchandise if this countervailing duty order were revoked (48 FR 24795), the Department revoked this order effective August 10, 1981, the date the ITC notified the Department that the Government of Korea had requested an injury determination. The Department will instruct the Customs Service to liquidate with no countervailing duties due all shipments entered, or withdrawn from warehouse, for consumption on or after August 10, 1981.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (919 U.S.C 1675(a)(1)) and § 355.41 of the Commerce Regulations (919 CFR 355.41).

Dated: October 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-29987 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On September 8, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1981 through September 30, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1983, the Department of Commerce (the Department) published in the **Federal Register** (48 FR 40539) the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 60486, January 17, 1979). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1981 through September 30, 1982 and two programs:

(1) Capital loans/grants and (2) elderly employment compensation.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 10.48 percent for the period October 1, 1981 through September 30, 1982.

On October 30, 1980, the International Trade Commission (the ITC) notified the Department that the Swedish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. On March 15, 1983, the ITC notified the Department of its determination that an industry in the United States would be materially injured or threatened with material injury if the order were revoked. The Department announced in the final results of its last administrative review of this order that it would instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 30, 1980 and on or before March 15, 1983.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 10.48 percent of the entered value, as provided for by section 751(a)(1) of the Tariff Act, on any shipment of Swedish modal or regular viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department now intends to conduct the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-29958 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York at Buffalo; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-240. Applicant: State University of New York at Buffalo, Buffalo, N.Y. 14214. Instrument: LHS-10 SIMS/00 Secondary Ion Mass Spectrometer/Ultra High Vacuum Surface Analysis Chamber. Manufacturer: Leybold Heraeus GMBH, & Co., West Germany. Intended use of instrument: See notice on page 31684 in the **Federal Register** of July 11, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides, *inter alia*, an ultra-high vacuum (5×10^{-11} torr); an ion gun with a stable beam current in the 10^{-9} amphere range; and an analysis chamber bakeable to 400° C. The National Bureau of Standards advises in its memorandum dated October 4, 1983 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-29955 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Sea World, Inc.; Issuance

On March 17, 1983, Notice was published in the **Federal Register** (48 FR 11310) that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 for a Public Display/Scientific Research permit under the Marine Mammal Protection Act of 1972 to take killer whales. Sea World requested to take a total of up to 100 killer whales over a 5-year period in order to study the biology, reproduction, and population dynamics of this species. Up to 10 animals were requested to be permanently maintained for public display and captive breeding, and up to 90 were requested to be captured, some maintained up to three weeks, studied, sampled, marked and/or tagged and released. Up to 10 of these animals were requested to be radio tagged and tracked. Also, Sea World requested to recapture and reexamine some animals. These activities were requested to be conducted in the waters off Alaska and California.

The public comment period orginally closed April 16, 1983, and was subsequently extended until August 26, 1983 (48 FR 16934, 22976, and 32376). A public hearing was held on August 16, and 17 in Seattle, Washington, and the hearing record remained open until August 26, 1983. All comments and documents postmarked by that date were evaluated and considered in the final decision.

Notice is hereby that on November 1, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to Sea World, Inc., subject to certain conditions set forth therein. The Permit establishes restrictions on the number and locations of animals which may be removed from the wild each year, and requires a preliminary survey of each area prior to the collection of animals. The Permit does not authorize any extended temporary removal, capture activities in California waters, or liver

biopsy, stomach lavage, tooth extractions, hearing tests or respiratory studies at this time, but these activities may be authorized in the future based on additional information which may be submitted by Sea World. The Permit requires suspension of activities in the event of any mortality, and provides for annual review and required reauthorizations in order for the Permit Holder to continue activities each subsequent year.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115

The complete record, including the application, all supplemental information and the hearing record, is available for review in the Office of Protected Species and Habitat Conservation. For further information, contact the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235 (telephone 202–634–7529).

Dated: November 1, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29977 Filed 11–3–83; 8:45 am]

BILLING CODE 3510–22–M

Caribbean Fishery Management Council and Its Administrative Subcommittee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 48th regular public meeting to consider status reports on fishery management plans (FMPs) under development (Draft FMP on Coastal Migratory Pelagic Resources; draft FMP for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms), and to discuss other Council matters. The Administrative Subcommittee will meet to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Tuesday, December 6, 1983, at approximately 2:00 p.m., adjourning at approximately 5:00 p.m., reconvening on Wednesday, December 7 at approximately 9:00 a.m., and will adjourn at approximately noon. The Council's Administrative Subcommittee will convene on Tuesday, December 6, at approximately 10:30 a.m., and will adjourn at approximately noon. All meetings will take place at the Conference Room of the SeaFarer's Hotel, Culebra, Puerto Rico.

FOR FURTHER INFORMATION: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753–4926.

Dated: November 1, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29979 Filed 11–3–83; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will meet to conduct preliminary discussions on the Data Collection Fishery Management Plan (FMP); review activities relating to the Coastal Migratory Pelagics (Mackerels) FMP; discuss status of the Bluefish and Swordfish FMPs, as well as to discuss other fishery management business.

DATES: November 28–December 1, 1983—9 a.m. to noon.

ADDRESS: The public meeings will take place at the Holiday Inn, Salter Path Road (Morehead City), Atlantic Beach, North Carolina.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South Carolina 29407, Telephone: 803–571–4366.

Dated: November 1, 1983

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29978 Filed 11–3–83; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Officals of the Government of Mexico Authorized to Issue Export Visas and Exempt Certifications for Certain Cotton, Wool, and Man-Made Fiber Textile Products

November 1, 1983.

ACTION: Announcing two new officials of the Government of Mexico who are authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico, replacing two others who will no longer issue these documents.

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, the Government of Mexico has notified the United States Government that Julia Medina Medina and Tomas Rodriquez Weber have been authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products produced or manufactured in Mexico and exported to the United States, replacing Rafael Ney Lizardy and Yolanda Perez Nunez.

EFFECTIVE DATE: November 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 20, 1981, a letter dated May 15, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (46 FR 27516) which established a new export visa requirement and exempt certification for certain cotton, wool,

and man-made fiber textile products, produced or manufactured in Mexico and exported to the United States. One of the requirements is that the visas and exempt certifications must be signed by an official authorized by the Government of Mexico. The Government of Mexico has designated two new officials to issue these documents. A complete list of Mexican Officials who are currently authorized to issue visas and exempt certifications follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of Mexico Authorized to Issue Export Visas and Exempt Certifications for Textile and Apparel Products Exported to the United States

Leopoldo Diaz Aldecoa
C. P. Ma. Guadalupe Perez Alvarado
Javier Inzunza Angulo
Ruben Ramirez Banda
Roberto Vargas Brito
Joaquin Lozano Chavez
Jorge Luis Robles Contreras
Serafin Martinez Cruz
Antonio Gonzalez Cue
Ernesto B. Ascencio Esparza
Carlos McGregor Garate
Angel Francisco Marroquin Garza
Bolivar Hernandez Garza
Argimiro Reyes Genis
Jorge Montiel Hernandez
Jose Serralta Hernandez
Margarita Aparicio Hernandez
Miguel Angel Hernandez
Gerardo Solis Laredo
Alberto Diaz Lopez
Pedro Lechuga Lopez
Radames Calva Lopez
Rogelio Lopez Lucio
Antonio Garcia Martinez
Jose Luis Ferretis Martinez
Julia Medina Medina
Alfredo Ortega Mena
Hector M. Pastrana Mendivil
Gerardo Pesqueira Mendoza
Alma Rosa Curiel Montiel
C. P. Delfino Gonzalez Munoz
Fernando Aurelio Avila Nava
Reyna Ramirez Nieves
Manuel Pereyra Novelo
Gabriel Oseguera Olvera
Carlos Fco. Ostos O.
Guillermo Teutli Otero
Hugo Humberto Villarreal Pena
Jose Carmelo Gutierrez Ramos
Octavio Ascencio Reynoso
Carlos E. Martinez Rivera
Floriberto Patino Rivera
Miguel A. Rivera V.
Hedilberto Cobos Rodriguez
Ruben Morales Ruiz
Arnulfo Pulgarin Soto
Adan Ravelero Vazquez
Tomas Rodriquez Weber
C. Miguel Angel Rueda Young

[FR Doc. 83-29086 Filed 11-3-83; 8:45 am]
BILLING CODE 3510-25-M

Increasing the Import Limit for Certain Wool Apparel Products From the Socialist Republic of Romania

November 1, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 8, 1983. For further information contact Diana Bass, International Trade Specialist (202-377-4212).

Background

A CITA directive establishing import limits for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983 was published in the **Federal Register** on February 28, 1983 (48 FR 8325). The two governments have agreed to amend the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended and extended, to establish a specific limit for Category 435/444 at 7,250 dozen. The following letter to the Commissioner of Customs establishes the new limit and applies flexibility in the form of swing in the amount of 363 dozen and carryforward of 435 dozen, adjusting the specific limit from 7,250 dozen to 8,048 dozen for 1983. The amount of carryforward used this year will be deducted from the limit established for this category in the 1984 agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 1, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of wool and man-made fiber textile products, produced or manufactured in the Socialist Republic of Romania and exported during the twelve-month period which began on January 1, 1983.

Effective on November 8, 1983, the directive of February 22, 1983 is hereby further amended to increase the previously established level of restraint for Category 435/444 to 8,048 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29085 Filed 11-3-83; 8:45 am]
BILLING CODE 3510-25-M

Increasing the Import Limit for Certain Man-Made Fiber Apparel Products From the Socialist Republic of Romania

November 1, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 8, 1983. For further information contact Diana Bass (202/377-4212).

Background

A CITA directive establishing import limits for certain specified categories of wool and man-made fiber textile products, including Category 635, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983, was published in the **Federal Register** on February 28, 1983 (48 FR 8325). The two governments have agreed to amend the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended and extended, to establish a specific limit for Category 635 at 43,000 dozen. The following letter to the Commissioner of Customs establishes the new limit and applies flexibility in the form of swing and carryforward, provided under the terms of the bilateral agreement, adjusting the specific limit from 43,000 dozen to 48,590 dozen during 1983. The amount of carryforward used this year will be deducted from the limit established for this category in the 1984 agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as

[1] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982.

amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenanan,

Chairman, Committee for the Implementation of Textile Agreements.

November 1, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of wool and man-made fiber textile products, produced or manufactured in the Socialist Republic of Romania and exported during the twelve-month period which began on January 1, 1983.

Effective on November 8, 1983, the directive of February 22, 1983 is hereby further amended to increase the previously established level of restraint for Category 635 to 48,590 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-30010 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Friday, 16 December 1983, the Pentagon, Washington, DC.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on SIGINT Support to Naval Operations.

[1] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982.

Dated: November 1, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-29965 Filed 11-3-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Long Endurance Aircraft; Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft will meet in closed session on 9 February 1984 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 9 February 1984 the Task Force will consider the mission potential for long endurance aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: October 31, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-29966 Filed 11-3-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Data Network; Advisory Committee Meeting

The Defense Science Board Task Force on Defense Data Network will meet in closed session on 17-18 January 1984 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 17-18 January 1984 the Task Force will review the progress in implementing the Defense Data Network Program.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: October 31, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-29967 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF EDUCATION

Application Notice for the Secretary's Discretionary Program—Planning Grants To Develop Teacher Incentive Structures

AGENCY: Department of Education.

ACTION: Application notice for the transmittal of applications for fiscal year 1984.

SUMMARY: The Secretary of Education (the Secretary), under the Secretary's Discretionary Program for Fiscal Year 1984, announces a grant competition and invites applications for new grants for planning projects to develop teacher incentive structures to improve the quality of elementary and secondary education by influencing teacher recruitment and teacher personnel systems, and by making the teaching profession more attractive to a wider range of talented individuals. The Secretary is especially interested in projects that develop master teacher structures.

Authority for this program is contained in section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851).

Closing Date for the Transmittal of Applications

An application for a grant must be mailed or hand-delivered by December 22, 1983.

Program Information

ECIA (20 U.S.C. 3851) was enacted as Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The ECIA has two principal purposes: Chapter 1 provides financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, and Chapter 2 consolidates 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes set forth in the programs consolidated.

Section 583(a) of Chapter 2 authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects that: (1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by the ECIA, and for assessing the needs of such individuals; (2) carry out research and demonstrations related to the purposes of the ECIA; (3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or (4) are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

Eligible Applicants

State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions may apply for a grant. An applicant may apply singly or jointly with another eligible applicant, as provided in 34 CFR 75.127 through 75.129.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Any final annual priority, required activities, or statement of geographical distribution adopted by the Secretary. A notice of proposed annual funding priorities, proposed required activities, and proposed geographical distribution for the Secretary's Discretionary program—Planning Grants to Develop Teacher Incentive Structures— is published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priorities and proposed required activities. If there are any substantive changes made in these proposed provisions when published in final form, applicants will be given the opportunity to amend or resubmit their applications; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Selection Criteria and Procedures

(a) In evaluating applications, the Secretary uses the selection criteria set forth in 34 CFR 75.210. The maximum possible point score for all the criteria is 100 points, the minimum value assigned by 34 CFR 75.210 for each criterion is as follows:

(1) Meeting the purposes of the authorizing statute. (30 Points)

(2) Extent of need for the project. (20 Points)

(3) Plan of operation. (15 Points)

(4) Quality of key personnel. (7 Points)

(5) Budget and cost effectiveness. (5 Points)

(6) Evaluation plan. (5 Points)

(7) Adequacy of resources. (3 Points)

Furthermore, 34 CFR 75.210(c) authorizes the Secretary to distribute an additional 15 points among the criteria listed above. The Secretary distributes these additional points as follows:

(3) Plan of operation. 7 additional points will be added for a possible total of 22 points.

(4) Quality of key personnel. 8 additional points will be added for a possible total of 15 points.

(b) The Secretary uses the procedures set forth in 34 CFR 75.215 through 75.222 to select applications for funding.

Private School Children Participation

To receive a grant under the competition described in this notice, a local educational agency must comply with the provisions of section 586 of the ECIA, governing equitable participation of private school children in the purposes and benefits of chapter 2. Applicants are referred to the regulations implementing Chapter 2 of the ECIA published in the **Federal Register** on November 19, 1982 (47 FR 52368) as a guide to the extent and nature of the required consultation with private school officials and the required provision of benefits to private school children.

Length of Awards

Applicants may apply for funding for a project from 6 to 12 months in duration.

Available Funds

It is estimated that up to 50 awards will be made for $10,000 to $20,000 each. This estimate assumes that applications of satisfactory quality will be received. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. Applicants should be aware that the availability of funds for this competition is being contested in litigation in the United States District Court for the Northern District of Illinois, Eastern Division (United States of America v. Board of Education of the City of Chicago, Docket No. 80 C 5124). Any obligations of these funds are currently enjoined by the court.

Application Information

Applications are required to be prepared and submitted in accordance with 34 CFR Part 75. Application forms may be obtained by writing to: Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4181, Washington, D.C. 20202.

The Secretary requires an applicant to submit an original and two copies of its application to the above address, and the Secretary strongly urges that the narrative portion of the application not exceed *10* pages in length.

Instructions for Transmittal of Applications

Applications Delivered By Mail

An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84:122A, Washington, D.C. 20202. Applications will be accepted only if they are mailed on or before December 22, 1983.

An applicant must show one of the following as proof of mailing:

(a) A legibly dated U.S. Postal Service Postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept the following as proof of mailing: (1) A private metered postmark; (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each applicant whose grant application does not meet the closing date in this notice will be notified that the application will not be considered and that the application will be returned.

Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, 7th and D Street, S.W., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m., Washington, D.C. Time, daily except Saturdays, Sundays, and Federal

holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on December 22, 1983.

For Further Information Contact: Dr. Thomas E. Enderlein, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4181, Washington, D.C. 20202. Telephone: (202) 245-7914.

(Catalog of Federal Domestic Assistance 84.122, Secretary's Discretionary Program)

Dated: November 1, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-29990 Filed 11-3-83; 8:45 am]

BILLING CODE 4000-01-M

Secretary's Discretionary Program; Planning Grants to Develop Teacher Incentive Structures

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities, required activities, and geographical distribution for fiscal year 1984

SUMMARY: The Secretary proposes annual funding priorities for planning grants to be funded under the Secretary's Discretionary Program. To ensure that an unmet need within the scope of the Discretionary Program is addressed, the Secretary proposes to reserve funds for the development of teacher incentive structures designed to improve the quality of elementary and secondary education. The Secretary further proposes to give a competitive preference for the development of master teacher structures. The Secretary also proposes to require certain activities as a condition of funding under the above proposed priorities and to make geographical distribution a factor to be considered in the selection of applications to be funded under the proposed priorities.

The Secretary will announce other funding priorities for the Secretary's Discretionary Program in separate notices.

DATE: Comments must be received on or before December 5, 1983.

ADDRESSES: Comments should be addressed to the Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue SW., Room 4181, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr Thomas E. Enderlein, Office of the Secretary. Telephone: (202) 245-7914.

SUPPLEMENTARY INFORMATION:

Program Information

The Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851) was enacted as Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The ECIA has two principal purposes: Chapter 1 provides financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, and Chapter 2 consolidates 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes set forth in the programs consolidated.

Section 583(a) of Chapter 2 authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects that: (1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by ECIA, and for assessing the needs of such individuals; (2) carry out research and demonstrations related to the purposes of the ECIA: (3) are designed ot improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or (4) are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

The Secretary has determined that certain unmet national needs exist within the scope of the Discretionary Program. More specifically, the National Commission on Excellence in Education has identified improving the quality of elementary and secondary level teaching through incentives as an urgent national educational need. The Report of the Commisssion recommended that salaries for the teaching profession be prefessionally competitive, market-sensitive, and performance based. The Report further recommended that school officials and teachers cooperate to develop career ladders for teachers which distinguish among the beginning instructor, the experienced teacher, and the master teacher.

Funding Priorities and Required Activities

Absolute Funding Priority

To address the need to improve the quality of elementary and secondary teaching and to stimulate interest in this area, the Secretary proposes to reserve funds under the Discretionary Program for the development of teacher incentive structures designed to improve the quality of elementary and secondary education.

The Secretary proposes to fund planning grants. These planning grants would be intended to assist in the development of plans for teacher incentive structures to improve the quality of elementary and secondary level teaching by influencing teacher recruitment and teacher personnel systems, and by making the teaching profession more attractive to a wider range of talented individuals.

Activities

The Secretary proposes to require certain activities as a condition of funding under this priority. The teacher incentive structure to be planned would have to combine well-specified teacher performance standards and a teacher evaluation system, which may include peer judgment arrangements, with one or more of the following elements:

—Pay differentials based on a merit pay system, that is, one in which limited numbers of teachers could qualify for the highest payment.

—A career ladder structure that clearly specifies successive levels or teaching positions, for example, a master teacher structure as described below in detail.

—Nonsalary forms of recognition for superior teaching or contribution to the improvement of the overall instructional program.

The Secretary proposes to require the incentive structure to be developed by or in conjunction with a local school district and to be suitable for implementation by States or by local school districts. The incentive structure being planned would also have to include staff development and in-service training and would have to provide for collecting and reporting results and making information available to other school districts.

Planning of the incentive structures would have to be conducted with the participation of appropriate interested local groups. The Secretary proposes to encourage activities aimed at achieving wide support for the final plan from high-level school officials and commitment from the various interested local groups, including support from the private sector. In other words, the grants would be intended to assist in the development of incentive structure plans to be implemented in a particular local school district or districts.

The Secretary proposes to require the plan which would be developed to be submitted to the U.S. Department of Education for dissemination upon request. Funding for projects under these grants would be limited to the cost of developing a workable plan.

Competitive Funding Priority

The Secretary proposes to give a competitive preference to an application proposing a master teacher structure. A master teacher structure would be analogous to the system of academic rank in higher education. Under a master teacher structure, an outstanding teacher would be able to progress along a career ladder that has clearly specified levels or teaching positions, ending in a master teacher position. Each successive level or position would be distinguished by increasing teacher responsibilities and opportunities while the teacher would be maintaining superior classroom performance. Analogous to the system used in higher education, progress from one level to the next would be based on an evaluation system that includes peer review, teacher participation, and objective criteria.

The Secretary also proposes to encourage collaboration with institutions of higher education in the planning and development of master teacher structures. An appropriate university for such collaboration would be one, for example, that pays its faculty on a merit basis and that uses peer review, faculty participation, and objective criteria in evaluating faculty members. The purpose of the collaboration would be to enable the applicant/planner to learn from the university's experience in this area as well as to promote interest, on the part of the university, in the need for teacher incentive structures at the elementary and secondary level.

If the proposed competative funding priority related to the development of master teacher structures is finalized, the Secretary may award up to 10 points, in addition to those awarded under the applicable selection criteria, for those applictions that propose a promising master teacher structure as described above. (See 34 CFR 75.105.)

Geographical Distribution

The Secretary proposes to make geographical distribution a factor to be considered in the final selection of applications for funding under the above proposed priorities. After evaluating the applications according to the criteria contained in the application notice, the Secretary would determine whether or not the most highly rated applications were broadly and equitably distributed throughout the Nation. The Secretary would be able to select other applications for funding if doing so would improve the geographical distribution of projects funded under the above proposed priorities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed absolute and competitive priorities, the proposed required activities, and the proposed geographical distribution. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4161, 400 Maryland Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance 84.122, Secretary's Discretionary Program)

Dated: November 1, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-29989 Filed 11-3-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Extension of Comment Period on Cost-Effectiveness Requirement in Billing Credits Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of comment period extension. BPA File No. BCE-1.

SUMMARY: BPA is extending the period in which comments will be accepted on the issue of the cost-effectiveness determination for billing credit resources. A public meeting will be held during the extended comment period to discuss technical aspects of the issue.

Responsible Official: Ms. Eleanor Y. Adelman, Billing Credits Coordinator.

DATES: Comments will be accepted through January 27, 1984. The meeting on the cost-effectiveness determination for billing credit resources will be held on November 15, 1983, 9 a.m. to 12 noon, Room 464, BPA Headquarters Building, 1002 NE. Holladay Street, Portland, Oregon.

ADDRESS: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers outside of Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

Information may also be obtained from:

Ms. Eleanor Y. Adelman, Billing Credits Coordinator, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, 503-230-3602.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707 208-334-9138.

SUPPLEMENTARY INFORMATION: BPA issued its final Billing Credits Policy on September 23, 1983 (48 FR 43484). The policy does not now require a cost-effectiveness determination to establish the eligibility of a resource for billing credits. On September 23, 1983, BPA also published a notice (48 FR 43512) that it was seeking public comment on whether to require a potential billing credit resource to undergo a cost-effectiveness determination. That notice stated that comments would be accepted until November 7, 1983. BPA has since determined that a public discussion of the issue and an extension of the comment period are desirable in order to obtain the fullest public response. BPA is therefore scheduling a public meeting on the ussue and extending the original comment perioc until January 27, 1984. Discussion material on the cost-effectiveness

determination for billing credit resources may be obtained from the office of the Public Involvement Manager.

Issued in Portland, Oregon, on October 28, 1983.

Marvin Klinger,

Acting Administrator.

[FR Doc. 83-29963 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Martin Exploration Co.; Proposed Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Martin Exploration Company.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Martin Exploration Company, 3501 North Causeway Boulevard, Metairie, Louisiana 70002. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.73 and 212.74 for the period February 1, 1976 through May 31, 1979. The principal amount of the alleged violations for this period is $92,291.56.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 18th day of October 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-29960 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and Time: Sunday, November 20, 1983, 9:00 a.m.-5:00 p.m.

Place: National Science Foundation, Room 540 (Board Room), 1800 G Street, NW., Washington, DC 20550.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone: 301/353-4829.

Purpose of Panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: *Sunday, November 20, 1983:*

—Discussion of Subpanel report on management issues related to advanced accelerator R&D required for future facilities and other matters related to the U.S. high energy physics program.

—Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 1, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-29964 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP83-372-000 and CP83-372-001]

Arkansas Oklahoma Gas Corp.; Application

October 31, 1983.

Take notice that on June 2, 1983, Arkansas Oklahoma Gas Company (Applicant), P.O. Box 2406, Fort Smith, Arkansas 72902, filed in Docket No. CP83-372-000 an application, as amended on September 21, 1983, in Docket No. CP83-372-001, pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.107 of the Commission's Regulations for authority to transport natural gas for Delhi Gas Pipeline Corporation (Delhi), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement to transport natural gas for Delhi. Applicant proposes to receive a maximum daily volume of 30,000 Mcf of gas at Section 9, T9N, R26E, LeFlore County, Oklahoma, and redeliver such gas to Delhi at Section 28, T9N, R24E, LeFlore County, Oklahoma. It is stated that the estimated total quantity of natural gas to be transported in an average of 7,000 Mcf per day. It is further stated that service is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to Applicant's existing customers. Applicant proposes to render this service through August 31, 1985, and thereafter for 18 more years. The proposed rate to be charged for this service is Applicant's approved FERC tariff rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29923 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-19-000]

Colorado Interstate Gas Co.; Application

November 1, 1983.

Take notice that on October 17, 1983, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-19-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on a best-efforts basis, of up to 11,000 Mcf of gas per day for Husky Oil Company (Husky), which operates a refinery near Cheyenne, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests certificate authority for the transportation of natural gas for Husky. It is submitted that Applicant would initially receive up to 11,000 Mcf of gas per day with an estimated average of approximately 6,000 Mcf per day from Mountain Fuel Supply Company (Mountain Fuel) for Husky's account at the existing Kanda delivery point and/or at the existing Green River, Wyoming, interconnection, both in Sweetwater County, Wyoming. Applicant states that it would redeliver these volumes to Cheyenne Light, Fuel and Power Company for Husky's account at the existing Cheyenne Station. The volumes of gas delivered to Applicant for Husky's account would have a thermal content equal to the aggregate thermal content of the volumes delivered to Applicant for Husky's account after deducting appropriate volumes of fuel and unaccounted-for gas, it is asserted. Further it is stated that Husky would be responsible for the fuel and un-accounted-for gas associated with the volumes transported under this proposal. Applicant proposes a transportation rate of 58.57 cents per Mcf at 14.65 psia.

Applicant states that no new facilities are required or proposed in effectuating the proposed transportation.

Applicant also requests blanket authorization to add or delete delivery and redelivery points and has indicated that it would submit a tariff filing prior to January 31 of each year reflecting the currently effective points. In addition, Applicant has requested pregranted abandonment of service upon termination of the transportation contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29911 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-11-000]

Columbia Gas Transmission Corp.; Application

November 1, 1983.

Take notice that on October 11, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-11-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of UGI Corporation (UGI) for the account of PPG Industries, Inc. (PPG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 4,500 dt equivalent of natural gas per day on a best efforts basis for one year after commencement of deliveries. It is stated that Columbia would receive the gas to be transported from Castle Gas Company, Inc. (Castle) at existing points of receipt in Indiana County, Pennsylvania and redeliver like quantities of gas (less 2.85 percent of delivered quantities for company use and unaccounted for gas) to UGI at an existing point near Carlisle, Pennsylvania, and that UGI, a distribution company, would then redeliver these quantities to PPG at its plant in Carlisle, Pennsylvania. As stated in the transportation agreement, dated August 10, 1983, Columbia proposes to charge UGI 40.11 cents per dt for the proposed one-year service.

It is alleged that the transportation service is necessary to effectuate a sales arrangement made by Castle through Industrial Energy Service Company to sell the quantities of gas to PPG. It is further alleged that these quantities previously purchased by Columbia from Castle were the subject of a release agreement, dated July 21, 1983, whereby Castle agreed to release Columbia temporarily from its contractual obligation to purchase such volumes for a period of one year. It is noted that Castle on September 30, 1983, filed in Docket No. CS83-452-000, an application for a one-year limited-term abandonment authorization with respect to its producer sale to Columbia for volumes which are still subject to the Commission's Natural Gas Act jurisdiction. Finally, in Docket No. CP84-11-000, Columbia states that it has pursuant to the August 10, 1983, transportation agreement, initiated a transportation service of 4,000 dt of gas, pursuant to § 284.202, of the

Commission's Regulations. These quantities of gas are currently being utilized at PPG's Carlisle plant for fuel oil displacement, it is said.

Columbia asserts that its proposal is in the public interest since it would aid PPG in its control of energy costs which PPG has represented are critical to its ability to continue the operation if its glass factory in Carlisle, Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29912 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-100-002]

Consolidated Gas Supply Corp.; Extension Reports

November 1, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before December 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-100-002	Consolidated Gas Supply Corp., 445 West Main St., Clarksburg, WV 26301	Elizabethtown Gas Co	10-03-83	B	01-03-84
ST80-94-002	Cranberry Pipeline Corp., P.O. Box 3710, Charleston, WV 25337	Tennessee Gas Pipeline Co	10-04-83	C	01-03-84
ST80-108-002	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	10-07-83	C	01-06-84
ST80-113-002	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	El Paso Natural Gas Co	10-14-83	C	01-15-84
ST82-116-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Trunkline Gas Co	10-05-83	G	01-03-84
ST82-125-001 [1]	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Tennessee Gas Pipeline Co	10-11-83	G	01-04-84
ST82-129-001 [1]	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251	Columbus Gulf Transmission Co	10-11-83	G	01-05-84
ST82-158-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Delhi Gas Pipeline Corp	10-07-83	B	01-06-84
ST82-159-001	Louisiana Gas System, Inc., P.O. Box 2197, Houston, TX 77252	Entex, Inc	10-11-83	C	01-11-84
ST82-161-001	Natural Gas Pipeline Co. of America, 122 South Michigan Avenue, Chicago, IL 60603	Liberty Natural Gas Co	10-03-83	B	01-04-84
ST82-166-001	Northern Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102	Intratex Gas Co	10-05-83	B	02-01-84
ST82-193-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Southern Natural Gas Co	10-03-83	C	02-03-84
ST82-195-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Transwestern Pipeline Co	10-03-83	C	01-22-84

[1] These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.

NOTE:—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 83-29913 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-14-000]

Couch Gas Storage Co.; Application

October 31, 1983.

Take notice that on October 13, 1983, Couch Gas Storage Company (Applicant), 2211 East Jefferson, Suite 680, Detroit, Michigan 48207, filed in Docket No. CP84-14-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide gas storage service in interstate commerce for Transcontinental Gas Pipe Line Corporation (Transco) and to develop and operate certain gas storage fields and appurtenant facilities, to drill and operate certain wells, and construct and operate certain other facilities, all as more fully described in the application which is on file with the Commmission and open to public inspection.

Applicant proposes to develop and operate the Washington 28 gas storage field located in Washington Township, Macomb County, Michigan. It is stated that this field is presently under production for natural gas and that Applicant would acquire all necessary oil and gas leases, property interest, storage and mineral rights and the gas producing properties in the field and convert the field to storage. Applicant states that when developed, the field would have a maximum storage capacity of 16,000,000 Mcf. It is submitted that to provide the necessary deliverability eleven total wells would be required, six old and five new, and that in addition, Applicant would convert five plugged wells to observation wells, and construct 2.44 miles of 16-inch pipeline header, 0.5 mile of 10-inch pipeline header, 0.8 mile of 6-inch header, and a 7,500 horsepower class compressor station.

The total estimated cost of developing the Washington 28 storage facility is $32,978,500 (in 1983 dollars). This estimate includes the cost of 2,050,000 Mcf of native gas which the Washington 28 field will require as base gas to perform as designed, it is said. Costs will be financed initially through equity contributions and short-term loans. The short-term loans will be repaid with proceeds from long-term debt securities.

Applicant seeks permission to utilize the Washington 28 field to provide storage services in interstate commerce for Transco in connection with Transco's application in Docket No. CP82-503-001 and related dockets, to provide storage services for its customers through the importation of natural gas from Canada. Applicant proposes that a minimum of 10,000,000 Mcf of gas for the account of Transco be injected into storage in the Washington 28 field in summer months to be made available to Transco and its customers during the winter. Under Applicant's proposal, during 1985 and subsequent summer periods (April 1-October 31), Transco would cause Great Lakes Gas Transmission Company (Great Lakes) to transport (by displacement or otherwise) a minimum of 10,000,000 Mcf of natural gas from Emerson, Manitoba, to the Belle River Mills interconnection between Great Lakes and Michigan Consolidated Gas Company (Mich Con) in southeastern Michigan. Applicant states that Mich Con would then deliver the gas to Applicant for storage through an existing 36-inch pipeline. During the 1985-1986 and subsequent winter periods (November 1-March 31), Applicant proposes to make thermally equivalent volumes of gas available to Mich Con for redelivery to Great Lakes for the amount of Transco at the Belle River Mills interconnection. It is explained that the gas would then be transported east by Great Lakes to the international boundary at St. Clair County, Michigan, for ultimate redelivery to Transco. Applicant states that capacity is available within existing transmission lines of Great Lakes and Mich Con to transport these volumes.

Applicant states that its proposal is offered as a competitive alternative to the amended applications of ANR Storage Company (ANR Storage) in Docket No. CP82-420-001, ANR Michigan Storage Company (ANR Michigan) in Docket No. CP82-478-001, and Mich Con in Docket No. CP82-502-001, and is mutually exclusive with them. Applicant states that the storage and transportation services proposed in its application would cost Transco approximately 46.95 cents per Mcf less than the alternative storage proposals of ANR Storage, ANR Michigan and Mich Con. Applicant further states that if its application is approved it would enter into an agreement with Transco to provide such services on terms no less favorable than those contained in the gas storage agreement dated May 17, 1983, between Transco and ANR Storage. Applicant indicates that Mich Con has authorized it to state that, if the application is granted, Mich Con would agree to transport storage gas to and from the Washington 28 field as herein described. Moreover, Applicant notes that the Washington 28 field would be operated and managed by Mich Con under contract with Applicant. Finally, approval of the application would, Applicant notes, require modifications in the present gas transportation agreement between Great Lakes and Transco dated August 5, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed within the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29024 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-26-000]

Mantaray Pipeline Co.; Application

October 31, 1983.

Take notice that on October 21, 1983, Mantaray Pipeline Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-26-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and

appurtenant facilities and the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, a wholly-owned subsidiary of Panhandle Eastern Corporation (Panhandle), proposes to construct and operate a new offshore system generally extending from supply sources in the Matagorda Island Area of offshore Texas to an interconnection with Trunkline Gas Company's (Trunkline) mainline in Victoria County, Texas. Applicant proposes to construct the system in two phases. Phase I, it is stated, would consist of two separate 24-inch laterals extending from Matagorda Island Blocks 624 and 568, respectively, to a common junction on a valving platform in Matagorda Island Block 622, together with 64 miles of 24-inch and 36-inch pipeline extending from Matagorda Island Block 622 across Espiritu Santo Bay at Calhoun County, Texas, and thence onshore to an interconnection with Trunkline's mainline near the Edna compressor station in Victoria County, Texas. Phase I facilities, it is stated, would have a capacity of 762,000 Mcf of gas per day and would cost approximately $155 million.

Phase II facilities, it is asserted, would consist of 18 miles of 24-inch pipeline extending from the proposed valving platform in Matagorda Island Block 622 southward to Matagorda Island Block 710. Phase II facilities, it is estimated, would increase the capacity of the proposed system to 880,000 Mcf of gas per day at an additional cost of $31 million. Applicant states that Phase I facilities would be ready for service for the 1984–1985 winter season while Phase II facilities would be available for service by the 1987–1988 winter season.

Initially, Applicant would propose to provide transportation service for its affiliates, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. However, since the proposed system would cross the mainlines of many other pipelines, Applicant also states its willingness to enter into transportation arrangements with other pipelines. Applicant has projected reserves in the general area of the proposed system of 2.27 Tcf with a maximum daily deliverability of 879,500 Mcf per day. Applicant estimates it can provide transportation service at a cost of 12.9 cents per Mcf by the fourth year of system operation.

It is indicated that Applicant's captial structure would be based on a debt to equity ratio of 67 percent debt and 33 percent equity and that the equity portion would be contributed by Panhandle. It is contemplated that the debt portion would be initially financed through short-term loans during the construction phases to be repaid with proceeds from long-term debt obligations to be issued by Applicant. It is anticipated that Applicant's parent company, Panhandle, would back the debt obligations through the construction phase of the project. Once the project is completed and operational it is Applicant's objective to fund this venture on a project funding basis. Thus, it is stated, any debt issuances floated by Applicant to meet its cash needs would be issued and guaranteed by Applicant and not the parent company.

Applicant also requests authorization for a rate of return on equity of 16 percent and on debt of 14 percent, thus resulting in an overall rate of return of 14.67 percent, it is maintained. The requested 14 percent return on debt is based upon projections of future cost of debt, it is explained. Applicant further proposes that this amount be adjusted upwards or downwards when the actual long-term financing takes place to reflect the actural interest cost incurred.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29925 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-15-000]

MIGC, Inc., Proposed Changes in FERC Gas Tariff

October 31, 1983.

Take notice that MIGC, Inc. ("MIGC"), on October 27, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $3,766,191 based on the 12 month period ending June 30, 1983, as adjusted.

MIGC states that the principal reasons for the proposed rate change are increased costs of labor, operation and maintenance expenses, working capital requirements, and taxes. In addition, MIGC states that the cost and revenue study submitted with this filing in support of MIGC's new Base Tariff Rate is filed to comply with the requirements of § 154.38(d)(4)(vi)(*a*) of the Commission's regulations (18 CFR 154.38(d)(4)(vi)(*a*)).

Copies of this filing were served upon MIGC's jurisdictional customers, as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29926 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-007-000]

National Fuel Gas Supply Corp.; Application

November 1, 1983.

Take notice that on October 6, 1983, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-007-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant seeks certificate authorization to sell natural gas to Algonquin Gas Transmission Company, The Brooklyn Union Gas Company, Bay State Gas Company, Connecticut Light & Power Company, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New Jersey Natural Gas Company and Public Service Electric and Gas Company under the following terms and conditions: (1) 40 million equivalent Mdt of natural gas per day on a best-efforts basis commencing as soon as possible up to October 31, 1984 at the effective 100 percent load factor RQ rate; (2) from November 1, 1984 through October 31, 1992, the same volumes on a firm basis, at the effective rate contained in Applicant's RQ Rate Schedule; and (3) year to year thereafter until terminated by the parties.

It is stated that the proposed sales would be made pursuant to gas sales agreements signed between Applicant and its eight customers.

Applicant further states that its proposal is structured to compete with the proposal currently pending before the Commission in Docket No. CP81-107-000, *et al.*

The application states that Applicant would deliver the gas for the account of the purchasers to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Texas Eastern Transmission Corporation, or Transcontinental Gas Pipe Line Corporation at the existing points of interconnection between their facilities. The application further states that the source of the gas proposed to be sold is Applicant's general system supply, and that this gas is surplus to the needs of Applicant's customers.

No new or additional facilities are proposed to be constructed.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29614 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-16-000]

Natural Gas Pipeline Company of America; Application

October 31, 1983.

Take notice that on October 14, 1983, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP84-16-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon approximately 89.78 miles of its Amarillo No. 1 line and an intermediate compressor station in Iowa and for a certificate of public convenience and necessity authorizing the construction and operation of 38.47 miles of 42-inch and 29.49 miles of 36-inch loop line as part of its Amarillo No. 4 line in Iowa, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states it seeks authorization to continue the ongoing program of upgrading its Amarillo Line. Applicant submits that its Amarillo system consists of 3 pipelines (Nos. 1, 2 and 3) and in places looping that has been termed the Amarillo No. 4 line and that the No. 1 line is Applicant's original pipeline and was placed in service in 1931. It is said the the No. 1 line traverses some 901 miles from Fritch, Texas, to Joliet, Illinois, and is predominantly of 24-inch pipe. Applicant states that the pipeline construction techniques used at the time of construction involved the mechanical coupling of alternate joints of pipe and that since about 1940 the use of couplings has been replaced by the welding of all pipe joints. Applicant claims that certain of the compressor stations along the Amarillo Line also have compressor units that are old and expensive to maintain and operate. Applicant plans in its long range, upgrade programs to replace the No. 1 line from Beatrice, Nebraska, to Joliet, Illinois, and certain of the compressor units along that segment of the Amarillo Line.

Applicant proposes herein to retire approximately 89.78 miles of the No. 1 line in Mills, Montgomery, Adams, Adair, Madison and Warren Counties, Iowa, and an intermediate compressor station located in Adams County, Iowa. When practical, the line and all above ground compressor facilities would be salvaged, it is asserted. Applicant proposes to install 38.47 miles of new 42-inch pipeline as part of its No. 4 line from compressor station No. 107 to the site of the to be retired compressor station No. 197 traversing parts of Mills, Montgomery and Adams Counties, Iowa. Applicant proposes also to install 28.80 miles of 36-inch pipeline extending from the end of the existing No. 4 line in Adair County, Iowa eastward to compressor station No. 108 located in Warren County, Iowa. Approximately 0.69 miles of 36-inch pipeline would also be installed upstream of compressor station No. 107 replacing part of the No.

1 line in Mills County, Iowa, it is said. Applicant states that the capacity of the Amarillo System will be unchanged by the proposal.

Applicant states that the estimated cost of retirement and installation of replacement facilities (including $971,000 in non-jurisdictional facilities) is $56,095,000, which cost would initially be financed with funds on hand, borrowings under Applicant's revolving credit arrangements or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-29927 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-728-000 and ER83-396-000]

Northern Indiana Public Service Co.; Order Accepting Rates for Filing Subject To Refund, Granting Intervention, and Consolidation Dockets

Issued: October 28, 1983.

On August 29, 1983, Northern Indiana Public Service Company (NIPSCO) tendered for filing (Docket No. ER83-728-000) revised rates to substitute for the company's Phase B rates previously filed in Docket No. ER83-396-000.[1] NIPSCO's submittal would produce test year revenues approximately $5.5 million less than the Phase B rates that would otherwise become effective, subject to refund, on October 21, 1983. NIPSCO states that its filing, which reflects the results of a State commission decision on retail rates, is designed to alleviate price squeeze concerns. NIPSCO has agreed to collect the reduced rates subject to refund pending the outcome of the proceedings in Docket No. ER83-396-000.

Background

On March 21, 1983, NIPSCO filed a two-phased rate increase in Docket No. ER83-396-000, requesting that the Phase B rates (representing a $32.8 million increase) become effective, without suspension, on May 20, 1983. Alternatively, NIPSCO proposed that its Phase A increase ($28.5 million) be made effective during any suspension of the Phase B rates.

On May 10, 1983, NIPSCO filed revised tariff sheets which reduced the proposed Phase A $28.5 million rate increase to $15.9 million. At that time, NIPSCO further proposed a five month suspension period for the originally proposed Phase B rate increase. NIPSCO stated in its transmittal letter that a proposed rate increase was pending before the Public Service Commission of Indiana (Indiana Commission), and that upon receipt of the Indiana Commission's order, the company would file revised rates to be effective as of the end of the suspension period.

By order dated May 19, 1983, the Commission, *inter alia*, suspended NIPSCO's Phase B rates for five months and made the reduced Phase A rates effective following a one day suspension. 23 FERC ¶ 61,249. On July 18, 1983, the Commission denied a request for rehearing filed by the Indiana Municipal Power Agency and the city of Rensselaer, Indiana (IMPA). 24 FERC ¶ 61,076.

According to NIPSCO, the Indiana Commission issued a final order in NIPSCO's retail electric rate case (Case No. 37023) on August 3, 1983. In accordance with its earlier representation, NIPSCO now proposes that its $32.8 million Phase B rate increase scheduled to become effective on October 21, 1983, be reduced by approximately $5.5 million to $27.3 million. NIPSCO requests any necessary waivers of applicable Commission regulations so that the current filing may become effective in lieu of the originally proposed rates for service rendered on and after October 21, 1983.

Notice of NIPSCO's submittal was published in the **Federal Register** with comments due on or before October 3, 1983. On October 3, 1983, Wabash Valley Power Association, Inc. (Wabash) and the Towns of Bremen, *et al.* (Bremen) [2] filed separate motions to intervene and to consolidate Docket Nos. ER83-728-000 and ER83-396-000. Both Wabash and Bremen support NIPSCO's request to substitute reduced Phase B rates, but if the Commission chooses not to consolidate these two dockets, they request a separate hearing to determine whether the reduced rates are just and reasonable.

On October 7, 1983, IMPA filed an untimely motion to intervene and protest. IMPA notes that it is already an intervenor in Docket No. ER83-396-000 and states that it had not anticipated the need to intervene in a second docket since it assumed that NIPSCO's revised rates would be treated simply as substitute rates in the original docket. While IMPA supports NIPSCO's request to collect the lower rates subject to refund, it protests the lower rate level and suggests that a price squeeze may continue to exist. IMPA also requests consolidation of the instant dockets.

On October 13, 1983, NIPSCO filed an answer. The company indicates that it does not oppose the motions to intervene and supports the requests for consolidation. NIPSCO further states that suspension of the reduced rate filing is unnecessary since the company expressly agrees to collect the rates subject to refund.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make Wabash and Bremen parties to this proceeding. Given the relationship between Docket Nos. ER83-

[1] *See* Attachment for rate schedule designations.

[2] Bremen's filing is on behalf of itself and the following Towns: Winimac, Walkerton, Argos, Brookston, Kingsford Heights, Etna Green and Chalmers, Indiana.

396-000 and ER83-728-000, the status of IMPA as an intervenor in the former docket, and the relatively short delay in filing, we find that good cause exists to allow IMPA to intervene out of time in Docket No. ER83-728-000.

Inasmuch as NIPSCO is proposing to substantially reduce its original rate request in order to ameliorate price squeeze concerns, the affected customers support this proposal (including the requested effective date), and the company has agreed to collect the lower rates subject to refund, we find that good cause exists both to waive the 60 day notice requirement and to grant special permission, pursuant to § 35.17 of the Commission's regulations, to allow NIPSCO to file substitute rates during the original Phase B suspension period. We shall accept the reduced rates for filing to become effective on October 21, 1983, subject to refund, and shall set these rates for hearing. Given the substantial identity of factual and legal questions between this docket and Docket No. ER83-396-000, we shall consolidate the two dockets for purposes of hearing and decision.

The Commission orders: (A) The untimely motion by IMPA to intervene in Docket No. ER83-728-000 is hereby granted subject to the Commission's Rules of Practice and Procedure.

(B) Waiver of the notice requirements and permission for NIPSCO to substitute rates under § 35.17 of the regulations is hereby granted.

(C) NIPSCO's August 29, 1983 submittal is hereby accepted for filing. The proposed reduced rates shall become effective as of October 21, 1983, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of NIPSCO's rates.

(E) Docket Nos. ER83-728-000 and ER83-396-000 are hereby consolidated for purposes of hearing and decision.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Northern Indiana Public Service Company

[Docket No. ER83-728-000]

RATE SCHEDULE DESIGNATIONS

Designation	Description
(1) First Revised Sheet Nos. 7 and 12 under FERC Electric Tariff, 4th Revised Volume No. 1 (Supersedes Original Sheet Nos. 7 and 12).	Phase B rates.
(2) Second Revised Sheet Nos. 5, 8, 10, 13, 16 and 19 under FERC Electric Tariff, 4th Revised Volume No. 1 (Supersedes First Revised Sheet Nos. 5, 8, 10, 16 and 19).	Do.
(3) Supplemental No. 4 to Supplement No. 1 to Rate Schedule FERC No. 13.	Rate Schedule VA111—Phase B.

Tariff Customers

Rate Schedule VA1: Towns of Argos, Bremen, Brookton, Chalmers, Etna Green, Kingsford Heights, Walkerton and Winamac

Rate Schedule VA11: Wabash Valley Power Association at Carrol County, Fulton County, Jasper County, Kankakee County, Kosciuskio County, Lagrange County, Marshall County, Stueben County, Warren County and White County

Rate Schedule VA111: None

Non-Tariff Customers

Rate Schedule VA111: Indiana Municipal Power Agency at City of Rensselaer

[FR Doc. 83-29822 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-507-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

November 1, 1983.

Take notice that on September 12, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-507-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act that Northern proposes to modify one delivery point in LaCrosse, Wisconsin, to accommodate natural gas deliveries to certain of its utility customers under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Northern proposes to modify one delivery point in LaCrosse, Wisconsin, for Northern States Power Co. of Wisconsin (NSP-Wisconsin) in order to provide a more efficient means of servicing the rapidly expanding LaCrosse, Wisconsin, area. Northern states that the modified delivery point would be designed to serve volumes up to 500 Mcf of gas per hour. Further, Northern states that peak day and annual gas requirements for the first year are estimated to be 2,248 Mcf and 62,200 Mcf, respectively, and that they are expected to reach 12,848 Mcf and 101,700 Mcf, respectively, over the next five years. Such peak day and annual requirements would remain within NSP-Wisconsin's present entitlements, it is submitted. Estimated cost of the proposed facilities is $103,750, excluding interest and overhead, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29915 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-59-001]

Northern Natural Gas Co.; ANGTS Transportation Adjustment Rate Change

October 31, 1983.

Take notice that on October 27, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Thirty-Third Revised Sheet No. 4a
Twenty-Fourth Revised Sheet No. 4b
First Revised Sheet No. 74d
First Revised Sheet No. 74e
First Revised Sheet No. 74f

Original Volume No. 2

Thirty-Fourth Revised Sheet No. 1c
First Revised Sheet No. 1p
First Revised Sheet No. 1q
First Revised Sheet No. 1r

Such revised tariff sheets are required in order that Northern may place revised rates into effect on December 27, 1983 to reflect (1) the change in the costs of transportation of gas through the Alaska Natural Gas Transportation System

(ANGTS); and (2) to modify certain procedures used to determine the ANGTS rate adjustment pursuant to Paragraph 21 of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Paragraph 4 of Northern's FERC Gas Tariff, Original Volume No. 2.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules on Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29929 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

October 31, 1983.

Take notice that on October 27, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Thirty-Second Revised Sheet No. 4a
Twenty-Third Revised Sheet No. 4b
Fourth Revised Sheet No. 4c
Fifth Revised Sheet No. 69
Fourth Revised Sheet No. 70
Third Revised Sheet No. 70c

Original Volume No. 2

Thirty-Third Revised Sheet No. 1c
Fourth Revised Sheet No. 1g
Third Revised Sheet No. 1h
Second Revised Sheet No. 1i.2

(1) The estimated increase in the cost of purchased gas pursuant to Paragraph 18 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1;

(2) The decrease in the surcharge to amortize the unrecovered cost of purchased gas account and also certain cost and revenue tracking adjustments pursuant to Commission Orders in Docket Nos. RP80-88, RP81-52 and RP82-71;

(3) No change in Northern's costs associated with Research and Development Expenditures;

(4) The increase in Gas Research Institute unit charge pursuant to Paragraph 19 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1.

Fifth Revised Sheet No. 69 and Fourth Revised Sheet No. 70 of Third Revised Volume No. 1 and Fourth Revised Sheet No. 1g and Third Revised Sheet No. 1h of Original Volume No. 2 have been revised to provide for the cost of gas to be adjusted for only the excess of gas delivered or received for non-concurrent exchange pursuant to Commission Order issued August 9, 1982 in Docket No. TA82-1-59-001. Third Revised Sheet No. 70c of Third Revised Volume No. 1 and Second Revised Sheet No. 1i.2 of Original Volume No. 2 have been revised to provide for the total system sales to be adjusted to reflect the actual BTU of the shrinkage sales to Northern Gas Products Company at Bushton, Kansas.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29928 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83-668]

Red River Pipeline; Self-Implementing Transactions

November 1, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to §§ 284.202 or 157.209 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kennth F. Plumb,

Secretary

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (c/f MMBtu)
ST83-668 Red River Pipeline	El Paso Natural Gas Co	09-01-83	C		
ST83-669 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	09-02-83	G		
ST83-670 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-02-83	B		
ST83-671 United Gas Pipe Line Co	Norco Gas and Fuel Co	09-01-83	B		
ST83-672 United Gas Pipe Line Co	Houston Pipe Line Co	09-01-83	B		
ST83-673 United Gas Pipe Line Co	Dow Intrastate Gas Co	09-02-83	B		
ST83-674 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-06-83	B		
ST83-675 Tennessee Gas Pipeline Co	Creole Gas Pipe Line Co	09-06-83	B		
ST83-676 Tennessee Gas Pipeline Co	Creole Gas Pipe Line Co	09-06-83	B		
ST83-677 Northern Natural Gas Co	Delhi Gas Pipeline Corp	09-06-83	B		
ST83-678 Sugar Bowl Gas Corp	Richie Gas Systems, Inc	09-07-83	C		
ST83-679 Colorado Interstate Gas Co	The Gates Co	09-06-83	F		
ST83-680 Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	09-07-83	B		
ST83-681 Northwest Pipeline Corp	Mountain Fuel Supply Co	09-07-83	G		
ST83-682 Michigan Consolidated Gas Co	Archer Daniels Midland Co	09-07-83	B		
ST83-684 Transcontinental Gas Pipe Line Corp	U.S. Steel	09-08-83	F		
ST83-685 Transcontinental Gas Pipe Line Corp	UGI Corp	09-08-83	B		
ST83-686 Transcontinental Gas Pipe Line Corp	Bridgeline Gas Distribution Co	09-08-83	B		
ST83-687 Michigan Wisconsin Pipe Line Co	Bethlehem Steel Corp	09-09-83	F		
ST83-688 Oklahoma Natural Gas Co	Northern Natural Gas Co	09-09-83	C		
ST83-689 Tennessee Gas Pipeline Co	Creole Gas Pipeline Corp	09-13-83	B		
ST83-690 El Paso Natural Gas Co	Cascade Natural Gas Corp	09-13-83	B		
ST83-691 United Texas Transmission Co	United Gas Pipe Line Co	09-14-83	C		
ST83-692 Northern Natural Gas Co	West Texas Gas, Inc	09-13-83	B		
ST83-693 Panhandle Eastern Pipe Line Co	Cajun Natural Gas Co	09-14-83	B		
ST83-694 Big Sandy Gas Corp	Columbia Gas Transmission Corp	09-14-83	C	02-11-84	40.00
ST83-695 Houston Pipe Line Co	Westar Transmission Co	09-15-83	C		
ST83-696 Oasis Pipe Line Co	Westar Transmission Co	09-15-83	C		
ST83-697 Consumers Power Co	Southeastern Michigan Gas Co	09-15-83	G(HT)	02-12-84	12.02
ST83-698 Panhandle Eastern Pipe Line Co	Natural Gas Associates	09-15-83	B		
ST83-699 Panhandle Eastern Pipe Line Co	Indiana Gas Co., Inc	09-15-83	F		
ST83-700 Northwest Pipeline Corp	Southwest Gas Corp	09-16-83	G		
ST83-701 Northwest Pipeline Corp	CP National Corp	09-16-83	B		
ST83-702 Northwest Pipeline Corp	Northwest Natural Gas Co	09-16-83	B		
ST83-703 Northwest Pipeline Corp	Cascade Natural Gas Corp	09-16-83	B		
ST83-704 Northwest Pipeline Corp	Washington Water Power Co	09-16-83	B		
ST83-705 Northwest Pipeline Corp	Washington Natural Gas Co	09-16-83	B		
ST83-706 Southern Natural Gas Co	Louisiana Intrastate Gas Corp	09-16-83	B		
ST83-707 Southern Natural Gas Co	Fausina Pipe Line Co	09-16-83	B		
ST83-708 Southern Natural Gas Co	Cajun Natural Gas Co	09-16-83	B		
ST83-709 Southern Natural Gas Co	Gas Transportation Corp	09-16-83	B		
ST83-710 United Gas Pipe Line Co	J. W. Gathering Co	09-16-83	B		
ST83-711 Oklahoma Natural Gas Co	Kansas Power and Light Co	09-16-83	C	02-13-84	10.00
ST83-712 Oklahoma Natural Gas Co	Neches Gas Distribution Co	09-16-83	C		
ST83-713 Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	09-16-83	B		
ST83-714 Panhandle Eastern Pipe Line Co	KN Energy, Inc	09-16-83	G		
ST83-715 Panhandle Eastern Pipe Line Co	The Kansas Power and Light Co	09-16-83	B		
ST83-716 Columbia Gas Transmission Corp	Texas Eastern Transmission Corp	09-19-83	G		
ST83-717 Northern Natural Gas Co	Sugar Bowl Gas Corp	09-20-83	B		
ST83-718 Northern Natural Gas Co	Richie Gas Systems, Inc	09-20-83	B		
ST83-719 Northern Natural Gas Co	Westar Transmission Co	09-20-83	B		
ST83-720 Northern Natural Gas Co	Energy Systems Co	09-20-83	F(157)		
ST83-721 Northern Natural Gas Co	Terra Chemicals, Inc	09-20-83	F(157)		
ST83-723 Gas Co. of New Mexico	Northwest Pipeline Corp	09-21-83	G(HT)		
ST83-724 Delhi Gas Pipeline Corp	Richie Gas Systems, Inc	09-22-83	C		
ST83-725 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	09-23-83	G		
ST83-726 Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	09-23-83	G		
ST83-727 Natural Gas Pipeline Co. of America	Tennessee Gas Pipeline Co	09-23-83	G		
ST83-728 Florida Gas Transmission Co	Winnie Pipeline Co	09-22-83	B		
ST83-729 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-23-83	B		
ST83-730 United Gas Pipe Line Co	Delhi Gas Pipeline Corp	09-23-83	B		
ST83-731 United Gas Pipe Line Co	Louisiana Intrastate Gas Corp	09-23-83	B		
ST83-732 Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	09-26-83	B		
ST83-733 United Gas Pipe Line Co	Southern Natural Gas Co	09-23-83	G		
ST83-734 National Fuel Gas Supply Corp	Occidental Chemical Corp	09-26-83	F(157)		
ST83-735 National Fuel Gas Supply Corp	Spaulding Fibre Co	09-26-83	F(157)		
ST83-736 National Fuel Gas Supply Co	Goodyear Tire & Rubber Co	09-26-83	F(157)		
ST83-737 National Fuel Gas Supply Corp	National Forge Co	09-26-83	F(157)		
ST83-738 Northern Natural Gas Co	Westar Transmission Co	09-27-83	B		
ST83-739 Columbia Gas Transmission Corp	Mayer China Co	09-27-83	F(157)		
ST83-740 Texas Eastern Transmission Corp	Transcontinental Gas Pipe Line Corp	09-28-83	G		
ST83-741 El Paso Natural Gas Co	Texas Gas Transmission Corp	09-28-83	G		
ST83-742 El Paso Natural Gas Co	Cabot Pipeline Corp	09-28-83	B		
ST83-743 Trunkline Gas Co	Southern Natural Gas Co	09-28-83	G		
ST83-744 Michigan Consolidated Gas Co	Entex, Inc	09-29-83	G(HS)		
ST83-745 National Fuel Gas Supply Corp	Airco Carbon Division of BOC, Inc	09-30-83	F(157)		
ST83-746 Michigan Consolidated Gas Co	Southeastern Michigan Gas Co	09-30-83	G(HS)		
ST83-747 Michigan Consolidated Gas Co (Interstate Storage Division)	Michigan Consolidated Gas Co. (Utility)	09-30-83	B		
ST83-748 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	09-30-83	B		
ST83-749 Consumers Power Co	Southeastern Michigan Gas Co	09-30-83	G(HT)	02-27-84	14.92
ST83-750 Transcontinental Gas Pipe Line Corp	Texas Eastern Transmission Corp	09-30-83	G		
ST83-751 Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	09-30-83	G		
ST83-752 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	09-30-83	B		
ST83-753 Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	09-30-83	B		
ST83-754 Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	09-30-83	B		
ST83-755 Southern Natural Gas Co	Columbia Gulf Transmission Co	09-30-83	G		
ST83-756 Southern Natural Gas Co	Columbia Gulf Transmission Co	09-30-83	G		
ST83-757 Consolidated Gas Supply Corp	Penn Fuel Gas, Inc	09-30-83	B		
ST83-758 Consolidated Gas Supply Corp	Tennessee Gas Pipeline Co	09-30-83	G		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[3] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-29918 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-17-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

October 31, 1983.

Take notice that on October 14, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-17-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Gulf Oil Exploration and Production Company, a Division of Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive up to 1,200 Mcf of natural gas per day for the account of Gulf at the interconnection of a lateral extending from East Cameron Block 237 and interconnecting with Applicant's facilities in Vermilion Block 241, offshore Louisiana, and to transport such volumes for delivery to Texas Eastern Transmission Company (Tetco) for Gulf's account at the Ford delivery point in Allen Parish, Louisiana, or the Old Lady Lake Exchange Meter in Terrebonne Parish, Louisiana. It is stated that the service would be performed on a best-efforts basis for an initial term ending January 1, 1985, and then year to year thereafter in accordance with a gas transportation agreement between Applicant and Gulf dated September 16, 1982.

Applicant proposes to charge Gulf 12.83 cents per Mcf, less 1.92 percent for fuel use for volumes delivered in Allen Parish, Louisiana. Applicant also proposes to charge Gulf 20.38 cents per Mcf, less 2.35 percent for fuel use for volumes delivered in Terrebonne Parish, Louisiana.

Applicant asserts that the proposed service would be beneficial to Gulf since it would provide Gulf with a means of having its warranty gas delivered to Tetco through Applicant's existing pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29930 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-360-001]

Texas Gas Transmission Corp.; Petition to Amend

November 1, 1983.

Take notice that on October 13, 1983, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP83-360-001 a petition to amend pursuant to section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.107 of the Commission's Regulations for authorization to add a new point of receipt under a transportation agreement between Applicant and Louisiana Intrastate Gas Corporation (LIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By Commission order issued August 11, 1983, in Docket No. CP83-360-000, Applicant was authorized to transport up to 200,000 Mcf of nautral gas per day for LIG. Applicant requests that the authorization issued in Docket No. CP83-360-000 be amended so as to authorize the North Maurice Field, LaFayette Parish, Louisiana, as a point of receipt. It is stated that LIG has recently executed gas purchase agreements for certain gas reserves located in the North Maurice Field and the proposed new point of receipt would allow LIG to connect this source of gas without construction of additional facilities. Applicant states that due to the mutual benefits accruing to both LIG and Applicant there would be no charge for transportation of the North Maurice Field gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29918 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-9-000]

Texas Gas Transmission Corp.; Application

November 1, 1983.

Take notice that on October 7, 1983, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP84-9-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the

contract demand of 23 of its existing customers and the decrease in contract demand of one of its existing customers, Terre Haute Gas Corporation (Terre Haute), all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas states that the decrease requested by Terre Haute is a result of the loss earlier this year of load due to the permanent closing of C.F. Industries, a manufacturer of anhydrous ammonia in Terre Haute. Texas Gas further states that the requested increases in contract demand by the 23 existing customers are necessary in order for those customers to serve adequately past and future growth in their residential and commercial markets and avoid the incurrence of penalties due to contract overruns on peak days. The total net increase in daily contract demand on the Texas Gas system would be 977 Mcf, which Texas Gas asserts it can more than adequately serve based on review of its present and future gas supply situation.

The 23 customers requesting an increase in contract demand are listed as follows:

Rate schedule and customer	Existing contract demand	Requested increase	Proposed contract demand
SG-2 Benton, Kentucky, city of	2,875	145	3,020
SG-3 Boonville Natural Gas Corp	4,794	206	5,000
SG-3 Chandler Natural Gas Corp	1,601	199	1,800
SG-4 Cincinnati Gas & Electric Co., the	2,887	233	3,120
SG-1 Clarendon, Arkansas, town of	1,494	76	1,570
SG-3 Clay, Kentucky, city of	918	107	1,025
SG-3 Drakesboro, Kentucky, city of	1,020	200	1,220
SG-1 Halls, Tennessee, town of	1,765	100	1,865
SG-1 Holly Grove, Arkansas, town of	531	50	581
SG-1 Jones Gas Company	54	100	154
SG-SL Lafourche Gas Corporation	510	300	810
SG-4 Leitchfield, Kentucky, city of	2,072	228	2,300
G-3 Lewisport, Kentucky, city of	1,892	100	1,992
SG-1 Louisiana Gas Service Company	643	594	1,237
SG-SL Mamou, Louisiana, town of	510	1,490	2,000
SG-1 Marvell, Arkansas, city of	1,275	165	1,440
SG-1 Maury City, Tennessee, town of	512	100	612
SG-3 Morganfield, Kentucky, city of	4,437	563	5,000
SG-1 Munford, Tennessee, city of	1,177	200	1,377
SG-SL Nezpique Gas System, Inc	102	102	204
SG-3 Providence, Kentucky, city of	1,938	512	2,450
SG-4 South Eastern Indiana Natural Gas Co., Inc	1,443	1,057	2,500
SG-3 Sturgis, Kentucky, city of	1,724	200	1,924
Total increase		7,027	

Rate schedule and customer	Existing contract demand	Requested increase	Proposed contract demand
Requested increase in contract demand		7,027	
Released contract demand (Terre Haute; G-3 Rate Schedule)		6,050	
Net increase		977	

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29917 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-10-000]

Texas-New Mexico Power Co. Application

November 1, 1983.

Take notice that on October 25, 1983, Texas-New Mexico Power Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue and sell up to 600,000 shares of Common Stock, par value of $10 pursuant to Applicant's Tax Thrift Plan.

Any person desiring to be heard or to make protest with reference to said application should on or before November 25, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29919 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-18-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 1, 1983.

Take notice that on October 14, 1983, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84-18-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon-by-removal a portion of its Refugio Town Border Station 1-inch line under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that it has no customers currently served from the subject portion of the Refugio Town Border Station 1-inch line located in the Refugio Town Tract A-45, Refugio Town Border Station, Refugio County, Texas. United further states that the proposed abandonment would be accomplished without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed

activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is file and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29020 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-10-000]

Western Transmission Corp.; Application

November 1, 1983.

Take notice that on October 11, 1983, Western Transmission Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP84-10-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 61,000 feet of 2⅞ inch screwed tubing pipeline connecting the Cordillera Corporation Sugar Creek No. 1 well in Carbon County, Wyoming, with the Washakie System mainline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has been informed by the producer that the well is incapable of producing and there exist no plans to rework this well. Applicant further states that the abandonment of the Cordillera lateral would have no effect on the Washakie System operation, nor would such proposed abandonment result in the termination of service to Applicant's customer, Colorado Interstate Gas company (CIG).

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29021 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Disposal of 41.3 Miles of 161-kV Transmission Line

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Disposal of 41.3 miles of 161-kV transmission line from Springfield to Mansfield, Missouri (designated as SWPA line 3004), including the terminal facilities at Mansfield, Missouri; and solicitation of comments.

SUMMARY: Southwestern Power Administration (SWPA) solicits comments concerning the proposed disposal.

DATE: Comments must be received by December 5, 1983.

ADDRESSES: Send comments to Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: George A. Kelly, Chief, Branch of Procurement and Property Management, Southwesten Power Administration, Department of Energy, P.O. Box 1619, Tulsa, OK 74101.

SUPPLEMENTARY INFORMATION: Before formal disposal of major SWPA facilities, or entering in a contract which will cause disposal of SWPA facilities, it is SWPA's policy to seek public comments whether such action would impact on any of SWPA's customers, allottees, potential allotees or interconnected systems, and to what degree; and whether such action is consistent or compatible with state, regional and local development plans and programs.

I. Background

In 1954, SWPA constructed 41.3 miles of 161-kV transmission line from Springfield to Mansfield, Missouri. An interconnection was made with Sho-Me Electric Cooperative (Sho-Me) at Mansfield with SWPA owning only the terminal facilities of the Springfield circuit. These facilities were constructed in order to deliver hydro power and energy to Sho-Me under contracts existing at that time. Since the construction of these facilities, the following conditions have developed:

1. Sho-Me has become a member of the Associated Electric Cooperative (AEC) and the Mansfield terminal is presently included as a point of delivery for peaking power and energy under terms of the SWPA-AEC contract Number 14-02-0001-1002-15.

2. The Springfield-Mansfield line is operated as being wholly within the AEC control area.

3. There are no other delivery points to any customers over the entire length of the line.

4. Although owned by SWPA the line does not form any part of the SWPA transmission loop, but extends as radial circuit with the eastern end located a great distance from any other SWPA facilities.

5. In 1980, the City of Springfield (City) made inquiry about establishing a City-owned switching station on Line 3004 near the eastern City limits. As City plans became more definite, they indicated a need for this interconnection in the 1984-85 time frame.

6. In 1982, AEC (Sho-Me) approached SWPA with a request to tap Line 3004 about 3 miles east of Springfield to serve a small distribution load. SWPA expressed reluctance to have two taps on the line at so close an interval and suggested the City and Sho-Me work out a common point for interconnection.

7. During ensuing discussions the City and Sho-Me requested that if SWPA considered Line 3004 surplus, to include it in those facilities to be sold to AEC under the terms of Contract 14-02-0001-1002-15. The City and Sho-Me have reached a further agreement that should the line be sold by SWPA, the City will purchase that portion from the SWPA substation east to the proposed AEC station (Logan). AEC would own the line

from Logan to Mansfield, including the terminal equipment.

8. To further this proposal, the City and AEC have made a joint request to SWPA to withdraw their initial requests for line taps and proceed with the consideration for sale.

II. Discussion and Summary of Proposal

Since the Springfield-Mansfield line is operated as being wholly within the AEC control area, it is proposed to declare the facility surplus and negotiate sale under the terms of the Contract as outlined in paragraph I.7 above.

Commenting parties are requested to submit their comments by December 5, 1983 and address them to the address set forth at the beginning of this notice.

Dated: October 24, 1983.

Richard B. Risk, Jr.,

Administrator, Southwestern Power Administration.

[FR Doc. 83-29959 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2465-4]

Availability of Environmental Impact Statements Filed October 24 Through October 28, 1983 Pursuant to 46 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general Information, (202) 285-5075 or (202) 382-5076.

EIS No. 830573, FSuppl, DOE, PRO, Multifamily/Commercial Buildings, Residential Conservation Program, DUE: Dec. 5, 1983.

EIS No. 830574 Final, EPA, REG, Uranium Ore Processing Byproducts Materials, Control Standards, DUE: Dec. 5, 1983.

EIS No. 830575 Final, BLM, CA, Alturas Resource Area, Resource Mgmt, Program, Lassen and Modoc Cos. DUE: Dec. 5, 1983.

EIS No. 830576 Draft, EPA, OR, Eugene-Springfield Sludge Management Plan, Grant, Lane County, DUE: Dec. 19, 1983.

EIS No. 830577 Final, COE, IL, Hickory/Spring Creeks, Flood Control Improvements, Permit, Will Co., DUE: Dec. 5, 1983.

EIS No. 830578 Draft, NHT, REG, Occupant Crash Protection Amendment, FMVS Standard No. 208 DUE: Dec. 19, 1983.

EIS No. 830579 Draft, FHW, MT, Helena-West Hwy/US 12 Const, MacDonald Pass to Helena, Lewis/Clark Co., DUE: Dec. 21, 1983.

EIS No. 830580 Draft, NOA, AS, Fagatele Bay Nat'l Marine Sanctuary Mgmt., Tutuila, American Samoa, DUE: Dec. 21, 1983.

Amended Notice:

EIS No. 830468, Draft, ICC, REG, Nationwide Coal Rate Guidelines, EX Parte No. 347 (Sub-No. 1) Published FR 09/02/83—Review extended, DUE: Nov 14, 1983.

EIS No. 830510, Draft, FHW, CA, CA-132 Reconstruction, D Street to Las Flores Avenue, Stanislaus Co., Published FR 09/30/83—Review extended, DUE: Nov. 14, 1983

Dated: November 1, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-29960 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2455-8]

Availability of Environmental Impact Statements Filed October 10 Through October 14, 1983 Pursuant to 46 CFR 1506.9

Correction

In FR Doc. 83-28760 appearing on page 48863 in the issue of Friday, October 21, 1983, make the following correction:

In the third column, the last line of "EIS No. 830458," the due date should have read "Due: Nov. 14, 1983".

BILLING CODE 1505-01-M

[OPP-30000/8C; PH-FRL 2399-4]

Pesticide Programs; Compound 1080; Preliminary Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products; Proposed Intent To Cancel; Availability of Position Document 2/3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preliminary notice of determination; proposed notice of intent to cancel; notice of availability of position document.

SUMMARY: This Notice describes EPA's preliminary determination regarding the risks and benefits associated with the use of pesticide products containing 1080 for rodent control. Since 1972, the use of compound 1080 for predator control has not been registered. All 1080 products used for rodent control, except a product to control commensal rodents and a product to control ground squirrels on rangelands, are presently distributed only in intrastate commerce and are not federally registered. EPA will require that the producers of those pesticides apply for Federal registration of their products. The Agency proposes to approve applications, if the terms and conditions of registration comply with this Notice, for the following uses of compound 1080: The control of ground squirrels and prairie dogs on rangelands, pastures, and croplands; the control of meadow mice on croplands; and the control of ground squirrels on ditch banks, levees, canals, and earthen dams. The Agency proposes to cancel the registration of the federally registered product to control ground squirrels on rangelands unless the registrant amends his registration to incorporate the risk reduction measures identified in this Notice. The Agency proposes to deny applications for registration of the following uses of compound 1080: The control of chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; the control of Norway rats, cotton rats, and wood rats on croplands; and the control of chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites. Finally, the Agency proposes to approve applications for the registration of compound 1080 to control pocket gophers as it is currently used and to take no action on the federally registered use of compound 1080 to control commensal rodents.

DATE: Written comments must be received on or before January 3, 1984.

ADDRESS: Comments should be mailed to: Program Support Division (TS-757c), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/8C. All comments are available for public inspection in Rm. 236 at the Virginia address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Walter Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202-382-7400).

Copies of the Position Document are available from Mr. Walter Waldrop.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of December 1, 1976 (41 FR 52791), EPA issued a Notice of Rebuttable Presumption Against Registration (RPAR) for all rodenticidal

uses of pesticide products containing compound 1080. Issuance of the RPAR Notice initiated the Agency's public review of the risks and benefits of compound 1080. The rebuttable presumption was issued on the basis of: (1) The acute toxicity of 1080 to mammals and birds, (2) a risk of a significant reduction in populations of nontarget organisms and fatalities to members of endangered species, and (3) the lack of emergency treatment for 1080 poisoning. The Agency requested comment on the grounds for issuing the RPAR Notice and on the risks and benefits of 1080 rodenticides. After reviewing all available information, the Agency has determined that none of the presumptions had been rebutted, and that an analysis of the risks and benefits of the uses of 1080 rodenticides is necessary.

This Notice describes EPA's preliminary determination regarding its review of the risks and benefits of 1080 rodenticides. EPA has also prepared a Position Document on compound 1080 which sets forth in detail the reasons for the regulatory actions being proposed here. Copies of this preliminary Notice of Determination and the Position Document are being transmitted to the Secretary of Agriculture, members of the Scientific Advisory Panel, and producers of 1080 rodenticide products. (Other interested persons may obtain a copy of the Position Document by contacting Jeff Kempter at the address given above.) Comments from these groups, as well as from other interested members of the public, are welcome. The Agency will review any comments received, in reaching its final regulatory determination.

In broad summary, the Agency has determined that current uses of compound 1080 meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species.

The risks that compound 1080 poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the USDA and has analyzed the economic, social, and environmental benefits of the uses of compound 1080. The Agency has evaluated both risks and benefits, in order to determine whether the risks of each compound 1080 use are outweighed by the benefits of the use. In balancing risks and benefits, the Agency considered what risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of compound 1080 use are greater than the social, economic, and environmental benefits for certain uses, unless the risk is reduced by modifications in the composition and labeling of the products. Accordingly, the Agency is proposing to deny applications for and to cancel the registration of any 1080 product for use to control ground squirrels and prairie dogs on rangelands, pastures, and croplands; meadow mice on croplands; and ground squirrels on ditch banks, levees, earthen dams, and canals unless the composition and labeling comply with the terms of this Notice.

The proposed modifications include reduction of bait concentrations, standardization of baiting procedures, and the prohibition of use where the continued existence of endangered species may be threatened. The Agency has further determined that these modifications accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These modifications for the above uses will not have a significant impact on the agricultural economy.

The Ageny has determined that, as currently used, the benefits of 1080 products for control of pocket gophers and commensal rodents outweigh the risks of using such products and that no additional risk reduction measures are appropriate.

The Agency has determined that the risks of certain outdoor, above ground uses of compound 1080 are greater than the social, economic, and environmental benefits of these uses, and that risk reduction measures cannot reduce the risks to an acceptable level. Accordingly, the Agency is proposing to deny applications for registration of the use of compound 1080 to control chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; Norway rats, cotton rats, and wood rats on croplands; and chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites. The Agency has determined that the unavailability of 1080 for these uses will not have a significant impact on the production and prices of agricultural commodities, retail food prices and otherwise on the agricultural economy.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the compound 1080 RPAR, and the Agency's reasons and factual basis for the regulatory actions it is initiating. The Notice is organized into four units. Unit I. is this Introduction, and Unit II. Legal Background, sets forth a general discussion of the regulatory framework within which this action is taken. Unit III. Determination and Initiation of Regulatory Action, sets forth the Agency's determinations concluding the compound 1080 RPAR and initiating the regulatory actions which flow from these determinations.

Finally, Unit IV. Procedural Matters, describes the procedures which EPA will follow in implementing its final regulatory decision. It is important to note that all products containing uses covered by the RPAR Notice, except the sole product registered for control of commensal rodents and a single product registered for control of ground squirrels on rangelands, are produced and distributed only in intrastate commerce. These "intrastate" products currently are not federally registered, nor is there a full application for registration of these products pending before the Agency. Their sale and distribution is regulated under the provisions of 40 CFR 162.17, which requires that these intrastate products comply with certain labeling, recordkeeping, and other requirements of FIFRA, until such time as EPA requires the producer to submit a full application for Federal registration of the product. Because of this status, the Agency must employ special procedures to assure that these products comply with the Agency's final regulatory decision in this proceeding.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a person must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" under section 3(c)(5). Section 2(bb) of FIFRA defines the term "unreasonable adverse effects on the environment" as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." In effect, the statute requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration or in accordance with widespread and commonly recognized practice. The burden or proving that a pesticide

satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 3 of FIFRA, the Administrator may not register a pesticide whenever he determines that the pesticide does not satisfy the statutory standard for registration. Similarly, under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or to modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations.

The Agency generally announces that an RPAR has arisen by issuing a notice to be published in the **Federal Register.** After an RPAR is issued, applicants, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumtion. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that the exposure of man or other sensitive species which is likely to be associated with use of the pesticide will not involve a significant risk of adverse effects of the type in question. 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: (i) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3) (i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use, and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of these criteria for risk was in error.

A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceedings have in fact been answered.

Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweight the risks of use.

The Agency concludes an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption has not been rebutted, it then considers available information relating to the social, economic, and environmental costs and benefits of use of the pesticide, including information which registrants, the Department of Agriculture, and other interested persons have submitted to the Agency.

After weighting the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration under FIFRA section 6[b][1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing under section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than its benefits, the Agency considers modifications of the composition, labeling, and packaging which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduciton measures which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" under FIFRA section 3(d).

Section 6(b) of FIFRA requires EPA to submit all proposed Notices of Intent to Cancel to the Secretary of Agriculture for comment. Accordingly, the Agency has sent a copy of this Notice and the 1080 Position Document to the Secretary of Agriculture, and has requested comment within the next 30 days. Section 25(d) of FIFRA requires EPA to solicit the views of the Scientific Advisory Panel, as well. The Agency has provided the same materials to members of the Panel, asking for their comments within 30 days.

In addition, while not required to do so by statute, EPA has decided to afford all interested persons an opportunity to comments on the basis for the proposed action while the proposed action is under review by the Secretary of Agriculture and members of the Scientific Advisory Panel. Accordingly, appropriate steps are being taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for external review. Interested persons will be allowed a 60-day period of time to comment.

At the end of this review period, the Agency will make any changes in the proposed action which are deemed appropriate as a result of the comments received. The Agency will then proceed to implement the desired regulatory action by preparing appropriate documents and issuing them in the manner prescribed by the statute and by the Agency's rules. These procedures are described in Unit IV.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of compound 1080 including information submitted by registrants and other interested persons in rebuttal to the compound 1080 RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of compound 1080 subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the USDA and the Department of the Interior.

The Agency's assessment of the risks and benefits of the uses of compound 1080 subject to this RPAR, its conclusions and determinations whether any of these uses of compound 1080 pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of use reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the position document. The position document is hereby

adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to compound 1080 follow.

A. Determination of Risk

The compound 1080 RPAR was based on information indicating that compound 1080 posed the following risks to wildlife and humans: (1) Acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms and fatalities to members of endangered species, and (3) lack of emergency treatment for human poisoning. As developed fully in the Position Document (PD 2/3), the Agency has determined that the information submitted to rebut the risk criteria was insuffficient to overcome the presumption against compound 1080 for these effects.

In addition to the studies discussed in the position document accompanying the RPAR notice, the Agency reviewed other information regarding the toxicity of compound 1080. In particular, an extensive review was made of the potential exposure of endangered species to compound 1080 bait. The U.S. Department of the Interior, Fish and Wildlife Service (FWS), in response to a consultation request by EPA, evaluated the endangered species most likely to be exposed to compound 1080 according to the use information provided by EPA, and rendered their opinion as to which species were likely to be jeopardized by the use of compound 1080. The report by FWS, together with other studies reviewed on possible risks to endangered species, formed the basis for the decision to prohibit use in the area of certain endangered species.

Toxicity data, both from laboratory and field studies, on the registered alternatives to compound 1080, were evaluated and compared with toxicity data for compound 1080 to determine the relative risks of the rodenticides.

Based on the review of the risk information, the Agency determined that the risks of compound 1080 use were of sufficient magnitude to require the Agency to determine whether offsetting social, environmental, or economic benefits result from the use of compound 1080.

B. Evaluation of Benefits

The Agency faced severe data limitations in this analysis and had to use considerable judgment in evaluating the potential economic consequences of cancelling the uses of compound 1080. The analysis often provided qualitative estimates of discussions of impact due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although estimates in the position document are reported as point estimates, they represent rough predictions of compound 1080 bait distribution and economic impact. The Agency used reasonable assumptions in its estimates of the general economic consequences of cancelling compound 1080 usage.

In general, the economic impacts of cancelling the uses of compound 1080 would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in Western States. Regional or local impacts to users were estimated where registered alternatives are more costly, impractical, or ineffective, or where no registered alternatives exist.

If compound 1080 were federally registered in accordance with the terms and conditions proposed in this Notice, compound 1080 would become available for field rodent control programs in States where no intrastate product is currently available. At the individual producer level, control costs in States where rodenticides are currently unavailable are somewhat higher than in States where compound 1080 is available. If States where compound 1080 is not currently available decided to sponsor control programs in a manner similar to States with existing compound 1080 control programs, individual producers would benefit through reduced control costs. The extent of the cost reduction will depend on several factors.

Where prebaiting is practiced prior to using either strychnine or zinc phosphide, the new compound 1080 programs will be somewhat less expensive because compound 1080 control programs generally do not require prebaiting. Thus, the individual producer would save the cost of prebaiting where compound 1080 replaces either strychnine or zinc phosphide. Where prebaiting is not practiced with either strychnine or zinc phosphide, the cost of a compound 1080 program would be very similar to the current cost of using either zinc phosphide or strychnine. Producers would gain a somewhat more effective poison where compound 1080 would replace either strychnine or zinc phosphide. While we recognize that individual producers in States without a compound 1080 registration could benefit from the use of compound 1080, the extent to which benefits would accrue in these areas can not be quantified with available data.

In addition to simple changes in producer level control costs, States would incur some administrative costs if they choose to implement a compound 1080 control program. To the extent that new resources are required at the State level to coordinate and monitor a new State sponsored program, these costs would somewhat offset the producer level benefit (in terms of lower control cost). The net effect of these distributional impacts can not be quantified with available data.

The uses of compound 1080 which are subject to this RPAR were grouped into three categories: (1) Rodents on rangelands and pastures, (2) rodents on croplands, and (3) rodents on nonagricultural sites.

1. *Rodents on rangelands and pastures.* Compound 1080 is available primarily as an intrastate product when used for the control of ground squirrels, prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, chipmunks and pocket gophers on rangelands and pastures. One product to control ground squirrels or rangelands has been registered in Oregon under the authority of section 24(c) of FIFRA, which allows States to issue valid Federal registrations for pesticides needed to meet special local needs. Federally registered alternatives for ground squirrels include strychnine, gas cartridges, carbon disulfide, paradichlorobenzene and carbon tetrachloride. Anticoagulants, methyl bromide, and zinc phosphide are available in some States for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. Strychnine is federally registered for the control of prairie dogs, chipmunks, cotton rats, kangaroo rats, deer mice and pocket gophers, although the chemical is currently under RPAR review. Several anticoagulants are available in California for the control of field rats and mice.

Based on 1977–1978 estimates, the use of compound 1080 bait to control rodents on rangelands accounts for approximately 74 percent of the annual use with the majority (91 percent) used for the control of ground squirrels. The unavailability of compound 1080 for the control of rodents on rangelands could increase the costs for ground squirrel control by approximately $1.0 to $3.3 million annually, depending on the alternative used and the continued

registration of strychnine. The cost of prairie dog control could increase by approximately $300,000 annually. No estimates are available for other rodents since these account for less than one percent of the total compound 1080 use.

2. *Rodents on croplands.* Compound 1080 is available in intrastate products used for the control of ground squirrels, prairie dogs, Norway rats, cotton rats, wood rats, meadow mice, and pocket gophers. Registered alternatives for this category are the same as those for rangelands. For the Norway rats, zinc phosphide, three anticoagulants, and four fumigants are federally registered. Based on 1977–1978 estimates, the use of compound 1080 to control rodents on croplands accounts for approximately 21 percent of the annual use of compound 1080, with the majority used for the control of meadow mice.

The unavailability of compound 1080 for the control of ground squirrels on croplands could result in an increase in annual control costs of approximately $212,000 to $1.2 million, depending on the alternative used and the continued registration of strychnine. The unavailability of compound 1080 for prairie dog control could result in an increase in annual control costs of approximately $20,000. The unavailability of compound 1080 for meadow mouse control could result in an increase in annual control cost of approximately $28,000. No estimates are available for other rodents on croplands.

3. *Rodents on nonagricultural sites.* Compounds 1080 is available in intrastate products used for the control of ground squirrels, cotton rats, kangaroo rats, deer mice, meadow mice, wood rats, chipmunks, roof rats, Norway rats, and pocket gophers on nonagricultural sites. It is federally registered for the control of Norway rats, roof rats, and house mice in and around structures. For this analysis, nonagricultural sites are defined as areas which are not involved in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for the field rodents are the same as mentioned for rangeland, pasture, and cropland rodent control. For commensal rodent control, zinc phosphide is federally registered as are several anticoagulants and fumigants.

The use of compound 1080 for this category accounts for approximately five percent of the annual compound 1080 use, based on 1977–1978 estimates. Thus, limited data are available to estimate benefits. The unavailability of compound 1080, assuming alternatives are not used, would result in an increase in embankment failures. Each incident can cost in excess of $10,000 to repair. Also, although the benefits of controlling commensal rodents cannot be quantified, compound 1080 is considered to be the measure of last resort.

C. Determination of Unreasonable Adverse Effects

For the reasons set forth in detail in the accompanying position document, the Agency has made the following determinations with respect to the effects of the use of compound 1080 on the environment'

1. The Agency has determined that, under the current terms and conditions of use, the risks arising from the use of compound 1080 are greater than the social, economic, and environmental benefits when 1080 is used to control grounds squirrels and prairie dogs on rangelands, pastures, and croplands; meadow mice on croplands; and ground squirrels on ditch banks, levees, canals, and earthen dams. The Agency has further determined that modifications in the terms and conditions of use accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These modifications include restrictions of use where the continued existence of endangered species may be jeopardized and standardization of baiting and post baiting procedures. These stricter requirements will not have a significant impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy. The Agency has determined that unless these changes are accomplished, the uses listed above generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of compound 1080 pesticide products will not comply with the provisions of FIFRA.

Accordingly, the Agency is proposing to cancel the registration of the only federally registered product for control of ground squirrels on rangeland unless the registrant amends his registration to incorporate the terms and conditions specified in this Notice. In addition, the Agency is proposing to deny registration for any product with a use enumerated above if the use described in the application for registration does not conform to that in this Notice. If risk reductions are accomplished by the modifications in the terms and conditions of use described in this Notice, those uses will not cause unreasonable adverse effects on the environment.

2. The Agency has determined that the risks arising from the use of compound 1080 to control commensal rodents are not sufficient to warrant cancellation or modification of use. Therefore, the Agency does not propose to take any action for this use. In addition, the Agency has determined that the risks of using 1080 to control pocket gophers under current terms and conditions of use are outweighed by the benefits of this use, and therefore that EPA could approve an application to register a product for this use, as it is currently used.

3. The Agency has determined that the risks arising from the use of compound 1080 are greater than the social, economic, and environmental benefits when 1080 is used to control chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; Norway rat, cotton rats, and wood rats on croplands; and chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites and that risk reduction measures cannot reduce the risks to an acceptable level for these uses. Accordingly, the Agency is proposing to deny registrations for all the above-enumerated uses.

The Agency has determined that the cancellation and denial of registration of these uses of compound 1080 will not have a significant impact on the production and prices of agricultural economy.

D. Other Determinations

The Agency has recognized that the use of 1080 to control rodents on croplands and where livestock are grazed might result in pesticide residues in food or feed. Currently, there are no tolerances for residues of 1080 or its metabolites in food or feed. Moreover, the Agency has not exempted 1080 from the requirement of a tolerance. The Agency has determined that it will evaluate the need for a tolerance (or, alternatively, and exemption from the tolerance requirements) as part of its review of applications for new registration and amended registration of 1080 rodenticides. In making its evaluation, the Agency may conclude that it will be necessary for applicants to provide data concerning such topics as analytical methods for 1080 residues, plant uptake of 1080 residues from soil, and levels of 1080 residue in livestock consuming 1080-treated bait.

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is proposing to initiate the following regulatory actions:

1. Cancellation of the registration of a product intended for use in controlling ground squirrel on rangelands, unless the registrant submits an application to amend his registration to conform to the provisions of paragraphs (a) through (c). Acceptance of any application to register compound 1080 products for use in controlling ground squirrels on rangelands, pastures, croplands, ditch banks, levees, earthen dams and canals if the applicant:

a. Requests registration for a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Pest Control Handbook.

b. Submits labelling which includes the following:

For use only to control ground squirrels on rangelands, pastures, croplands, ditch banks, levees, earthen dams, and canals.

For retail sale and use only by certified Applicators or persons under their direct supervision and only for those uses covered by the Certified Applicator's Certification.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bait immediately.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

Do not use in the Sespe-Sierra range of the California condor or in that portion of the coastal range south of Monterey County.

Do not use in the coastal range north of San Luis Obispo County during the months of August through December.

Do not use in that portion of the range of the San Joaquin Kit fox that has been closed to night hunting by the California Fish and Game Commission. In the remainder of the range, consult the California Fish and Game Commission prior to use.

Do not use in the range of the Morro Bay kangaroo rat or of the Salt Marsh harvest mouse, as defined by the U.S. Fish and Wildlife Service.

Do not use from September 1 to April 30 within the areas closed by the California Department of fish and Game to the hunting of Canada Geese.

Do not use in the wetlands areas of Contra Costa, San Joaquin, Solana and Yolo counties from September 1 to April 30 without the use of bait stations.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Additionally, for ground application:

Do not place bait in piles.

For grain bait, use one teaspoon per burrow for hand application or 4 pounds per acre for broadcast application.

For green bait, use 5 to 10 pounds per acre for broadcast application.

Additionally, for aerial application:

Use in accordance with the guidelines for applying Rodent Baits by Aircraft for control of ground squirrels in the California Vertebrate Pest Control Handbook.

c. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

2. Acceptance of any application to register compound 1080 products for use in controlling prairie dogs on rangelands, pastures, and croplands if the applicant:

a. Submits a protocol for approval by the Environmental Protection Agency, in consultation with the U.S. Fish and Wildlife Service, detailing the procedures of a precontrol survey for black-footed ferrets.

b. Requests registration of a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Pest Control Handbook.

c. Submits labeling which includes the following:

For use only to control prairie dogs on rangelands, pastures, and croplands.

Use one teaspoon for each burrow spread over a three square foot area.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bait immediately.

Do not place bait in piles.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

For use only by, or under the direct supervision of, certified applicators who are employees of a governmental agency.

For use only if a precontrol survey, conducted in accordance with a protocol approved by the Environmental Protection Agency and the U.S. Fish and Wildlife Service does not indicate the presence or possible presence of a black-footed ferret.

d. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

3. Acceptance of any application to register compound 1080 products for use in controlling meadow mice on croplands if the applicant:

a. Requests registration of a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Control Handbook.

b. Submits labelling which includes the following:

For use only to control meadow mice on croplands.

For retail sale to and use only by Certified Applicators or persons under their direct supervision and only for those uses covered by the Certified Applicator's Certification.

Use one tablespoon doses for hand baiting or 4 to 5 pounds per acre for aerial application.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

Do not use from September 1 to April 30 within the areas closed by the California Department of Fish and Game to the hunting of Canada Geese.

Do not use in the wetlands area of Contra Costa, San Joaquin, Solana, and Yolo Counties from September 1 to April 30 without the use of bait stations.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Additionally, for hand baiting:

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bait immediately.

Do not place bait in piles.

Additionally, for aerial application:

Use in accordance with the guidelines for applying Rodent Baits by Aircraft for control of Meadow Mice in the California Vertebrate Pest Control Handbook.

c. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

4. Denial of all applications to register 1080 products for use in controlling chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures.

5. Denial of all applications to register 1080 products for use in controlling Norway rats, cotton rat, and wood rats on croplands.

6. Denial of all applications to register 1080 products for use in controlling chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites.

IV. Procedural Matters

This Notice affects both federally registered pesticide products and "intrastate" products. Different procedures are used in bringing these two types of products into compliance with the Agency's final order, and these procedures are described below.

A. Intrastate Products

Because most of the uses affected by the Agency's proposed actions appear only on the labels of "intrastate" products (see Unit I), the Agency will not follow the procedures typically used in concluding the RPAR review of federally registered pesticides. Historically, the registration requirements imposed on intrastate products have differed from the requirements for products distributed in interstate commerce. As described below, these differences dictate that the Agency use special procedures for bringing intrastate products into conformity with the final regulatory decisions reached in the RPAR review.

Prior to 1972, pesticides produced and distributed solely in intrastate commerce were not subject to registration or any other requirements of FIFRA. The National Environmental Pesticide Control Act of 1972 (Pub. L. 92-516) extensively amended FIFRA and for the first time, it was a violation of Federal law to sell or distribute unregistered intrastate pesticide products. EPA issued registration regulations (40 CFR Part 162) implementing the 1972 amendments which, among other things, required immediate registration of all intrastate products unless the products were currently registered by a State and the producer submitted a notice of application for Federal registration to the Agency. 40 CFR 162.17. Under this regulation, notices of application were filed for numerous 1080 rodenticide products which comprise the vast majority of products now being reviewed in this RPAR proceeding. The regulation further provided that producers could continue to sell and distribute their products solely in intrastate commerce without obtaining registration, so long as they complied with certain provisions of FIFRA. Moreover, EPA's regulations provided that, before taking any enforcement action against any unregistered intrastate product complying with 40 CFR 162.17, the Agency would notify the producer of the product that he was required to submit a complete application for Federal registration, and the Agency would review and rule on the application.

Accordingly, in order to bring these intrastate products into conformity with the Agency's final regulatory decision, EPA will notify the producers of all potentially affected intrastate 1080 rodenticide products that they are required to submit a complete application for Federal registration. The Agency has decided to requier that these applications must be submitted within 60 days of the date on which EPA issues its Final Notice of Determination and sends that Notice to affected intrastate producers. Any person who fails to submit a timely application will no longer be protected by 40 CFR 162.17 from possible enforcement actions.

EPA will review all applications thus submitted for compliance with the final RPAR decision and the applicable regulations. EPA will register any product for which an acceptable application has been submitted. If EPA's review shows that an application cannot be approved, EPA may issue a notice of intent to deny the application. Following the issuance of any notice of intent to deny an application, an applicant will have 30 days in which to make changes that would allow EPA to grant the registration. If the application has not been corrected within 30 days so that EPA would approve it, the application may be denied.

Under FIFRA section 3(c)(6), the issuance of a denial entitles an applicant, or other interested person with the concurrence of the applicant, to request an adjudicatory hearing to challenge the denial decision. The denial of any application for which a hearing has not been specifically requested becomes final and effective 30 days after receipt of notice of such denial by the applicant or publication of notice of the denial in the **Federal Register**, whichever occurs later. Applications with respect to which valid and timely hearing requests have been filed remain pending unless and until they are denied or granted by order of the Administrator at the conclusion of the hearing.

Concurrent with the issuance of this Notice, EPA is sending a letter to the producers of all potentially affected intrastate pesticides. This letter announces that EPA has issued its Preliminary Notice of Determination and that the public may comment on the Agency's proposed regulatory position regarding the registrability of various uses of 1080 rodenticides. This letter also describes the procedures that the Agency will follow in assuring that all intrastate products will comply with the terms of the final RPAR decision on 1080 rodenticides. Specifically, the letter informs intrastate producers that they will be required to file applications for Federal registration of their products within 60 days of receipt of the Agency's Final Notice of Determination in this RPAR proceeding. Finally, the letter explains other rights and obligations of intrastate producers under FIFRA, the registration regulations, and the procedures described in this Notice.

B. Cancellation Procedures

This Notice also proposes to cancel the registration of a 1080 pesticide product registered in Oregon to meet a special local need (control of ground squirrels on rangelands) in accordance with section 24(c) of FIFRA. Following the review of public comments on this proposal, EPA will determine whether this product, as currently registered, should continue to be registered or cancelled. If the Agency decides to cancel the registration, it may identify the terms and conditions under which its continued use would be accepted.

If the Agency determines that a use should be cancelled or restricted to certain terms and conditions, EPA will issue a Notice of Intent to Cancel the registration of any product federally registered for that use. Normally, the Notice of Intent to Cancel is a part of the Final Notice of Determination concluding the RPAR proceeding. A registrant has 30 days after receipt of a Notice of Intent to Cancel or publication in the **Federal Register**, whichever is later, either to request a hearing in which to challenge the Agency's action or to amend his registration to conform to the terms of the Notice of Intent to Cancel. In addition, any other person who would be adversely affected by the cancellation may request a hearing.

If there is a timely request for a hearing, EPA will conduct the hearing in accordance with its Rules of Practice, 40 CFR Part 164. In the event of a hearing, each cancellation action will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. If there is no request for a hearing and the registrant fails to amend his registration to include the terms and conditions of the Notice of Intent to Cancel, the cancellation of the affected product(s) will become effective automatically at the end of the applicable 30 day period.

Dated: June 29, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-29673 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42019A; TSH-FRL 2429-8]

Toxic and Hazardous Substances Control; Acentonitrile; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA, in response to the Interagency Testing Committee's (ITC) designation of acetonitrile for priority testing consideration under the Toxic Substances Control Act (TSCA), published in the Federal Register of December 29, 1982, a Negotiated Testing Agreement which announced a preliminary decision not to require health effects testing of acetonitrile based on the Agency's analysis of existing data and preliminary acceptance of a testing program submitted by acetonitrile manufacturers.

On the basis of the Agency's review and comments received, EPA has concluded that the testing program sponsored by the manufacturers will more expeditiously provide the needed test data than would initiating rulemaking under Section 4(a) of TSCA. Therefore, EPA will not initiate rulemaking to require health effects testing of acetonitrile at this time.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington D.C. 20460. Toll Free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued a notice, published in the Federal Register of June 1, 1979 which announced ITC's designation of acetonitrile for priority testing consideration under section 4(e) of TSCA. The ITC recommended that acetonitrile be considered for health effects testing. The ITC's recommendation was based on: (1) Large production volume; (2) the potential for human exposure to occur in the workplace; and (3) the lack of adequate data on carcinogenicity, mutagenicity, teratogenicity, other chronic effects and epidemiology.

In a December 29, 1982, Federal Register notice (47 FR 58020) the Agency responded to the ITC as required under section 4(e) of TSCA by describing a Negotiated Testing Agreement developed by the EPA, E. I. Dupont de Nemours and Company, Inc., Monsanto Chemical Intermediates Company, and the Vistron Corporation and announcing its preliminary decision not to initiate rulemaking under section 4(a) of TSCA requiring health effects testing for acetonitrile. This decision was based on the Agency's analysis of the existing data and its preliminary acceptance of the program submitted by the above named acetonitrile manufacturers which, in the Agency's view, appeared likely to provide adequate test data more expeditiously than a test rule.

The acetonitrile manufacturers' program was included in the public record (docket number OPTS-42019). The Agency requested comments on the december 29, 1982, Federal Register notice (47 FR 58020) which described the acetonitrile manufacturers' program and the Agency's rationale for not proposing to require testing by rule.

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC), E. I. Dupont de Nemours and Company, Inc., Monsanto Chemical Intermediates Company, and the Vistron Corporation. EPA's responses to them are summarized below.

NRDC made a generic criticism of EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4(a) of TSCA. It argued that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing had many procedural and legal deficiencies, noting particularly the lack of enforceability of negotiated testing agreements and failure of the agreements to trigger other statutory provisions as would be triggered by a TSCA section 4(a) rule. NRDC made no chemical specific comments about the Agency's testing rationale or the proposed acetonitrile testing program.

EPA has previously addressed NRDC's general concern about negotiated testing in a January 5, 1982, Federal Register notice (47 FR 335) which described the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action (docket number OPTS-42005). As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that Congress established rules as the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable; but, as the Agency has previously indicated in the January 5, 1982, Federal Register notice (47 FR 335), there are compelling practical reasons why it expects that involved companies will follow their agreements in the vast majority of cases. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of failure of a negotiated program, the entire program will take substantially longer than if EPA had initially pursued rulemaking. Rather, EPA believes that it could conduct an expedited rulemaking which in many cases would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would be initiated if the Agency proposed, and then promulgated, a testing rule for particular substances. However, EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1) and to delay manufacturing until that is done, that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances. It is not applicable to acetonitrile, an individual chemical substance currently in production.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) concerns data from any health and safety study on a chemical in "commercial distribution" (which should include virtually all chemicals designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. GAO further concludes that since voluntary agreements are consistent with significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO. 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act.

General Accounting Office, December 7, 1982, GAO/RCED-83-62 p. 15).

Based on the above, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to expensive, time-consuming rulemaking under section 4 of TSCA.

In their comments, the acetonitrile manufacturers clarified two important issues addressed in the December 29, 1982, **Federal Register** notice (47 FR 58020). The Agency reviewed their comments and its response is provided below.

1. *Use of TSCA section 11.* The acetonitrile manufacturers commented that they did not agree in their test program "to permit laboratory audit-inspections in accordance with the procedures outlined in TSCA section 11, at the request of authorized representatives of the EPA." Secion 11 of TSCA provides EPA with the authority to perform quality assurance audits to ensure that testing is being conducted in accordance with Good Laboratory Practice Standards. The Agency informed the acetonitrile manufacturers that adherence to the procedures outlined in section 11 is not negotiable. As a result, the acetonitrile manufacturers agreed to adhere to the procedures outlined in section 11 of TSCA.

2. *Use of Good Laboratory Practice Standards.* The acetonitrile manufacturers commented that they did not agree in their test program * * * "that all raw data, documentation * * * and reports generated as a result of studies will be retained as specified in the proposed TSCA Good Laboratory Practice Standards (May 9, 1979, **Federal Register** notice, 44 FR 27334) and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative."

The Agency acknowledges the inconsistency in this statement in the December 29, 1982, **Federal Register** notice (47 FR 58020) with the language concerning Good Laboratory Practice Standards cited in other **Federal Register** notices of Negotiated Testing Agreements (Chlorobenzotrifluoride (November 8, 1982 **Federal Register** notice, 44 FR 50555); Methyl Isobutly Ketone and Methyl Ethyl Ketone (December 29, 1982, **Federal Register** notice, 47 FR 58025) Antimony Metal, Antimony Trioxide, and Antimony Sulfide (January 6, 1983, **Federal Register** notice, 48 FR 717); Acrylamide (January 6, 1983, **Federal Register** notice, 48 FR 725); and Isophorone (January 6, 1983 **Federal Register** notice, 48 FR 727)). In order to resolve this inconsistency the Agency amends the December 29, 1982, **Federal Register** notice (47 FR 58020) with the following language: "In conducting the mutagenicity and teratology studies, industry has agreed to adhere to Good Laboratory Practice Standards issued by the Food and Drug Administration in the December 22, 1978, **Federal Register** (43 FR 59986). In addition, industry has agreed that all raw data, documentation records, protocols, specimens, and reports generated as a result of the studies will be retained for at least 10 years from the date of the program's acceptance by EPA and will be made available on inspection or submitted to EPA if requested by EPA or its authorized representative." Documentation records are to include correspondence and other documents relating to the interpretation and evaluation of data. EPA sees no practical difference between the language contained in the December 29, 1982, **Federal Register** (47 FR 58020) and the above language. The substitution of language is being made to insure that the factual statement of what was agreed to it totally correct.

III. Testing

1. *Study Plans.* In a notice of a Negotiated Testing Agreement which appeared in the December 29, 1982, **Federal Register** (47 FR 58020), the Agency described the acetonitrile manufacturers' proposed program. The final study plans for this program have been submitted and are in the public record (docket number OPTS—42019). The final study plans include:

a. A CHO/HGPRT *in vitro* mammalian cell mutation assay to be started in mid-1983 and for which a final report will submitted by early 1984.

b. An embryo-fetal toxicity and teratogenicity study in New Zealand White Rabbits to be initiated in mid-1983 and for which a final report will be submitted by early 1984.

2. *Conclusions.* EPA has reviewed the study plans and has concluded that:

a. The CHO/HGPRT *in vitro* mammalian cell mutation assay will provide sufficient data to complete the first tier battery of mutagenicity data that the Agency would have normally required under a section 4(a) test rule.

b. The teratogenicity study, in conjunction with existing data on acetonitrile's effects, can be expected to provide sufficient data to determine the embryo-fetal toxicity and the teratogenic potential of acetonitrile. This study will provide the Agency with teratogenicity data for a second mammalian species, which the Organization for Economic Cooperation and Development and TSCA test guidelines recommend.

IV. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 (docket number (OPTS-42019A)). This record includes:

(1) **Federal Register** notice containing the ITC report adding acetonitrile to the priority list.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays in the OPTS Reading Room, E-107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-29971 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59137; BH-FRL 2464-3]

Toxic Substances Control, Premanufacture Exemption Applications; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of five applications for exemptions, provides a summary, and requests comments on the

appropriateness of granting each of the exemptions.

DATE: Written comments by November 21, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59137]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 as stated above.

TME 84-1

Close of Review Period. December 4, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by approved landfill.

TME 84-3

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polyimide terpolymer.
Use/Production. (G) Specialty coating. Prod. range: 800 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-4

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polyimide terpolymer.
Use/Production. (G) Specialty coating. Prod. range: 800 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-5

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polcylic amine.
Use/Production. (G) Specialty coating. Prod. range: 400 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-6

Manufacturer. Confidential.
Chemical. (G) Substituted polcylic amine.
Use/Production. (G) Specialty coating. Prod. range: 400 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: October 28, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-29089 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51491; BH-FRL-2464-4]

Toxic Substances Control; Premanufacture Notices; Certain Chemicals

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 ofninety-two PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-95, 84-96, 84-97, 84-98, 84-99, 84-100, 84-101, 84-102, 84-103, 84-104, 84-105, 84-106, 84-107, 84-108, 84-109, 84-110, 84-111, 84-112, 84-113, 84-114, 84-115, 84-116, 84-117, 84-118, 84-119, 84-120, 84-121 and 84-122—January 18, 1984.

PMN 84-123, 84-124, 84-125, 84-126, 84-127, 84-128, 84-129, 84-130, 84-131, 84-132, 84-133, 84-134, 84-135, 84-136, 84-137, 84-138, 84-139, 84-140, 84-141, 84-142, 84-143, 84-144, 84-145, 84-146, 84-147, 84-148, 84-149, 84-150, 84-151, 84-152, 84-153, 84-154, 84-155, 84-156, 84-157, 84-158, 84-159 and 84-160—January 21, 1984

PMN 84-161, 84-162, 84-163, 84-164, 84-165, 84-166, 84-167, 84-168, 84-169 and 84-170—January 22, 1984

PMN 84-171, 84-172, 84-173, 84-174, 84-175, 84-176, 84-177 and 84-178—January 23, 1984

PMN 84-179, 84-180, 84-181, 84-182, 84-183, 84-184, 84-185 and 84-186—January 24, 1984

Written comments by:

PMN 84-95, 84-96, 84-97, 84-98, 84-99, 84-100, 84-101, 84-102, 84-103, 84-104, 84-105, 84-106, 84-107, 84-108, 84-109, 84-110, 84-111, 84-112, 84-113, 84-114, 84-115, 84-116, 84-117, 84-118, 84-119, 84-120, 84-121 and 84-122—December 19, 1983

PMN 84-123, 84-124, 84-125, 84-126, 84-127, 84-128, 84-129, 84-130, 84-131, 84-132, 84-133, 84-134, 84-135, 84-136, 84-137, 84-138, 84-139, 84-140, 84-141, 84-142, 84-143, 84-144, 84-145, 84-146, 84-147, 84-148, 84-149, 84-150, 84-151, 84-152, 84-153, 84-154, 84-155, 84-156, 84-157, 84-158, 84-159 and 84-160—December 22, 1983

PMN 84-161, 84-162, 84-163, 84-164, 84-165, 84-166, 84-167, 84-168, 84-169 and 84-170—December 23, 1983

PMN 84-171, 84-172, 84-173, 84-174, 84-175, 84-176, 84-177, 84-178, 84-179, 84-180, 84-181, 84-182, 84-183, 84-184, 84-185 and 84-186—December 24, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51491]" 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 84-95

Importer. The BF Goodrich Company.
Chemical. (G) Thermoplastic polyurethane.
Use/Import. (G) Thermoplastic fabrication feedstock. Import range: Confidential
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84-96

Manufacturer. The BF Goodrich Company.
Chemical. (G) Poluyrethane polymer.
Use/Production. (G) Non-dispersive formulation adhesive.
Production range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-97

Manufacturer. Confidential.
Chemical. (S) Ethanol, 2-amino-hydrobromide.
Use/Production. (G) Destructive use as a component of an industrial product. Prod. range: 12,027-16,030 kg/yr.
Toxicity Data. No data submitted
Exposure. Manufacture, processing and use: dermal, a total of 81 workers, up to 10 hrs/da, up to 285 da/yr.
Environmental Release/Disposal. 2-20 kg/batch, 3-30 batches/yr released to water. Disposal by non-navigable waterway.

PMN 84-98

Manufacturer. Confidential.
Chemical. (G) Alkoxy polyol terpolymer.
Use/Production. (S) Industrial intermediate for polyurethane foam production. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 8 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. 5-10 kg/batch released into control technology. Disposal by incineration.

PMN 84-99

Manufacturer. Confidential.
Chemical. (G) Hydroxyalkyl ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 9 ml/kg; Irritation: Skin—Slight, Eye—Irritant with transient damage; Inhalation: 7,000 parts per million (ppm), COD (Calculated)—2.15 mg/0_2, (measured)—1.90 mg/O_2; IC_{50} bacteria—>10,000 mg/l; LC_{50} fish—>10,000 mg/l; Repeated dose oral: Kidney damage at 2.14 g/kg
Exposure. Manufacture and use: dermal, a total of 170 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration and industrial waste water facility.

PMN 84-100

Manufacturer. Confidential.
Chemical. (G) Ester of substituted, unsaturated acid.
Use/Production. (G) Destructive end use. Prod. range: Confidential.
Toxicity Data. Acute oral: 20.0 gm/kg; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-101

Manufacturer. Confidential.
Chemical. (G) Ester of substituted, unsaturated acid.
Use/Production. (G) Destructive end use. Prod. range: Confidential.
Toxicity Data. Acute oral: 20.0 gm/kg; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-102

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic.
Use/Production. (S) Dispersive dye for polyester garments. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_{50} 48 hrs (Rainbow trout)—> 500 mg/l; TOC (static method)—50-100%.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by on site biological treatment system.

PMN 84-103

Importer. Confidential.
Chemical. (G) Modified polyacrylate polymer.
Use/Import. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Irritation: Skin—Negative; 28 Day Subchronic percutaneous study—Slight; LC_{50} 96 hr (Bluegill sunfish)—1.000 mg/l; COD—0.9384 lbs/lb; BOD_5—0.007481 lbs/lb.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-104

Importer. Confidential.
Chemical. (G) Starch grafted polyacrylate polymer.
Use/Import. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: Mouse (Male)—6,406, (Female)—5,813; Rat (Male)—6,640, (Female)—5,625; Irritation: Skin—Non-irritant, Eye—Little irritative; COD—9,012 lbs/lb; BOD_5 0.062354 lbs/lb; LC_{50} 96 hr (Bluegil sunfish) >890 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-105

Manufacturer. Confidential.
Chemical. (G) Halogenated alkene.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Slight, Eye—Moderate; LC_{50}—17 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-106

Manufacturer. Confidential.
Chemical. (G) Halogenated alkane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Severe, Eye—Severe to mild; LC_{50}: 32.5 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-107

Manufacturer. Confidential.
Chemical. (G) Halogenated alkane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Moderate, Eye—Moderate; LC_{50}: 622 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-108

Manufacturer. Confidential.
Chemical. (G) Trisubstituted heterocyclic disubstituted monocycle.
Use/Production. (G) Dye for fibers. Prod. range: Confidential.
Toxicity Data. Acute oral: >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Slight; COD—1.6 and 1.64 g/g; Skin sensitization: Potent.
Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. Release to water. Disposal by biological treatment system and incineration.

PMN 84–109

Importer. Confidential.

Chemical. (G) Substituted-substituted-oxadiazine.

Use/Import. (S) Industrial monomer. Import range: Confidential.

Toxicity Data. Acute oral: >15 g/kg; Irritation: Skin—Irritant, Eye—Irritant.

Exposure. None expected.

Environmental Release/Disposal. No release.

PMN 84–110

Importer. Confidential.

Chemical. (G) Polyurea.

Use/Import. (S) Coating for paper in industrial, commercial and consumer use. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. None expected.

Environmental Release/Disposal. No release.

PMN 84–111

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–112

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 35 workers, up to 24 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–113

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–114

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–115

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 30 workers, up to 24 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–116

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 35 workers, up to 24 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–117

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 118

Manufacturer. Confidential.

Chemical. (G) Aliphatic polycarbonate urethane.

Use/Production. (S) Polymeric coating for industrial, commercial and consumer use. Prod. range: 15,000–45,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. No release.

PMN 84–119

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester urethane.

Use/Production. (S) Ploymeric adhesive for industrial, commerical and consumer use. Prod. range: 7,500,–15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. No release.

PMN 84–120

Manufacturer. Confidential.

Chemical. (G) Modified halogenated hydrocarbon polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Negligible. Disposal by Resource Conservation and Recovery Act (RCRA) regulations.

PMN 84–121

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)—100 mg/l; IC_{50} bacteria—>100 mg/l.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–122

Manufacturer. Confidential.

Chemical. (G) Substituted-benzene sulfonic acid, sodium salt.

Use/Production. (G) Component of commercial and consumer products. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >0.8 g/kg; Irritation: Skin—Mild, Eye—Mild; Inhalation: >300 mg/m^3; Ames Test: No evidence of genotoxicity; Skin sensitization: (Animal and human)—Not sensitizer; LC_{50} aquatic organisms—32 to >1,000 mg/l; Skin corrositivity—Not corrosive.

Exposure. Manufacture and oral: dermal, inhalation and ocular.

Environmental Release/Disposal. Release to air, water and land. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 84–123

Manufacturer. Sage Technology, Inc. and Molecular Rearrangement, Inc.
Chemical. (G) Naphthaquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester.
Use/Production. (S) Film for printing applications for industrial, site-limited, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 22 workers, up to 24 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 2–1,000 kg/yr to land. Disposal by POTW, landfill and sewer.

PMN 84–124

Manufacturer. Confidential.
Chemical. (G) 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-substituted.
Use/Production. (S) Dye intermediate. Prod. range: 275–2,750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–125

Manufacturer. Confidential.
Chemical. (G) 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6substituted, potassium salt.
Use/Production. (S) Dye intermediate. Prod. range: 275–2,750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–126

Manufacturer. Confidential.
Chemical. (G) Substituted naphthalene diazonium sulfate.
Use/Production. (S) Dye intermediate. Prod. range: 275–2750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–127

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 84–128

Manufacturer. Confidential.
Chemical. (G) Alkyleneamine methylene phosphonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Acute dermal:> 2,000 mg/kg;: Irritation: Skin—Not a primary irritant, Eye—slight to moderate; LC_{50} 96 hr (Fathead minnow): >1,000 mg/L; LC_{50} 48 hr (Waterflea): >1,000 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by industrial wastewater treatment facilities.

PMN 84–129

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–130

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–131

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastwater treatment facility.

PMN 84–132

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–133

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–134

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–135

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–136

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–137

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–138

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–139

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–140

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–141

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–142

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–143

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–144

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–145

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–146

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–147

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–148

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–149

Manufacturer. Confidential.
Chemical. (G) Polyalkylene glycol ether.
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.

PMN 84–150

Manufacturer. Confidential.
Chemical. (G) Aminomethylene phosphonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: > 1,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin-Not a primary irritant. Eye-Extremely corrosive; LC_{50} 48 hr (Water flea) — >Γ1T1 1,000 μγ/Λ≅ ΛΨ$_{50}$ 96hr (Fathead minnow) -> 1,000 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. Release to a wastewater treatment plant.

PMN 84–151

Manufacturer. The Dow Chemical Company.
Chemical. (S) Lithium aluminum hydroxide.
Use/Production Confidential. Prod. range: 1,000–100,000 kg/yr.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin-Slight, Eye-Not a primary irritant.
Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–152

Manufacturer. Dow Chemical Company.
Chemical. (S) Hydroxy bromide.
Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin-Slight, Eye-Not a primary irritant.
Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–153

Manufacturer. The Dow Chemical Company.

Chemical. (S) Hydroxy chloride.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. Acute oral >2,000 mg/kg: Acute dermal: >2,000 mg/kg: Irritation: Skin—Slight, Eye—Not a primary irritant.

Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–154

Manufacturer. The Dow Chemical Company.

Chemical. (S) Lithium aluminum hydroxy stearate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–155

Manufacturer. The Dow Chemical Company.

Chemical. (S) Palmitate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–156

Manufacturer. The Dow Chemical Company.

Chemical. (S) Myristate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–157

Manufacturer. The Dow Chemical Company.

Chemical. (S) Laurate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–158

Manufacturer. Confidential.

Chemical. (G) Modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 48 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment plant.

PMN 84–159

Manufacturer. Confidential.

Chemical. (G) Rubber modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment plant.

PMN 84–160

Manufacturer. Confidential.

Chemical. (G) Rubber modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment.

PMN 84–161

Manufacturer. Confidential.

Chemical. (S) Reaction of: diethylene triamine, Cardura E, allyl glycidyl ether, urea.

Use/Production. (G) Open use. Prod. range: 250,000–1,000,000 kg/Yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 4 workers, up to 1 hr/da, up to 100 da/yr

Environmental Release/Disposal. Less that 10 kg/yr released to air. Disposal by biological treatment system and landfill.

PMN 84–162

Manufacturer. Confidential.

Chemical. (G) Modified epoxy resin.

Use/Production. (S) Powder coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by landfill or recycle.

PMN 84–163

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Substituted triazine.

Use/Production. (S) Curing agent for fluoroelastomers. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Manufacture: dermal and inhalation, a total of 6 workers, up to 10 da/yr.

Environmental Release/Disposal. 10 lbs released to land.

PMN 84–164

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted dioxolane.

Use/Production. (G) Site-limited, captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 670 mg/kg.

Exposure. Manufacture: dermal, a total of 5 wirkers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–165

Manufacturer. Confidential.

Chemical. (G) Carbonyl fluorine substituted dioxolane.

Use/Production. (G) Site limited captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 670 mg/kg

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–166

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted poly dioxolane.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Manufacture and processing: a total of 15 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less that 10 kg released to land. Disposal by approved landfill.

PMN 84–167

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted dioxan-2-one.

Use/Production. (G) Captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,250 mg/kg.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–168

Manufacturer. Confidential.

Chemical. (G) Oxo-fluorine substituted dioxolane.

Use/Production. (G) Captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 300 mg/kg.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–169

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Acrylate ester blocked polyurethane.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 5 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–170

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Acrylate blocked polyurethane.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal a total of 8 workers, up to 5 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–171

Manufacturer. Confidential.

Chemical. (G) Functional polyurethane.

Use/Production. (G) Used in formulating an industrial sealant having an open-use. Prod. range: 300,000–750,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 36 workers, up to 6 hrs/da, up to 49 da/yr.

Environmental Release/Disposal. 5–25 kg/batch released to land. Disposal by incineration.

PMN 84–172

Manufacturer. Confidential.

Chemical. (G) Functional acrylic copolymer.

Use/Production. (G) The new substance will have an open use as one of the components of an industrially used coating. Prod. range: 24,000–90,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 33 workers, up to 12 hrs/da, 42 da/yr.

Environmental Release/Disposal. 10–60 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–173

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4+) mixed alcohol complex.

Use/Production. (G) An additive consumed in the energy production industry—destructive use. Prod. range, Confidential.

Toxicity Data. Acute oral: 12,290 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Manufacture: dermal, a total of 3 workers, up to 7 hrs/da, up to 65 da/yr.

Environmental Release/Disposal. 13 kg/batch contained for disposal. Disposal by incineration on-site.

PMN 84–174

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4+) mixed alcohol complex.

Use/Production. (S) Esterification catalyst, destructive use. Prod. range: 25–200,000 kg/yr.

Toxicity Data. Acute oral: 3, 400 mg/kg; Irritation: Skin—Severe, Eye—Severe.

Exposure. Manufacture: dermal, a total of 3 workers, up to 7 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 7 kg/batch contained for disposal. Disposal by incineration on-site.

PMN 84–175

Manufacturer. Phillips Chemical Company.

Chemical. (S) N-dodecylthio-2-propanol.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–176

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Aliphatic triol ester methacrylate.

Use/Production. (S) Component of industrial coatings Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–177

Importer. Confidential.

Chemical. (G) Ester of substituted cyclohexene.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: >8,000 mg/kg; Irritation: Skin—very slight, Eye—Very slight; Skin sensitization: negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–178

Importer. Confidential.

Chemical. (G) Ester of substituted cyclohexene.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: >8,000 mg/kg; Irritation: Skin—Very slight, Eye—Very slight; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–179

Importer. Confidential.

Chemical. (G) Substituted-phenyl-N-substituted-sulfophenylazo-benzylidenehydrazino substitutedamino monochlorotriazinylamino sulfobenzoate-copper sulfate, sodium salt.

Use/Import. (S) Industrial dyestuff. Import range: 500–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–180

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Polyether acrylate ester.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Low order.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–181

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Aliphatic acrylate ester.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Low order.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–182

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Polyether acrylate.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Low order.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–183

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Aliphatic ester methacrylate.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–184

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Aliphatic ester methacrylate.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Extreme low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 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 84–185

Manufacturer. Confidential.

Chemical. (G) Perhaloolefin.

Use/Production. Site limited intermediate. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: a total of 42 workers, up to 2 hrs/da, up to 125 da/yr.

Environmental Release/Disposal. Release to land. Disposal by POTW and landfill.

PMN 84–186

Manufacturer. W. R. Grace & Company.

Chemical. (G) (Polyurethane from polyhydroxyalkyls and an aromatic diisocyanate).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 50 mg/kg; Acute dermal: 200 mg/kg; Inhalation: Negative; DOT corrosivity study: Not corrosive.

Exposure. Confidential.

Environmental Release/Disposal. No release. Disposal by landfill.

Dated: October 28, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

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[Docket No. OPTS-51490; BH-FRL 2458-5]

Toxic Substances Control; 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 premanufactue 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 fifty-three PMNs and provides a summary of each.

DATES: Close of Review Period

PMN 84–42, 84–43, 84–44, 84–45, 84–46, 84–47, 84–48, 84–49, 84–50, 84–51, 84–52 and 84–53—January 11, 1984

PMN 84–54, 84–55, 84–56, 84–57, 84–58, 84–59, 84–60, 84–61, 84–62, 84–63, 84–64, 84–65, 84–66, 84–67, 84–68, 84–69 and 84–70—January 14, 1984

PMN 84–71, 84–72, 84–73, 84–74, 84–75, 84–76, 84–77, 84–78, 84–79, 84–80, 84–81, 84–82, 84–83, 84–84, 84–85 and 84–86—January 15, 1984

PMN 84–87, 84–88, 84–89, 84–90, 84–91 and 84–92—January 16, 1984

PMN 84–93 and 84–94—January 17, 1984

Written comments by:

PMN 84–42, 84–43, 84–44, 84–45, 84–46, 84–47, 84–48, 84–49, 84–50, 84–51, 84–52 and 84–53—December 12, 1983

PMN 84–54, 84–55, 84–56, 84–57, 84–58, 84–59, 84–60, 84–61, 84–62, 84–63, 84–64, 84–65, 84–66, 84–67, 84–68, 84–69 and 84–70—December 15, 1983

PMN 84–71, 84–72, 84–73, 84–74, 84–75, 84–76, 84–77, 84–78, 84–79, 84–80, 84–81, 84–82, 84–83, 84–84, 84–85 and 84–86—December 16, 1983

PMN 84–87, 84–88, 84–89, 84–90, 84–91 and 84–92

PMN 84–93 and 84–94—December 17, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS–51490]" 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 84–42

Manufacturer. Confidential.

Chemical. (G) Substituted benzene.

Use/Production. (S) Site-limited on-site intermediate. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 16 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Confidential

PMN 84–43

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Fatty acid mercaptan acrylic copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, 53 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and Resource Conservation and Recovery Act (RCRA) regulations.

PMN 84–44

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–45

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic urethane polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations

PMN 84–46

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic urethane polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–47

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Ester urethane copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, 28 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–48

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic styrene copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 12 hrs/shift, 2 shifts/da, 41 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–49

Importer. Confidential.

Chemical. (G) Formaldehyde reaction product with phenol and diamine.

Use/Import. (S) Industrial and commercial epoxy curing agent. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Corrosive, Eye—Extreme.

Exposure. Use: dermal and inhalation, minimal.

Environmental Release/Disposal. Disposal by landfill.

PMN 84–50

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 hours (rainbow trouts): >100 mg/1; IC_{50} bacteria: >100 mg/1.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on-site biological treatment system.

PMN 84–51

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 hours (rainbow trouts): >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 84–52

Manufacturer. GAF Corporation.

Chemical. (G) Vinylpyrrolidone copolymer.

Use/Production. (G) Open, dispersive and non-dispersive uses. Prod. range: Confidential.

Toxicity Data. Acute oral: 9 gm/kg; Irritation: Skin—0.58, Eye—Mild.

Exposure. Manufacture: dermal and inhalation, a total of 8 workers, up to 60 hrs/yr/operator.

Environmental Release/Disposal. 1,040 kg released. Disposal by approved landfill.

PMN 84–53

Manufacturer. GAF Corporation.

Chemical. (G) Vinylpyrrolidone copolymer.

Use/Production. (G) Open, dispersive and non-dispersive uses. Prod. range: Confidential.

Toxicity Data. Acute oral: 37 gm/kg; Irritation: Skin—1.58, Eye—Non-irritant; LC_{50} 96 hr—210 mg/l.

Exposure. Manufacture: dermal, a total of 8 workers, up to 60 hrs/yr/operator.

Environmental Release/Disposal. 1,040 kg released. Disposal by approved landfill.

PMN 84–54

Manufacturer. Confidential.

Chemical. (G) Drying oil modified alkyd.

Use/Production. (G) Air drying alkyd used in industrial coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing, use and disposal: dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration.

PMN 84–55

Manufacturer. Confidential.

Chemical. (G) Ethoxylated nonylphenol urethane derivative.

Use/Production. (G) Component of formulations for an open, non-dispersive use. Prod. range: 2,500–14,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 8 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 2–3 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–56

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Resin in coatings. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–57

Manufacturer. Confidential.
Chemical. (G) Transition metal complex.
Use/Production. (G) Site limited intermediate in a contained use. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Non-irritant; Ames Test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–58

Importer. Confidential.
Chemical. (G) Cycloaliphatic amines.
Use/Import. (S) Industrial and commercial epoxy curing agent. Import range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Irritant, Eye—Extreme.
Exposure. Minimal.
Environmental Release/Disposal. Disposal by approved landfill.

PMN 84–59

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13.5 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–60

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13.5 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–61

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–62

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–63

Importer. Confidential.
Chemical. Substituted-phenyl-N-substitutedamino monochlorotriazinylamino substituted-sulfophenylazo-benzylidene-hydrazino sulfobenzoate-copper sulfate, potassium salt.
Use/Import. (S) Industrial dyestuff. Prod. range: 500–10,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Slight to severe, Eye—Mild and minimal.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–64

Importer. Confidential.
Chemical. (G) Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.
Use/Import. (S) Industrial dyestuff. Import range: 500–10,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Moderate and minimal.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–65

Importer. Confidential.
Chemical. (G) Substituted anthraquinone aryl sulphamate.
Use/Import. (S) Used in the production of consumer texiles for home furnishings and apparel productions. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–66

Importer. Confidential.
Chemical. (G) Substituted phenol-formaldehyde condensate.
Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.
Toxicity Data. Acute oral: 7.71 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—1.6 mg/l, LC_{50}—2.3 mg/l, LC_{100}—3.2 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–67

Importer. Confidential.
Chemical. (G) Substituted aromatic azo pyridinium salt.
Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Prod. range: Confidential.
Toxicity Data. Acute oral: 14.0 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow trout) LC (ppm wt/vol) LC_0—100, LC_{50}—122, LC_{100}—150 (Rainbow trout); TOC—400 mg/l.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–68

Importer. Confidential.
Chemical. (G) Substituted anthraquinone aryl amine.
Use/Import. (S) Dyeing of acrylic fibers and fabrics used in the production of various textile consumer products. Import range: Confidential.
Toxicity Data. Acute oral: 10.01 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—12 mg/l, LC_{50}—14 mg/l, LC_{100}—16 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–69

Importer. Confidential.
Chemical. (G) Substituted anthraquinone ammonium salt.
Use/Import. (S) Used in the production of consumer textiles for home furnishings and apparel production. Import range: Confidential.
Toxicity Data. Acute oral: 7.29 g/kg; Irritation: Skin—Slight, Eye—Slight; 48 hr concentration (Rainbow trout)—LC_0—75 mg/l, LC_{50}—95 mg/l, LC_{1000}—125 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–70

Importer. Confidential.

Chemical. (G) Substituted methimine indolium acetic acid salt.

Use/Import. (S) Used in the production of consumer textiles for home furnishing and apparel production. Import range: Confidential.

Toxicity Data. Acute oral: .68 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; 48 hr concentration (Rainbow trout)—LC_0—150 parts per million (ppm), LC_{50}—270 ppm, LC_{100}—345 ppm; TOC—400 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–71

Manufacturer. Confidential.

Chemical. (G) Substituted pyridinium chloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 84–72

Manufacturer. Confidential.

Chemical. (G) Modified acrylate ester resin.

Use/Production. (S) site limited ingredient in inks for packaging. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 12 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Less that 10 kg/yr released to land. Disposal by approved landfill.

PMN 84–73

Manufacturer. Confidential.

Chemical. (G) Polyester polycarboxylate salt.

Use/Production. (S) Industrial component for warp yarn size solution for textile manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 18 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 1–10 kg/batch released to control technology. Disposal by incineration.

PMN 84–74

Manufacture. Confidential.

Chemical. (G) Unsaturated organic compounds with isocyanates.

Use/Production. (S) Site limited, chemical intermediate. Prod. range: 7,500–35,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and ingestion, a total of 4 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84–75

Manufacture. Confidential.

Chemical. (G) Copolymer unsaturated organic compounds with polyols and isocyanates.

Use/Production. (S) Site-limited binder for magnetic tape. Prod. range: 7,500–350,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–76

Manufacture. Confidential.

Chemical. (G) Vinyl acetate—ethylene copolymer.

Use/Production. (S) Adhesive binder for wood pulp and synthetic fiber non-woven fibers and flocking adhesive for textile substrates. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal a total of 9 workers, up to 4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 0.5 kg/batch released to water. Disposal by publicly owned treatment works (POTW), on-site treatment works and landfill.

PMN 84–77

Importer. Confidential.

Chemical. (G) Substituted heterocycle, diester with alkanedioic acid.

Use/Import. (G) Closed use. Import range: Confidential.

Toxicity Data. Acute oral: >4,600 mg/kg; 28—Day dietary feeding study—2,000 ppm.

Exposure. Manufacture: dermal and inhalation, a total of 1 worker, up to 1 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 84–78

Importer. Confidential.

Chemical. (G) Substituted benzaldehyde.

Use/Production. (G) Chemical intermediate. Import range: Confidential.

Toxicity Data. Acute: oral: Male—1,248 mg/kg. Female—1,046 mg/kg; Acute dermal: >5,000 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by RCRA regulations.

PMN 84–79

Manufacture. Confidential.

Chemical. (G) Glycol/phthalate polyester resin.

Use/Production. (S) Finishing agent for treating polyester textile fabrics. Prod. range: 7,000–14,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. Less than 3,000 kg/batch released to land. Disposal by POTW and landfill.

PMN 84–80

Manufacture. A. E. Staley Manufacturing Company.

Chemical. (S) Cellulose, acetate, [(1-oxo-2-propenyl)amino] methyl ether.

Use/Production. (S) Industrial adhesion and hardness for ultraviolet cure inks, coating formulations, photo resists, cellulose transparencies, moldings, extrusions, pultrusions alkyd or acrylic type paints, reinforced polyester sheet, and reverse osmosis or ultra filtration membrane material. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 1.0 to 13.31 kg/batch released to air, water and land. Disposal by POTW.

PMN 84–81

Manufacturer. A. E. Staley Manufacturing Company.

Chemical. (S) Cellulose, acetate butanoate, [(1-oxo-2-propenyl)amino] methyl ether.

Use/Production. (S) Industrial adhesion and hardness for ultraviolet cure inks, coatings formulations, photo resists, cellulose transparencies, moldings, extrusion, pultrusion, alkyd or acrylic type paints, reinforced polyester sheet, and reverse osmosis or ultra filtration membrane material. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 1.0 to 13.31 kg/batch released to air, water and land. Disposal by POTW.

PMN 84–82

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow

trout)—LC_0—70.0 mg/l; LC_{50}—108.0 mg/l; LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-83

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Production. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow trout)—LC_0—70.0 mg/l; LC_{50}—108.0 mg/l; LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-84

Manufacturer. Confidential.

Chemical. (G) Azo benzothiazolium salt.

Use/Production. (S) Dyeing of acrylic fibers and fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: 2.6 kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—1.8 ppm, LC_{50}—9.6 ppm, LC_{100} 53.5 ppm.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-85

Manufacturer. Confidential.

Chemical. (G) Azo benzothiazolium salt.

Use/Production. (S) Dyeing of acrylic fibers and fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: 2.6 kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_0—1.8 ppm, LC_{50}—9.6 ppm, LC_{100} 53.5 ppm.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-86

Importer. Confidential.

Chemical. (G) Heterocyclic azo substituted aromatic compound.

Use/Import. (S) Dyeing of acetate and polyester fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 2.9 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—3.4 mg/l; LC_{50}—6.3 mg/l; LC_{100}—11.5 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-87

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Ethylene interpolymer.

Use/Production. (S) Molded parts. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 10 da/yr.

Environmental Release/Disposal. 5,000–10,000 kg/yr sold as scrap to be molded into molded non-critical plastic parts.

PMN 84-88

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-89

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-90

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (G) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight 48 hr concentration (Rainbow trout)—LC_0—70.0 mg/l. LC_{50}—108.0 mg/l, LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-91

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (G) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritatnt, Eye—Slight; 48 hr concentration (Rainbow trout) LC_0—70.0 mg/l. LC_{50}—108.0, LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84-92

Importer. Confidential.

Chemical. (G) Polymer of 1,2-propanediol, 1,6-hexanedioic acid and tetra substituted benzene dicarboxylic acid derivative.

Use/Import. (G) Polyester prepolymer intermediate for coating for industrial use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 27 workers, up to 8 hrs/da, up to 84 da/yr.

Environmental Release/Disposal. 44.5 kg released to land. Disposal by POTW and incineration.

PMN 84-93

Manufacturer. Confidential.

Chemical. (G) Substituted-1H-isoindol-1-one.

Use/Import. (S) Site limited intermediate. Import range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release. Disposal by POTW.

PMN 84-94

Manufacturer. Confidential.

Chemical. (G) Cresol formaldehyde polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: October 24, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83-29460 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[Docket No. 83-576]

Implementation of Change in Financial Reporting Requirements

October 24,1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Implementation of change in reporting requirements.

SUMMARY: The Board has determined to implement a change in reporting requirements pursuant to 12 CFR 563.08(a) for institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") in order to obtain data needed for risk assessment industry monitoring and examination and supervision in a deregulated and rapidly changing environment. The change provides for the reporting of new information on interest-rate sensitivity.

futures and options market participation and use of new investment powers, but eliminates the reporting of data no longer essential. It provides for comprehensive reporting by all insured institutions quarterly, rather than semiannually as currently done, but (after a six-month overlap) eliminates regular monthly reporting for all but a small sample of such institutions. Federal Home Loan Banks, however, will be permitted to collect monthly information from insured institutions to determine regional cost of funds, where a Bank has concluded that availability of such data is necessary for institutions in its area to meet contractual obligations to make changes in adjustable rate mortgages, and the Board will continue to require more frequent special reporting by institutions needing special supervisory surveillance.

EFFECTIVE DATE: A portion of the sample monthly reporting (Survey of Deposits and Other Accounts) is effective November 4, 1983; the new quarterly report is effective January 1, 1984 (the actual report covering March is not filed until April 30, 1984), and the remaining portion of the sample monthly becomes effective on July 1, 1984, when the current monthly report is discontinued.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Deputy Director Office of Policy and Economic Research (202–377–6770), Robert Pomeranz, Accounting Policy Analyst, Office of Examinations and Supervision (202–377–6365), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On August 29, 1983, the Federal Home Loan Bank Board, by Resolution No. 83–474, published a notice of proposed changes in reporting requirements for insured institutions, in order to secure the benefits of public review and comment (48 FR 39944).

Comments regarding the proposed changes were received from 217 entities. In addition, the Board had the benefit of comments by representatives of institutions that have been voluntarily testing a portion of the proposed new system at a meeting called by it on October 11. All but 18 of the written comments were from insured institutions. The other commenters were six trade associations, eight service bureaus which process data for the industry, one state savings and loan commissioner, one commercial bank and one investment banking firm. The Comments of the trade associations and service bureaus were similar to those received from insured institutions, which are summarized below. The commercial bank and investment banking organization that commented generally applauded the changes because they would provide additional useful analytical information.

The state savings and loan association commissioner indicated that his department had found monthly reporting very useful for supervisory purposes and would probably require such a report if the Board's monthly report were no longer available. The Board appreciates the commissioner's position, but does not consider it appropriate to base a nationwide reporting system on the needs of a single state.

The comments received from insured institutions represented six percent of the industry. They were well distributed geographically, and were received from institutions of all asset sizes, with about one-half coming from institutions with assets of $150 million or less. Comments, however, did not vary systematically by size of institution or geographic area.

Most industry commenters recognized the need for a revised reporting system in view of recent changes in the financial and regulatory environment. A few indicated complete agreement with the proposed changes, but most expressed reservations about the need for some of the information requested and concern about the cost of providing portions of it. Comments on major components of the proposal, those relating to the timing of the implementation of the changes, and those regarding the timing proposed for submission of reports, are summarized and addressed below.

Sample Reports

Relatively few comments were received regarding the sample portion of the proposed system, which consisted of: (1) Monthly data on deposit balances and rates; (2) a condensed balance sheet and data on mortgage lending and commitment activity, deposit activity and interest expense reported monthly; and (3) a quarterly supplement providing detail on securities investments. A few institutions, however, correctly pointed out that there would be an extra reporting burden for those institutions chosen to be a part of the monthly sample. There were also comments applauding the elimination of universal monthly reporting, but a few commenters felt the elimination of the monthly report was not a fair offset to the proposed change from semiannual to quarterly reporting. A few also expressed concern regarding the possibility of collection of monthly data by the Federal Home Loan Banks and through supervisory reports as provided for in the proposal; several commenters, however, indicated that it was important that the Board continue to collect information adequate to publish a monthly cost-of-funds index. A few institutions questioned the need for the overlap period proposed for the first half of 1984, when institutions would be required to submit both the new quarterly report and the old monthly report. The Board does not find compelling the minor objections raised by a few commenters, and has determined to adopt the sample portion of the reporting requirement as proposed. By companion Resolution No. 83–576A, adopted today, the Board has also authorized federal Home Loan Banks to collect monthly information necessary for cost-of-funds indices adjustments.

Quarterly Balance Sheet and Income and Expense Statements

Only about one-eight of the industry respondents commented specifically on this portion of the quarterly report. Most indicated that providing the information requested would cause no major problems, since it was quite similar to that currently provided semiannnually. A significant number of those commenting, however, questioned the need for the requested detail on a quarterly basis. The Board believes that detailed quarterly reporting on the new statements is necessary for industry monitoring in view of the elimination of universal monthly reporting and the frequency of significant changes in the economic environment in which the industry operates. It will also permit a reduction in the frequency of more costly field examinations for some institutions. On further consideration, however, the Board believes that separate reporting of eleven balance sheet and expense items required by the original proposal will not be critical to the Board's review function and has therefore determined to implement the reporting requirement in a somewhat shortened form.

Supplemental Quarterly Data

About one-fourth of the industry respondents commented on this section of the quarterly report, which would provide data on lending activity, delinquency trends, futures/options, and other miscellaneous industry activity. Most of the comments related to the information requested on loan delinquency, indicating that it would be a major burden to provide data on loans becoming delinquent during the quarter and on balances of delinquent loans by

months delinquent. Institutions with a large volume of loans serviced by others pointed out that it would be difficult for them to obtain the necessary information from their servicers in time to report the data correctly. Some comments also objected to the request for information on cash loan repayments resulting from the sale of previously-occupied homes, because such information is not in their files at the current time; others questioned the need for obtaining information on negotiable certificates with balances greater than $100,000.

After considering the comments, the Board has concluded that the burden of reporting delinquent loan and foreclosure information as orginally proposed would be substantially greater than had been anticipated, and has, therefore, determined to reduce the amount of such information requested to four items similar to data currently provided either monthly or semiannually. The Board has, however, determined to collect the data on negotiable certificates and loan repayments as proposed, because of its value for monitoring purposes.

Quarterly Deposit Activity

Nearly two-thirds of the respondents commented on this section of the proposed reporting system pertaining to information on deposits received, withdrawals, interest credited, and cost of new funds received by the type of account. Nearly all comments were adverse, although there were a few that were generally favorable, and one institution indicated it prepared a similar report for management purposes and found it quite useful. The negative comments reflected primarly the high cost of providing the information, since it would necessitate accessing computer files on a daily basis, but many writers also questioned the usefulness of the information.

The Board continues to believe that information of the type proposed for this section of the report would be a valuable supervisory tool, but in view of the significant industry costs involved, has determined to eliminate most of the proposed collection items. Required data will consist only of end-of-quarter balances in fixed-term accounts classified by original maturity and aggregate information on net new deposits received and interest credited to accounts. The latter two items are currently reported monthly.

Quarterly Maturity/Yield Data

About one-half of the responses specifically commented on this section of the proposed report, which required information on asset and liability balances and the average interest rate on such balances, classified by period to maturity or repricing. Most commenters stated that they could understand the value of the information requested both to the Board and to management, but indicated that it would be difficult to provide and would involve substantial startup costs, particularly with regard to assets. Some of the commenters questioned the amount of detail requested by type of asset/liability and/or period to maturity, but others suggested that not enough detail was being requested to provide an accurate picture of asset/liability mismatches. Some also indicated that the management of many institutions would not understand the meaning of the data and that reporting it would not guarantee that management would take the information into consideration in setting policy. Other commenters expressed concern about the manner in which the Board might use the data for supervisory purposes and the fact that other types of financial institutions are not required to report similar information.

The Board also had the benefit of technical comments from a group op institutions that tested a preliminary draft of this section of the proposed report. As a result of these, as well as general industry comments, a number of asset/liability classifications have been consolidated and provision has been made for reporting additional detail on 1–4 family mortgage loans held by interest-rate categories, which should be available as a by-product of the information originally requested. The Board has determined to collect the data in this revised form because it is essential to the measurement of the progress institutions are making in matching assets and liabilities so as to reduce the large interest-rate risk assumed by many. In the analytical use of the reported data, Board staff will take into consideration differences between the scheduled maturity information reported and expected cash flows.

Implementation Date

About one-half of the respondents commented with regard to the proposed date for implementing the quarterly report. They felt almost unanimously that implementation of all, or part, of it should be postponed from March 1984. One-fifth of those commenting suggested postponement until June 1984, two-thirds until September 1984 and the remainder until 1985. Commenters emphasized that substantial lead time was required to revise accounting and computer systems to provide some of the types of data being requested. While not all commenters were explicit, most indicated that the major problems were with the Deposit activity and Maturity/Cost sections.

The modifications to the proposed reporting requirements specified above, especially the sharp curtailment of the information requested on deposits, will substantially reduce the amount of new information requested, which commenters indicated was the principal reason later implementation was desirable. The Board, therefore, has determined to implement the quarterly report in the first quarter of 1984 as proposed, in view of the need to obtain the information essential for supervision in the current and prospective environment.

Due Date of Reports

About one-half of the respondents commented specifically on the due date proposed for the quarterly report. They were unanimous in feeling that 15 days after the quarter was not long enough because of general workload and the time lags involved in receiving information from service bureaus and from servicers of loans. About one-half of those expressing an opinion indicated 20 days was the shortest feasible due date; approximately one-fourth recommended 25 days and one-fourth a full month. The Board feels these comments have merit. Consequently, it is changing the due date to the last of the month following the end of the quarter for the March 1984 and June 1984 reports, when problems in providing newly required data will be greatest, and to the 20th day of the month for subsequent reports.

Other Comments

A few commenters suggested keeping the current monthly/semiannual reporting system, but these were in a small minority because of the general recognition that there was a need for revision of the Board's reporting system. Several commenters expressed concern about the additional cost of reporting on calendar year quarters for those relatively few institutions with fiscal periods ending in non-end-of-quarter months. Several also indicated it would be less burdensome to report income and expense data on a year-to-date, rather than a quarterly, basis, with Board staff calculating the latter from the former. The Board feels that the benefit of uniform quarterly reporting in providing more accurate peer group comparisons outweighs the cost of adjusting data from fiscal period to

calendar quarters for a minority of institutions, and that the industry can more accurately convert cumulative income and expense data to quarterly totals than can Board staff because of merger activity and prior period adjustments. Consequently, it has determined to implement these aspects of the proposal without change. No significant comments were received regarding the proposed annual supplements to the quarterly report, and the Board will implement them as proposed.

Copies of the reporting forms as revised are attached for the public's convenience. Copies of these forms and detailed reporting instructions will be mailed to all insured institutions immediately so that they will be able to make any adjustments to their recordkeeping procedures necessary to obtain the required information well in advance of the implementation date for the revised report.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

Listing of Field Headings and Field Numbers for New 1984 Quarterly Report

[Dollars to be reported in thousands]

Field Heading	Field No.
Section A—Assets	
Mortgage Loans and Contracts	
FHA/VA and Other Federally Insured or Guaranteed Loans	010
Conventional	
1–4 Dwelling Units	020
5 or more Dwelling Units	030
Other Improved Real Estate	040
Developed Building Lots, Acquisition and Development of Land, and Unimproved Land Loans	050
Nonconforming Loans/Contracts to Facilitate Sale of Real Estate Owned	060
Mortgage-Backed Pass-Through Securities:	
Insured or Guaranteed by an Agency or Instrument of the United States	070
Conventional	080
Accrued Interest Receivable	090
Advances for Borrowers' Taxes and Insurance	100
Contra-Assets to Mortgage Loans	
Loans in Process	110
Unearned Discounts and Deferred Loan Fees	120
Specific Reserves and Valuation Allowances	130
Net mortgage loans and contracts	140
Nonmortgage Loans	
Commercial Loans:	
Secured (Other than Mortgage)	150
Unsecured	160
Loans on Deposits	170
Home Improvement Loans	180
Education Loans	190
Consumer Auto Loans	200
Other Closed-End Consumer Loans	210
Credit Cards, and Other Open-End Credit Extended to Consumers	220
Mobile Home Loans—Retail	230
Financing Leases:	
Consumer	240
Nonconsumer	250
Accrued Interest Receivable	260

Listing of Field Headings and Field Numbers for New 1984 Quarterly Report—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Contra-Assets to Nonmortgage Loans	
Loans in Process	270
Unearned Discounts and Deferred Loan Fees	280
Specific Reserves and Valuation Allowances	290
Net nonmortgage loans and contracts	300
Repossessed Assets	
Foreclosed Real Estate and Real Estate in Judgment (Net)	310
Other Repossessed Assets (Net)	320
Valuation Allowances	330
Real Estate Investments	
Held for Development/Investment/Resale (Net)	340
Valuation Allowances	350
Cash, Deposits and Investment Securities	
Cash and Demand Deposits	360
U.S. Government and Agency Securities	370
Other Investments	380
Accrued Interest Receivable	390
Valuation Allowances	400
Fixed Assets	
Office Building (Land and Improvements) (Net)	410
Leasehold Improvements (Net)	420
Appraisal Increment	430
Furniture, Fixtures, and Equipment (Net)	440
Valuation Allowances	450
Other Assets	
Financial Futures/Options:	
Initial Margin	460
Maintenance Margin	470
Financial Options Fees Paid	480
Service Corporations/Subsidiaries:	
Equity Investment	490
Appraisal Increment	500
Deferred Net Losses (Gains) on Futures/Options Hedging Assets	510
Deferred Net Losses (Gains) on:	
Loans Sold	520
Other Assets Sold	530
Goodwill and Other Intangible Assets	540
Leased Property (Net):	
Consumer	550
Nonconsumer	560
Accounts Receivable Secured by Pledged Deposits	570
Other Assets	580
Valuation Allowances	590
Total Assets	600
Memo	
Account Eligible for Regulatory Liquidity Included at Lines A070 and A360 thru A390	900
Assets Acquired For Stock:	
Real Estate (Net)	910
Other	920
Construction Loans Included at Lines A010 thru A050	930
Number of Wholly-Owned Service Corporations	940
Section B—Liabilities	
Deposits	010
Borrowings:	
FHL Bank Advances	020
Other Borrowed Money:	
Commercial Bank Loans	030
Reverse Repurchase Agreements	040
Consumer Retail Repurchase Agreements	050
Overdrafts in Demand Deposits	060
Commercial Paper Issued	070
Subordinated Debentures Not Qualifying for Net Worth	080
Mortgage-Backed Bonds Issued	090
Other Borrowings	100
Accrued Interest Payable	110
Other Liabilities	
Interest Accrued or Declared on Deposits	120
Dividends Payable on Permanent, Reserve, or Guaranty Stock	130
Accrued Taxes	140
Accounts Payable	150
Advance Payments by Borrowers for Taxes/Insurance	160

Listing of Field Headings and Field Numbers for New 1984 Quarterly Report—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Financial Options Fees Received	170
Other Liabilities	180
Deferred Net Gains (Losses) on Futures/Options Hedging Liabilities	190
Deferred Federal and Other Income Taxes	200
Total liabilities	800
Memo	
Pledged Deposits included at line B010	900
Section C—Regulatory Net Worth	
Preferred Stock	010
Permanent, Reserve, or Guaranty Stock	020
Paid-In Surplus	030
Qualifying Mutual Capital Certificates	040
Qualifying Subordinated Debentures	050
Appraised Equity Capital	060
Net Worth Certificates	070
Accrued Net Worth Certificates	080
Income Capital Certificates	090
Reserves	100
Undivided Profits (Retained Earnings)	110
Net Undistributed Income	120
Total regulatory net worth	800
Total liabilities and regulatory net worth	810
Memo	
Cash Dividends on:	
Preferred Stock	900
Permanent Stock	910
Other Capital Instruments	920
Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or if your institution has purchased or sold a branch during the quarter	930
Was purchase accounting used? [1]	940
Annual Closing Date (Show month and day numerically, e.g., December 31 should be shown as 1231	950
Section D—Income	
Operating Income	
Interest on Mortgage Loans and Contracts	010
Interest on Mortgage-Backed Pass-Through Securities	020
Discounts on Mortgage Loans Purchased	030
Interest on:	
Commercial Loans (Nonmortgage)	040
Consumer Loans (Open and Closed End)	050
Interest/Dividends on Investments and Deposits	060
Income from Financing Leases	070
Mortgage Loan Fees	080
Loan Servicing Fees	090
Other Loan Fees and Charges	100
Service Charges and Fee Income from Transaction Accounts	110
Amortized Deferred Gains on:	
Futures/Options Hedging Assets	120
Futures/Options Hedging Liabilities	130
Net Income (Loss) from Office Building Operations	140
Net Income (Loss) from Real Estate Held for Investment	150
Net Income (Loss) from REO Operations	160
Net Income (Loss) from Service Corporations/Subsidiaries	170
Net Income (Loss) from Leasing Operations	180
Other Operating Income	190
Nonoperating Income	
Profit on Sale of:	
Foreclosed Real Estate (REO)	200
Other Repossessed Property	210
Real Estate Held	220
Investment Securities	230
Loans	240
Other Assets	250
Amortized Deferred Gains on:	
Loans Sold	260
Other Assets Sold	270
Other Nonoperating Income	280
Total income	800
Memo	
Profit on Sale of Loans and Other Assets Acquired via Pushdown/Purchase Accounting	900

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Discounts on Assets Acquired via Pushdown/Purchase Accounting	910
Net Income (Loss) from Assets Acquired for Stock	920
Section E—Expense	
Operating Expense	
Directors Fees	010
Officers and Employees Compensation	020
Legal Expense	030
Directors, Officers and Employees Expense	040
Office Occupancy Expense	050
Furniture, Fixtures, Equipment and Automobile Expense	060
Advertising	070
Commissions Paid for Deposits	080
Professional Services	090
Loan Servicing Fees	100
Amortization of Goodwill	110
Amortized Deferred Losses on:	
Futures/Options Hedging Assets	120
Futures/Options Hedging Liabilities	130
Other Operating Expenses	140
Interest Charges	
Deposits	150
Penalties on Early Withdrawals	160
Advance Payments by Borrowers for Taxes and Insurance	170
Advances from FHL Bank	180
Subordinated Debentures	190
Mortgage-Backed Bonds	200
Other Borrowed Money	210
Capitalized Interest	220
Nonoperating Expense	
Provision for Losses and Losses on Sale of:	
Foreclosed Real Estate (REO)	230
Other Repossessed Property	240
Real Estate Held	250
Investment Securities	260
Loans	270
Other Assets	280
Amortized Deferred Losses on:	
Loans Sold	290
Other Assets Sold	300
Other Nonoperating Expenses	310
Income Taxes	
Federal	320
State, Local and Other	320
Total Expense	800
Current Net Income (Loss)	810
Adjustments to Prior Period Income or Expense	820
Adjusted Net Income (Loss)	830

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Section F—Supplemental Data	
Activity During Quarter	
Mortgage Loans	
Mortgage Loans Closed:	
Construction Loans:	
1 to 4 Family	010
5 or more Dwelling Unit Structures	020
Nonresidential	030
Permanent Loans Closed:	
1 to 4 Family	040
5 or more Dwelling Unit Structures	050
Nonresidential	060
Land Loans	070
All Other	080
Loans and Participations Purchased	090
Loans and Participations Sold	100
Cash Repayment of Principal	110
Debits, Less Credits Other Than Repayment of Principal	120
Nonmortgage Loans	
Nonmortgage Loans Closed or Purchased:	
Commercial	130
Consumer	140
Deposits	
New Deposits Received Less Deposits Withdrawn	150
Interest Credited to Deposits	160
Mortgages Foreclosed	
Balance of Mortgage Loans Foreclosed During the Quarter:	
Residential	170
Nonresidential	180
Other	
Futures Contracts Offset during Period (Face Amount)	190
Refinancing Loans Reported at Lines F010 thru F080	200
Cash Mortgage Loan Repayments Reported at Line F110 Resulting From the Sale of Previously Occupied 1 to 4 Family Homes	210
Number of Deposit Acounts at end of Quarter	
With Balances of $100,000 or Less	520
With Balances Greater Than $100,000	530
Balances at Close of Period	
Futures Positions Outstanding	
Contracts to Sell:	
Short Term (e.g. T-bill contracts)	220
Long Term (e.g. T-bond contracts)	230

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Contracts to Buy:	
Short Term (e.g. T-bill contracts)	240
Long Term (e.g. T-bond contracts)	250
Net Unrecognized Gain (Loss)	260
Options Positions Outstanding	
Amount of:	
Long Put Options	270
Long Call Options	280
Short Put Options	290
Short Call Options	300
Net Unrecognized Gain (Loss):	
Short Options	310
Long Options	320
Commitments Outstanding	
To Originate Loans	330
To Purchase Loans	340
To Sell Loans	350
To Purchase Securities	360
To Sell Securities	370
Other	
Mortgage Loans Serviced for Others	380
Mortgage Loans Serviced by Others	390
Amount of Contingency to Repurchase Loans	400
Approximate Value of Trust Assets Administered	410
Broker Originated Deposits	420
Conforming Loans to Service Corporations/Subsidiaries (including Joint Ventures)	430
Loans from Third Parties to Service Corporations/Subsidiaries Guaranteed by Parent	440
Balance of Loans 60 or More Days Delinquent:	
Mortgage	450
Nonmortgage	460
Letters of Credit Issued and Outstanding	470
IRA/KEOGH Account Balances	480
Deposit Balances:	
With Balances $100,000 or less	490
With Balances of Greater Than $100,000:	
Negotiable Certificates With Original Maturities of 3 Months or Less	500
Other	510
Section G—Deposit Balances in Accounts With Fixed Maturity by Type (End Of Quarter; Thousands Of Dollars)	
Fixed-Rate	
Original Maturity of Six Months or Less	010
Original Maturity More than Six Months through One Year	020
Original Maturity More than One Year through Three Years	030
Original Maturity More than Three Years	040
Variable-Rate (all maturities)	050

[1] If yes, file Sections D, E, F, and I for the disappearing association(s). Refer to p. 4 of the instruction book.

SECTION H (PART I).—MATURITY AND YIELD/COST INFORMATION

Remaining Time Before the Asset Matures or Can Be Repriced

[Dollars in thousands—Percentage's are weighted average contract interest rate]

	6 months or less	>6 months to 1 Yr.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
Mortgage Loans and Contracts								
Balloon and adjustable rate:								
First mortgage loans	$022	$023	$024	$025	$026	$027	$028	$030
Percentage	032	033	034	035	036	037	038	
1 to 4 family residential:								
First Mortgages & Contracts	$062	$063	$064	$065	$066	$067	$068	$070
Percentage	072	073	074	075	076	077	078	
Dollar amounts by selected coupon rates:								
With Coupon >8%						$083	$084	
With Coupon >8%–10%						085	086	
With Coupon >10%–12%						087	088	
With Coupon >12%–14%						089	090	
With Coupon >14%–16%						091	092	
With Coupon >16%						093	094	

SECTION H (PART I).—MATURITY AND YIELD/COST INFORMATION—Continued

Remaining Time Before the Asset Matures or Can Be Repriced

[Dollars in thousands—Percentage's are weighted average contract interest rate]

	6 months or less	>6 months to 1 Yr.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
5 or more family:								
Residental & Nonresidential first mortgages and contracts	$102	$103	$104	$105	$106	$107	$108	$110
Percentage	112	113	114	115	116	117	118	
Second mortgages	$142	$143	$144	$145	$146	$147	$148	$150
Percentage	152	153	154	155	156	157	158	
Nonmortgage Loans								
Consumer	$182	$183	$184	$185	$186	$187	$188	$190
Percentage	192	193	194	195	196	197	198	
Commercial	$222	$223	$224	$225	$226	$227	$228	$230
Percentage	232	233	234	235	236	237	238	
Investment securities	$262	$263	$264	$265	$266	$267	$268	$270
Percentage	272	273	274	275	276	277	278	
Total financial assets	$302	$303	$304	$305	$306	$307	$308	$310
Impact of hedging activities	$342	$343	$344	$345	$346	$347	$348	$350
Unearned discounts and deferred loan fees	$382	$383	$384	$385	$386	$387	$388	$390

SECTION H (PART II).—MATURITY AND YIELD/COST INFORMATION

Remaining Time Before the Liability Matures or Can Be Repriced

[Dollars in thousands—Percentages are weighted average contract interest rate]

	6 months or less	>6 months to 1 Year.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
Deposits and Borrowings								
Fixed-Maturity Deposits	$522	$523	$524	$525	$526	$527	$528	$530
Percentage	532	533	534	535	536	537	538	
NOW, Super NOW, and Other Transaction Accounts	$562							$570
Percentage	572							
Money Market Deposit Accounts (MMDA)	$602							$610
Percentage	612							
Passbook Accounts	$642							$650
Percentage	652							
FHLB Advances	$682	$683	$684	$685	$686	$687	$688	$690
Percentage	692	693	694	695	696	697	698	
Other Borrowings	$722	$723	$724	$725	$726	$727	$728	$730
Percentage	732	733	734	735	736	737	738	
Total financial liabilities	$762	$763	$764	$765	$766	$767	$768	$770
Impact of hedging activities	$802	$803	$804	$805	$806	$807	$808	$810

SECTION I—ANNUAL SUPPLEMENT [1]

[Dollars to be reported in thousands]

Number of mortgage loans held:	
FHA/VA and Other Federally Insured and Guaranteed Loans	010
Conventional	020
Number of Mortgages Foreclosed	030
Balances in Loans in Process on Residential Property	040
Balances in Mortgage Loans and Contracts Secured by Residential Property	050

[1] To be filed with the December Quarterly Report only.

SECTION K—SLOW LOANS AND OTHER SCHEDULED ITEMS

[Complete this schedule only if your annual closing occurred during this quarter. Amounts should reflect data as of your closing date. This schedule will be used to compute your compliance with Regulation 563.14(b)(4).]

		Net amount [1]
Slow mortgage loans and contracts:		
Total—FHA/VA and Other Federally Insured and Guaranteed Loans	010	
Total—Conventional	020	
Slow nonmortgage loans:		
Total—Insured	030	
Total—Commercial (Except Insured)	040	
Total—Consumer (Except Insured)	050	
Total—Financing Leases (Except Insured)	060	
Other scheduled items:		
Nonconforming Loans and Contracts	070	
Real Estate Foreclosed and Real Estate in Judgment	080	

SECTION K—SLOW LOANS AND OTHER SCHEDULED ITEMS—Continued

		Net amount [1]
Other Repossessed Assets	090	
Investment Securities Past Due and Deposits in Closed Banks	100	
Leased Property	110	
Total slow loans and other scheduled items	800	
Memo:		
Interest-Bearing Liquid Assets Maturing within One Year	900	
One-Half of Total Adjustable Rate Mortgage Loans	910	
Fixed Rate Liability Sources of Funds with Remaining Term to Maturity Exceeding Five Years	920	

[1] Dollars in thousands. Amounts as of closing date.

BILLING CODE 6720-02-M

Res. 83-576

OMB NO. 3068-0506/EXPIRES 9/30/86

FEDERAL HOME LOAN BANK BOARD MONTHLY SURVEY OF SELECTED DEPOSITS AND OTHER ACCOUNTS	DISTRICT/DOCKET 1 6	NAME AND ADDRESS OF ASSOCIATION (Please Use Preprinted Label)
PREPARED BY	PHONE NUMBER (Include Area Code)	AS OF DATE (Month, Day, Year)

INSTRUCTIONS: PLEASE READ CAREFULLY BEFORE COMPLETING THIS REPORT.
Enter in Column A the dollar balance in thousands for the specific account category as of the close of business for the month specified.
Enter in Column B the most common interest rate paid on the largest dollar volume of deposits or retail repurchase agreements issued during seven days ending on the survey date. For lines 4b through 4f, write "F" in the F/V Column if the account has a fixed rate or "V" if it has a variable rate.
Enter in Column C the appropriate code for the frequency of interest compounding. If Code 6 is specified, also enter in Column C the maturity of the account (in months).

FREQUENCY OF INTEREST CODE:
1 = Continuously or Daily
2 = Monthly
3 = Quarterly
4 = Semiannually
5 = Annually
6 = Not Compounded; Simple Interest Paid at Maturity
7 = Other (Specify)

MAIL THE ORIGINAL OF THIS REPORT TO THE FEDERAL HOME LOAN BANK OF WHICH YOUR INSTITUTION IS A MEMBER so that it will be received no later than the 10th of the month. Also mail one copy to the Federal Home Loan Bank Board, Information Systems Division, 1700 G Street, N.W., Washington, D.C. 20552. For a new supply of this form, contact the ICR Coordinator of your District Bank.

AMOUNT CATEGORIES	A AMOUNT OUTSTANDING BIL.	MIL.	THOU.	INTEREST RATE B MOST COMMON INTEREST RATE PERCENT	F/V	C FREQUENCY OF INTEREST COMPOUNDING CODE	MONTHS
Amounts reported in categories 1 through 4 should include balances held in IRA and Keogh Plans.							
1. "Super NOW" Accounts	710			711 .			
2. Money Market Deposit Accounts (MMDAs) ..	715			716 .			
3. Retail Repurchase Agreements (with balances of less than $100,000)	720			721 .			
4. All Interest-Bearing Fixed-Term Certificates with Balances of Less Than $100,000 and with Original Maturities of:							
a. 7 through 31 Days	730			731 .			
b. 32 through 91 Days	740			741 .	742	743	744
c. 92 through 182 Days	750			751 .	752	753	754
d. 183 Days through 1 Year	760			761 .	762	763	764
e. Over 1 Year but Less Than 2-1/2 Years .	770			771 .	772	773	774
f. 2-1/2 Years and Over	780			781 .	782	783	784
All IRA and Keogh Plan Accounts, including Amounts Reported in Items 1 through 4 Above	790			.			

FHLBB Form 1312-A
OCTOBER 1983

BILLING CODE 6720-02-C

MONTHLY REPORT

[To be completed by industry sample]

Assets

Mortgage loans (including non-conforming loans and junior liens, but excluding contra-assets):	
Construction:	
1–4 family homes	010
Other residential property	015
Non-residential property (including land)	020
Other (permanent):	
1–4 family homes	030
Other residential property	035
Non-residential property except land and farm	040
Land except farm	045
Farm	050
Mortgage-backed securities etc. (both federally insured and conventional, but excluding contra-assets)	055
Non-mortgage loans (including finance leasing, but excluding contra-assets):	
Loans on deposits	060
Other consumer	065
Commercial (including finance leasing)	070
Cash, deposits and investment securities	075
Other assets	080
Total assets	085

Liabilities

Deposits:	
Without fixed terms:	
Transactions	110
Other	120
With fixed terms	120
Borrowed money:	
FHLB advances	130
Retail repurchase agreements	135
Other	140
Other liabilities	150
Regulatory net worth	160
Memorandum: Negotiable certificates with original maturity of 3 months or less in denominations greater than $100,000 included above	190

Mortgage Lending

Loans closed	210
Construction of:	
1–4 family homes	220
Other residential property	225
Non-residential property	230
Other (including non-cash) refinancing and combination construction/purchase loans where construction was completed during month) secured by:	
1–4 family homes	240
Other residential property	245
Non-residential property except land	250
Land	225
Loans and participations sold secured by:	
1–4 family homes	260
Other residential property	265
Non-residential property	270
Loans and participations purchased secured by:	
1–4 family homes	280
Other residential property	285
Non-residential property	290
Cash repayments of loan principal	295

Forward Commitments

Made during month:	
To originate mortgages secured by:	
1–4 family homes	310
Other residential property	315
Non-residential propert	320
To purchase mortgages from other lenders	325
Commitments and loans in process outstanding at end of month:	
To originate mortgages on:	
1–4 family homes	330
Other residential property	335
Non-residential property	340
To purchase mortgages	350
To sell mortgages	360
To purchase or originate non-mortgage loans and to purchase securities	370

Deposit Activity

New deposits received less deposits withdrawn	410
Interest credited to accounts	420

Interest Charges

Interest/dividends on deposits	510
Interest on advances and other borrowed money	520

Memo Item

Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or similar type acquisition	610

SECTION J.—CASH, DEPOSIT AND INVESTMENT SECURITIES BY TYPE AND MISCELLANEOUS ITEMS; CASH, DEPOSITS AND INVESTMENT SECURITIES

All Securities and Deposits Held Subject to Repurchase Agreements	010
Other Securities Held and Not Subject to Repurchase Agreements:	
U.S. Government Obligations	020
Federal Agency Obligations	030
State and Local Government Obligations	040
Bankers' Acceptances	050
Commercial Paper	060
Corporate Debt Securities (Except bankers' acceptance and commercial paper)	070
Shares in Open-End Management Investment Companies	080
Other Investment Securities	090
Cash on Hand	100
Demand and Time Deposits in a Federal Home Loan Bank	110
Deposits at Federal Reserve Banks	120
Demand Deposits in FDIC-Insured Commercial Banks	130
Demand Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank)	140
Time and Savings Deposits in FDIC-Insured Commercial Banks	150
Time and Savings Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank	160
Loans of Unsecured Day(s) (Federal) Funds	170
Other Cash Items and Accrued Interest Receivable on Securities and Deposits	180
Total—Cash, Deposits and Investment Securities (Sum of Items 010 through 180)	800
Memo:	
Deposits in the Illinois Bank for Savings and Loan Associations (Included in Items 140 and 160)	900
U.S. Government and Federal Agency Obligations Maturing Within One Year (Included in Items 020 and 030)	910

Appendix A

[No. 83–576–A]

Date: October 24, 1983.

Federal Home Loan Bank Board

Whereas, the Federal Home Loan Bank Board has today substantially changed its reporting requirements for institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"), and the change includes, among other things, the implementation of a universal quarterly reporting system instead of the current universal monthly reporting system; and

Whereas, the Board recognizes that certain insured institutions need monthly information regarding regional cost of funds in connection with index changes in adjustable-rate mortgages:

Now, Therefore, the Board authorizes the Federal Home Loan Banks to collect monthly information from insured institutions to determine regional cost of funds, where a Bank has concluded that availability of such information is necessary for institutions in its area to meet contractual obligations to make changes in adjustable-rate mortgages.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-29500 Filed 11-3-83; 8:45 am]

BILLING CODE 6720-02-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; FSB Financial Corp., 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. *FSB Financial Corp.*, New Madison, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank and Trust Company, New Madison, Ohio. Comments on this application must be received not later than November 28, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Weatherford Foundation of Red Bay, Alabama, Inc.*, Red Bay, Alabama; to become a bank holding company by acquiring 54.2 percent of the voting shares of Bank of Red Bay, Red Bay, Alabama. Comments on this application must be received not later than November 28, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancorporation in Carlyle, Inc.*, Carlyle, Illinois; to become a bank holding company by acquiring at least 90 percent of the voting shares of First National Bank in Carlyle, Carlyle, Illinois. Comments on this application must be received not later than November 28, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President)

400 South Akard Street, Dallas, Texas 75222:

1. *Plaza Bancorporation, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Plaza National Bank, Dallas, Texas. Comments on this application must be received not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29948 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Itasca 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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Itasca Bancorp, Inc.*, Itasca, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Itasca Bank & Trust Co., Itasca, Illinois. Comments on this application must be received not later than November 22, 1983.

2. *Luxemburg Bankshares, Inc.*, Luxemburg, Wisconsin; to become a bank holding company by acquiring 90 percent of the voting shares of Bank of Luxemburg, Luxemburg, Wisconsin. Comments on this application must be received not later than November 22, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Hopkins Bancorp, Inc.*, Wickliffe, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of the Citizens State Bank, Wickliffe, Kentucky. Comments on this application must be received not later than November 30, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BOS Financial Corp.*, Spokane, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Spokane, Spokane, Washington. Comments on this application must be received not later than November 25, 1983.

2. *United Security Bancorporation*, Chewelah, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of United Security Bank, Chewelah, Washington. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29950 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Peoples Bankshares, Ltd., et al.

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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Peoples Bankshares, Ltd.*, Waterloo, Iowa; to acquire 100 percent of the voting shares or assets of La Porte City State Bank, La Porte City, Iowa. Comments on this application must be received not later than November 30, 1983.

B. **Board of Governors of the Federal Reserve Bank** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First United Bancshares, Inc.*, El Dorado, Arkansas; to acquire 100 percent of the voting shares or assets of First National Bank of Magnolia, Magnolia, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 18, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29951 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

International Bancshares, Inc., et al.; Application

International Bancshares, Inc., Gladstone, Missouri, has applied for the Board's approval under section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire 2309 per cent of the voting shares of MBI Bancshares, Inc., Kansas City, Missouri; Metro Bancshares, Inc., Kansas City, has applied to acquire 12.71 percent of the voting shares of MBI Banscshares, Inc., Kansas City, Missouri; and MBI Bancshares, Inc., Kansas City, Missouri, has applied to acquire 100 percent of the voting shares of The Merchants Bank, The University Bank, Broadway Bancshares, Inc., Metropolitan Bancshares, Inc., and TBI Bancshares, Inc., all of Kansas City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 28, 1983. 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.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29949 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities; Bank of Boston 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 commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "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 Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts (data processing activities; Maine): To engage, through its subsidiary, FBC, Inc., in providing data processing and transmission services to others where: data to be processed or furnished are financial, banking or economic, and the services are provided pursuant to a written agreement so describing and limiting the services; the facilities are designed, marketed and operated for the processing and transmission of financial, banking or economic date; and hardware in connection therewith if offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking or economic data, and where the general purpose hardware does not constitute more than 30 percent of any packaged offering. These activities would be conducted from an office in Portland, Maine and would serve the State of Maine. Comments on this application must be received not later than November 25, 1983.

2. *Bank of Boston Corporation,* Boston, Massachusetts (insurance underwriting; Massachusetts): To engage, through its new direct subsidiary, Bulfinch Life Insurance Company (Bulfinch), in the underwriting, through reinsurance, of credit life insurance directly related to extensions of credit. This activity would be conducted from an office of Bulfinch located in Boston, Massachusetts, serving the Commonwealth of Massachusetts. Comments on this application must be received not later than November 28, 1983.

3. *Fleet Financial Group, Inc.,* Providence, Rhode Island (mortgage banking; Colorado): To engage through its direct subsidiary, Fleet Mortgage Corp., in the origination, sale and servicing of residential and commercial mortgage loans and loans secured by junior liens on residential real estate. These activities would be conducted from a new office to be located in Denver, Colorado, serving the Colorado counties of Adams, Arapahoe, Boulder, Clear Creek, Douglas, Elbert, El Paso, Gilpin, Jefferson, Larimer, Morgan, Park, Teller, and Weld. Comments on this application must be received not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29952 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities; Landmark Banking Corp. of Florida, 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 commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "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. *Landmark Banking Corporation of Florida,* Fort Lauderdale, Florida and Preferred Equity Investors of Florida, Inc., Knoxville, Tennessee (mortgage banking and insurance activities; Florida): To engage through its subsidiary, Landmark Mortgage Corporation, in making, acquiring and servicing loans and other extensions of credit secured by real estate mortgages for its own account and for the account of others; and selling credit life and accident and health insurance directly related to its extensions of credit. Such activities will be conducted from a new main office located in Tampa, Florida, serving the entire State of Florida. An existing branch office in St. Petersburg, Florida will be relocated within St. Petersburg and an operations office will be opened in Ft. Lauderdale, Florida and both will serve the State of Florida. Comments on this application must be received not later than November 21, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Trabanc*, Salt Lake City, Utah, (data processing activities, Utah, Idaho, and Wyoming): To engage, through its subsidiary, Tradata, in providing data processing and data transmission services, data bases and facilities (including hardware, software, documentation and operating personnel). These activities would be conducted from an office located in Salt Lake City, Utah, serving Utah, Idaho and Wyoming. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29853 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administation.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA. The system of records, Credit data on individual debtors GSA/PPFM-7, is being established to assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors. A new system report was filed with the President of the Senate, the Speaker of the House, and the Office of Management and Budget on October 4, 1983. A waiver of the 60-day advance notice requirements of OMB Circular A-108 has been requested from the Office of Management and Budget.

DATES: Any interested party may submit written comments regarding this proposed system. To be considered, comments must be received on or before December 5, 1983. The new system or record shall become effective as proposed without further notice on December 5, 1983, unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (ORAR), Washington, DC 20405

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The purpose of this system is to assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors.

The proposed new system of record is as follows:

GSA/PPFM-7

SYSTEM NAME:

Credit data on indvidual debtors.

SYSTEM LOCATION:

Records are located at the following General Services Administration Office of Finance and Office of General Counsel Central Office of regional offices addresses:

GS Building, 18th and F Streets, NW, Washington, DC 20405
John W. McCormack Post Office and Courthouse, Boston, MA 02109
Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10007
Regional Office Building, Ninth and Market Street, Philadelphia, PA 19107
Richare B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303
John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604
General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131
Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth, TX 76102
Denver Federal Center Complex, Building 41, Denver, CO 80225
General Services Administration, 525 Market Street, San Francisco, CA 94105
GSA Center, Auburn, WA 98002
GSA Regional Office Building, Seventh and D Streets, SW, Washington, DC 20407

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include employees and former employees and other individuals who are indebted to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Types of personal data in the system may take the form of commercial credit reports, agency investigative reports showing the debtor's assets and liabilities and his or her income and expenses, the individual debtors own financial statements executed under penalty of perjury reflecting his or her assets and liabilities and income and expenses, and other information such as social security number and home address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collections Act of 1966, 80 Stat. 309, 31 U.S.C. 952; Debt Collection Act of 1982, Pub. L. 97-365; and Title 4 Code of Federal Regulations, Chapter II Part 105.

PURPOSE:

To assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

a. When debtors fail to make payment through normal collection routines, credit data is analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation. Credit data becomes an integral part of claim files forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collections Standards (4 CFR Ch II).

b. Records may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. Records may be disclosed to other Federal agencies where an applicant for employment or a current employee of the agency is delinquent in repaying his/her Federal financial obligation. The purpose of this disclosure is to enlist the agency's cooperation in facilitating repayment.

d. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, such as the General Accounting Office, the Office of Management and Budget, the Department of Justice, and State agencies charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

e. A record from this system of records may be disclosed to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Records may be disclosed to a debt collection agency that GSA has contracted for collection services to recover indebtness owed to the United States.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are in paper form, maintained in file folders, and stored in metal filing cabinets.

RETRIEVABILITY:

Credit data is maintained by debtor name and claim number, cross referenced to social security number (when available) to verify name and address.

SAFEGUARDS:

When not in use by personnel responsible for the collection of claims, records are stored in lockable filing cabinets.

RETENTION AND DISPOSAL:

These records are a part of the GAO site auditing collection files and are cut-off at the end of the fiscal year, held 1 year, and then retired under Record Group 217 (GAO). Records created prior to July 2, 1975, will be retained by GAO for 10 years and 3 months after the period of the account. Records created on or after July 2, 1975, will be retained by GAO for 6 years and 3 months after the period of the account.

SYSTEM MANAGER:

Chief, Credit and Finance Branch, Financial Management Division, Office of Finance, 18th and F Streets, NW, Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals regarding claims pertaining to themselves should be addressed to the system manager.

RECORDS ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include name and address.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 104.64.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from commercial credit reports, agency investigative reports, individual debtors own financial statements, and from other GSA system of records.

Dated: October 26, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-29943 Filed 11-3-83; 8:45 am]

BILLING CODE 6820-34-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 28.

Public Health Service

Health Resources and Services Administration

Subject: Health Systems Agency Application Guidelines for Designation and Grant Related Reporting Requirements (0935-0017)—Reinstatement
Respondents: State or local governments; not for profit institutions
Subject: Reporting Requirements for Limitations on Federal Part of Capital Expenditures under Section 1122 of the Social Security Act (0915-0057)—Reinstatement
Respondents: Businesses, small businesses, and other for profit and not for profit organizations and institutions
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Immunization Assistants Project Grants (0920-0032)—Revision
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Reporting Requirements Applicable to Normal Serum Albumin and Plasma Protein Fraction (0910-0155)—Extension/No Change
Respondents: Business or other for profit organizations
OMB Desk Officer: Bruce Artim

Office of the Secretary

Subject: Rural Development Loan Fund—Application—NEW
Respondents: State and local governments and not for profit institutions
Subject: Community Development Credit Union—Application—NEW
Respondents: Business or other for profit institutions
OMB Desk Officer: Milo Sunderhauf

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 31, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-29962 Filed 11-3-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83F-0239]

Monsanto Co.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice that announced that Monsanto Co. had filed a petition proposing a change in the food additive regulations to permit an increase in the use level limitation for certain polyamine-epichlorohydrin wet-strength resins in paper and paperboard. This document corrects an editorial error.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug

Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–21554, appearing at page 36203 in the issue of Tuesday, August 9, 1983, the following correction is made on page 36204 in the first column: In the eighteenth line beginning with "(3)", the words "polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylenediamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin. This resin is then reacted with nitrilotris (methylene-phosphonic acid), pentasodium salt, such that * * *." are corrected to read "polyamine-epichlorohydrin water soluble thermosetting resin produced by reacting an aliphatic diamine mixture containing not less than 95 percent of C_4 to C_6 diamines with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin such that * * *."

Dated: October 26, 1983.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 83–29947 Filed 11–3–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–83–1299]

Privacy Act of 1974; Proposed Amendement to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act System of Records: HUD/H–11 Multifamily Tenant Certification System.

EFFECTIVE DATE: This notice shall become effective November 4, 1983.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, (202) 755–5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The system is the Multifamily Tenant Certification System (HUD/H–11). It contains information about individuals receiving housing assistance from the Department of Housing and Urban Development (HUD) under one of the following HUD programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8. The system is used to improve the Department's capabilities to adequately manage HUD's Housing Assistance Programs, to protect the Government's financial interests, and to assist in the verification of the accuracy of the tenant certification/recertification data furnished by the tenant. This amendment clarifies the categories of records in the system, the routine uses of records, and the record source categories. These changes do not require the submission of a report of a new or amended system to the Congress or the Office of Management and Budget since there is no expansion in the type or categories of information maintained and no alteration in the purposes for which the information is maintained. The words "including information used to verify data in the system" are added to the categories of records in the system and the words "and completeness" are added to the statement of routine uses. In addition, the words "and organizations, Federal, State and local agencies" are added to the record source categories. The notice is published below in its entirety, as amended. The prefatory statement containing General Routine Uses applicable to most of the Department's system of records was published at 46 FR 34322 (August 6, 1982). Appendix A, which list the addresses of HUD's Field Offices, was published at 46 FR 34331 (August 6, 1982). Previously, the system was published at 47 FR 32485.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., October 28, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

HUD/H–11

SYSTEM NAME:

Multifamily Tenant Certification System.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes identification data such as name, Social Security Number (if available), alien registration number or other identification number, address, and tenant unit number; financial data such as income and contract rent; tenant characteristics such as number in family, sex of family member and minority code; unit characteristics such as number of bedrooms; geographic data such as county code and census tract; and related information including information used to verify data in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937, as amended, 42 U.S.C. 1437 *et seq.*, and the Housing and Community Development Amendments of 1981, Pub. L. 97–35, 95 Stat. 408.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Federal, State, and local agenices—to verify the accuracy and completeness of the data provided; to HUD contractor—for processing certifications/recertifications; to the Social Security Administration and the Immigration and Naturalization Service—to verify alien status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape/disk/drum.

RETRIEVABILITY:

Name of tenant, address, Social Security or other identification number.

SAFEGUARDS:

File folders, automated records kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Director, Management Information Systems Division, Office of

Management, Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals and organizations, Federal, State, and local agencies. PHA staff/ private owners/ management agents.

[FR Doc. 83-29070 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1300]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202)755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: request for financial Information.

Office: Housing.

Form No.: HUD-92068F.

Frequency of Submission: On Occasion.

Affected Public: Individuals or Households, Businesses or Other For-Profit, and Federal Agencies or Employees.

Estimated Burden Hours: 12,540.

Status: Extension.

Contact: Ann M. Sudduth, HUD, (202) 755-7330 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Proposal: Development Program of Indian Housing Authority and Indian Low-Income Housing Program Development Cost Budget.

Office: Housing.

Form No.: HUD-53045 and HUD-53045A.

Frequency of Submission: On Occasion.

Affected Public: State or Local Governments.

Estimated Burden Hours: 135.

Status: Reinstatement.

Contact: Patricia Arnaudo, HUD, (202) 755-6522 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Proposal: Request for Preliminary Reservation of Contract Authority for Conditional Commitments to be Converted to Section 235(i).

Office: Housing.

Form No.: FHA-3122.

Frequency of Submission: On Occasion.

Affected Public: State or Local Governments, Businesses or Other For-Profit, and No-Profit Institutions.

Estimated Burden Hours: 417.

Status: Reinstatement.

Contact: Doris Stokes, HUD, (202) 426-0070 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29082 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Final Resource Management Plan and Environmental Impact Statement, Alturas Planning Area, Susanville District, CA; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 202(F) of the Federal Land Policy and

Management Act of 1976 and Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given of the availability of the Final Environmental Impact Statement/Resource Management Plan for 407,306 acres of BLM-administered lands within the Alturas Planning Area located in northeastern California, including Modoc and the northern portion of Lassen Counties. The Final RMP/EIS examines four management plan alternatives: Maximized production, balanced use (preferred alternative); maximized protection (including no grazing), and present management (no action).

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP are recreation/OHV; cultural resources; fish and wildlife; wetland riparian; threatened and endangered species; timber; fuelwood; soil and water; minerals/energy; socioeconomics; lands; energy; wilderness; and range management.

The proposed action concerns multiple-use management on 407,306 acres of public lands in 11 management areas.

1. *Range Management*—Authorization of 49,152 livestock AUMs with additional authorization of 32,111 suspended nonuse AUMs and additional forage. 280 AUMs would be allocated to support a portion of 150 wild horses and burros. Forage conditions would be improved through prescribed burning on 54,640 acres. Develop 21 Allotment Management Plans.

2. *Fish and Wildlife*—Maintain antelope winter range and kidding grounds. Exclude livestock from 20 miles of riparian habitat and 70 meadow habitats. Improve browse conditions by juniper thinning on deer winter range.

3. *Fuelwood*—Harvest of juniper and mahogany would be permitted except for restrictions within National Register sites and districts, T&E plant populations, 350 acres in Sheep Valley, and 6,640 acres of the Pit River Canyon Wilderness Study Area.

4. *Timber*—Intensive management would be applied to 5,027 acres of timber lands with practices modified to provide protection to soils and streams, National Register sites and districts, raptor nest locations, and T&E plant populations.

5. *Cultural*—High quality cultural resource sites would be protected by designating 25 National Register sites and 10 National Register districts. Develop five Cultural Resource Management Plans.

6. *Threatened and Endangered Plants*—Sensitive plant species would be protected by fencing or buffer zones, and designation as a Research Natural Area.

7. *Watershed*—Maintenance and improvement of critical watershed values through restrictions on other resource activities. Improvement of Sheep Valley riparian and meadow habitats by managing 350 acres under Best Management Practices.

8. *Wilderness*—Preservation of wilderness values on 6,640 acres of public lands within the Pit River Canyon.

9. *Minerals*—Exploration and development of mineral resources would be allowed throughout the Planning Area. Restrictions would be placed on flat rock sales within cultural resource National Register sites and districts. Cinder use would be allowed to continue at established pits (Babcock, Roundbarn and Day). All mineral activity would be prohibited within the recommended 6,640 acre wilderness area.

10. *Lands*—12,440 acres of primarily small, isolated and uneconomical parcels of public land would be considered for sale and/or exchange. Eight thousand acres of public land in the Madeline Plains area would be exchanged with Lyneta Ranches.

DATES: Written comments will be accepted on the Final Alturas Resource Management Plan/Environmental Impact Statement for 30 days (December 3, 1983) following the publication of this Notice of Availability. These comments will be considered prior to preparation of the Record of Decision.

ADDRESSES: Written comments may be sent to Richard Drehobl, Area Manager, Bureau of Land Management, P.O. Box 771, Alturas, California 96101.

Copies of the Final RMP/EIS are available from the Alturas Resource Area Office, P.O. Box 771, Centerville Road, Alturas, California 96101, telephone (916) 233–4666, and the Susanville District Office, P.O. Box 1090, 705 Hall Street, Susanville, California 96130, telephone (916) 257–5381.

FOR FURTHER INFORMATION CONTACT: Richard Drehobl, Alturas Area Manager, (916) 233–4666.

Dated: October 25, 1983.

Ronald D. Hofman,

Associate State Director.

[FR Doc. 83-29563 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board will be meeting in Denver, Colorado, on December 7, 1983. The public is welcome to attend. The board will (1) hear a presentation on the status of the Federal coal management program, (2) discuss recent coal program developments, and (3) be given a status report on the board's charter renewal process.

DATE: The board will meet at 8:30 a.m. on December 7, 1983.

ADDRESS: The meeting will be held at the Holiday Inn—Downtown, 1450 Glenarm Place, Denver, Colorado 80202, telephone (303) 573–1450.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz or Tom Walker, Division of Solid Mineral Leasing, Bureau of Land Management (650), 18th and C Streets, NW., Washington, D.C. 20240, telephone (202/FTS) 343–4636.

SUPPLEMENTARY INFORMATION: The Federal-State Coal Advisory Board is chartered under the Federal Advisory Committee Act and advises the Secretary and the Director on certain aspects of the Federal coal management and Federal oil shale programs.

The advisory board will meet on December 7, 1983, to (1) hear a presentation on the status of the Federal coal management program, (2) discuss recent coal program developments, and (3) be given a status report on the board's charter renewal process.

The public will have the opportunity to address the board during the public comment period that is currently scheduled for early afternoon (approximately 1:30 p.m.). However, the comment period can either be advanced or delayed depending on the flow of board business.

Written copies of a speaker's remarks would be appreciated. All comments will become part of the permanent record of the advisory board meeting. The chairperson may impose a time limit to ensure that all those wishing to address the board are heard.

Dated: October 28, 1983.

Rober F. Burford,

Director, Bureau of Land Management.

Agenda—Federal-State Coal Advisory Board Meeting

December 7, 1983

Denver, Colorado

WELCOME AND INTRODUCTIONS

—BLM Director

—Deput Director for Energy and Mineral Resources
—Board Members

Review and Approval of Meeting Agenda

Approval of 1982 Meeting Minutes

Status of the Federal Coal Management Program

—Director

Recent Coal Program Developments

—Leasing Moratorium
—Commission on Fair Market Value for Federal Coal Leasing
—Leasing Levels
—PRLA's
—Leasing schedules

Break

Recent Coal Program Developments (cont'd)

Lunch

Advisory Board Charter

Public Comment Period

Break

Recommendations/Discussion

Adjourn

[FR Doc. 83-30009 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July 29, 1983, a notice was published in the **Federal Register** (48 FR 34526) that an application had been filed with the Fish and Wildlife Service by the San Francisco Zoological Garden (PRT 2-10450) for a permit to import one captive-born polar bear.

Notice is hereby given that on October 27, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: November 1, 1983.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 83-30018 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Advisory Board, North Atlantic Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463).

Name: North Atlantic Regional Technical Working Group.

Date: December 1, 1983.

Place: Ramada Inn, Morgan/Conrad Rooms, N.W. Corner of I-95 and Route 27, Mystic, Connecticut.

Time: 9:00 a.m. to 5:30 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of Maine through New Jersey, the petroleum industry, and other private interests. The purpose of the meeting is to advise the Director, Minerals Management Service, on technical matters of Regional concern regarding prelease and postlease offering activities.

Agenda:

Minerals Management Service (MMS) Program Update;
North Atlantic Regional Technical Working Group State Cochairperson Succession;
Final Environmental Impact Statement (FEIS) for the February 1984 North Atlantic OCS Lease Offering;
Deepwater Drilling Update;
MMS and State Review/Coordination of Exploration Plans and Related Documents;
MMS Oilspill Trajectory Analysis Model;
Public Comment;
Discussion of Next Meeting;
Summary of Action Items.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Bruce Weetman of the Atlantic OCS Office (703) 285-2165 by November 23, 1983. Written statements should be submitted by December 8 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by February 1, 1984, at the above address.

Dated: October 24, 1983.

Bruce G. Weetman,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-30002 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Adding an Electric-Powered Compressor to an Existing Gas Well; Amarillo Oil Co.; Lake Meredith Recreation Area, Texas

Notice is hereby given in accordance with Part 9, Section 9.52(b), of Title 36 of the Code of Federal Regulations that the National Park Service has received from Amarillo Oil Company a Plan of Operations for the purpose of adding an electric powered compressor to an existing gas well at Lake Meredith Recreation Area, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith Recreation Area/Alibites Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the documents are available from the Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: October 21, 1983.

Jack Neckels,

Acting Regional Director, Southwest Region.

[FR Doc. 83-29985 Filed 11-3-83; 8:45 a.]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT AND COOPERATION AGENCY

Agency for International Development

Commission on Security and Economic Assistance; Meeting Change

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a *change in the date, time, and place of the Seventh Meeting of the Commission on Security and Economic Assistance*. This notification amends information which appeared in the September 12, 1983, **Federal Register**, Vol. 48, No. 177, page 40960.

The Seventh Commission Meeting will be held on *Monday, November 14, 1983*, from 9:30 a.m. to 1:30 p.m. in Room 1300 of the Longworth Building on Independence Avenue between South Capitol Street and New Jersey Avenue, SE., Washington, D.C.

On October 27, 1983, in consultation with a number of Commission members, Commission Chairman Carlucci changed the date of the Seventh Commission Meeting from November 7 to November 14. This decision was based on scheduling of work in process and the availability of Commission members. It was not possible to comply with the 15-day advance notice requirement without adversely affecting the Commission's deliberations.

Mr. John K. Wilhelm is the designated A.I.D. Representative. Statements may be filed with him, or further information received by writing to him care of the Agency for International Development, PPC/C, Room 4319, Washington, D.C. 20523, or by telephoning him at 202/632-7800.

Dated: October 28, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83-30080 Filed 11-4-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30327]

Rail Carriers; Lasalle and Bureau County Railroad Co.; Exemption for Trackage Rights Over the Norfolk and Western Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition of trackage rights by the LaSalle & Bureau County Railroad Company over a line of railroad owned or to be owned by the Norfolk and Western Railway Company in the Chicago, IL area from prior approval under 49 U.S.C. 11343, subject to employee protective conditions.

DATES: Exemption effective on November 2, 1983. Petitions to reopen must be filed by November 22, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30327 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's Representative: Peter A. Gilbertson, 1575 Eye Street NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 28, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29996 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30315 (Sub-No. 1)]

Rail Carriers; Vandalia Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of 10 shares of common stock having a par value of $100 per share.

DATES: This exemption will be effective on November 3, 1983. Petitions to reopen this decision must be filed by November 23, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30315 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Kevin B. McCarthy, Esq., 710 South Second Street, Second Floor, Springfield, IL 62704

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 27, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29997 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-22)]

Railroads; Union Pacific Railroad Company—Abandonment in Saline and McPherson Counties, KS; Exemption

Correction

In FR Doc. 83-29061 appearing on page 49561 in the issue of Wednesday, October 26, 1983, make the following correction:

In the middle column of the page, seven lines from the bottom, "November 26, 1983" should have read "November 7, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on November 14, 1984, at the Federal Judicial Center, Washington, D.C.

The purpose of the meeting is to discuss a variety of correctional issues and draft White Paper on Corrections.

Signed at Washington, D.C., this 28th day of October 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-29981 Filed 11-3-83; 8:45 am]

BILLING CODE 4410-05-M

Immigration and Naturalization Service

Cancellation of Annual I-53 Program During January, 1984

AGENCY: Immigration and Naturalization Service; Justice.

ACTION: Notice of program cancellation for January 1984.

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: The 1981 amendment to section 265 of the Immigration and Nationality Act, Pub. L. 97-116 (95 Stat. 1617) grants the Attorney General discretion in conducting an alien address report program. This document serves as a notice to the public that the Immigration and Naturalization Service will not

conduct an annual alien address report program in January, 1984.

(Secs. 262 and 265, Immigration and Nationality Act, as amended; (8 U.S.C. 1302 and 1305))

Dated: October 31, 1983.

John W. Murray,

Associate Commissioner, Information Systems, Immigration and Naturalization Service.

[FR Doc. 83-29092 Filed 11-3-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of November 1983.

Joseph Seiler,

Director, Office of Program Operations.

Applications Received During the Week Ending November 5, 1983

Name of Applicant and Location of Enterprise and Principal Product or Activity:

Hickory Hills Industries, Inc. Savannah and Clifton, Tennessee: Design and manufacture of children's apparel.

[FR Doc. 83-29940 Filed 11-2-83; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Office of Workers' Compensation Programs; Report on Computer Matching Project Involving Certain Beneficiaries Under the Federal Employees' Compensation Act

SUMMARY: The Department of Labor, Employment Standards Administration, Office or Workers' Compensation Programs (OWCP), announces a computer match to be performed by the State of Ohio of the names and Social Security Numbers of beneficiaries under the Federal Employees' Compensation Act, who receive compensation for total disability on the periodic roll and have mailing addresses in or near the State of Ohio and the compensation files maintained by the Industrial Commission of Ohio. The match will be made under written agreement.

a. *Authority:* The Federal Employees' Compensation Act (FECA) 5 U.S.C. 8101, et seq.

b. *Description of Match:* Among the responsibilities of the OWCP in the administration of the FECA is to assure that benefit payments are proper and to prevent fraud or abuse. The computer matching program is an efficient and non-intrusive method of determining the propriety of program beneficiaries receiving compensation for total disability.

The matching effort will compare the name and Social Security Number of the beneficiary receiving compensation for total disability having a mailing address in or near Ohio, with the Compensation file of the Industrial Commission of Ohio.

The intent of the match will be to identify those beneficiaries who, while receiving compensation for total disability on the periodic roll, had earnings which were not reported to the OWCP.

The organizations in the match are the Industrial Commission of Ohio and the Office of Workers' Compensation Programs of the Department of Labor. The OWCP will provide to the state agency, on computer tape, the name and the Social Security Number of the selected beneficiaries. The State of Ohio will match its state compensation file against these files.

The "raw hits" resulting from the cross match will be submitted to the OWCP (along with the source material) for validation and editing against case files in the OWCP system or records. After editing, OWCP will determine which cases shall be further processed or investigated to ascertain whether the individual actually had earnings which should have been reported to the OWCP. Action will be taken to assure that benefits are not being paid in those cases in which there is no entitlement. Certain findings may be submitted to the Department of Justice through the USDOL/OIG for prosecution. The state agency will not use the material from the match for any purpose. The sole beneficiary of the match will be the OWCP. Although scheduled as pilot study, recommendations for periodic and/or ongoing matches and additions

to the number of participating states are anticipated as a result of analysis of this study. Consideration will be given to the costs and benefits as part of the future recommendations.

c. *Description of Federal Records to be Matched:* DOL/ESA–13 Office of Workers' Compensation Programs, Federal Employees' Compensation Act file (47 FR Vol. 134, p. 30382, July 1, 1982; as amended in 48 FR Vol. 27, p. 5826, February 8, 1983) will be the source of the information being furnished to the state agencies.

d. *Period of the Match:* The first match should begin on or about October 20, 1983 with the final match by the end of November. Followup procedures may extend through the calendar year and into 1984.

e. *Security:* The personal privacy of individuals identified is protected by strict compliance with the Privacy Act (Pub. L. 93–579) and OMB Circular A–108. Information from the match will be used only for official purposes and "raw hit" information will not be released to the public.

No source materials or information contained therein or any hit information will be duplicated or disseminated within or without the matching agency of the state; and personnel of the matching agency will have access to the material or password only for the purpose of furthering the matching program. The source information and the information contained therein will not be used for any purpose other than the match described above. The source and hit information will be protected while in the possession of the state either by being put into locked files or cabinets or protected by computer password, if in the computer. The matching file (source information) supplied by the OWCP and any hits resulting from the match will be returned directly by the state to the OWCP. It is understood that the source material remains the property of the OWCP.

f. *Disposition of the Records:* As indicated above, all records sent to the state as well as records of hits will be returned to the OWCP. The hits will be edited, using information contained in OWCP's file. Where there is a question of the entitlement of the claimant to receive compensation or compensation at a particular level, the case will be set up for investigation. There will be no payment discontinued solely because the name appears as a "hit". The original source material will be destroyed or expunged and the "raw hit listing" will not be kept after editing. However, "hits" which are further processed or investigated along with the results of the investigation will be made part of the case file of the beneficiary.

g. *Other Comments:* The match is being performed solely for the purpose of the OWCP by the state without any use of the information by them. The actual amount of compensation being received will not be in the source material furnished to the state.

Signed at Washington, D.C., this 27th Day of October 1983.

Lawrence W. Rogers,

Acting Director, Office of Workers' Compensation Programs.

[FR Doc. 83-30028 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-83-95-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.306 (weekly ventilation examinations) to its Elkhart Mine (I.D. No. 11–02664) located in Logan 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 requirement that at least once each week, a qualified person measure the volume of air entering the main intakes and leaving the main returns.

2. As an alternative method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity. The tempering panel will reduce the slaking of the mine roof in routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings, and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 400 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

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 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 December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-30027 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-96-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Elkhart Mine (I.D. No. 11–02664) located in Logan 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 requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. As an alternate method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity. The tempering panel will reduce the slaking of the mine roof in

routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings, and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 400 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

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 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 December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-30026 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-94-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634, has filed a petition to modify the application of 30 CFR 75.312 (air passing through abandoned, inaccessible, or robbed area), to its Elkhart mine (I.D. No. 11-02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection not be used to ventilate any working place in any mine.

2. As an alternate method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity.

The tempering panel will reduce the slacking of the mine roof in routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 440 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

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 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 December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-30025 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-90]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: November 29, 1983, 8:30 a.m. to 4:30 p.m.; November 30, 1983, 8:30 a.m. to 4:30 p.m.; December 1, 1983, 8:30 a.m. to 11:00 a.m.

ADDRESS: Dryden Flight Research Facility, Building 4800, Conference Room 1, Edwards, CA 93523.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan E. McIver, National Aeronautics and Space Administration, Code RTH-6, Washington, D.C. 20546 (202/755-3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The subcommittee chaired by Mr. Duane McRuer, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the subcommittee members and participants).

Type of meeting: Open.

Agenda:

November 29, 1983

8:30 a.m.—Subcommittee Business.
9:30 a.m.—Introductory Remarks.
10 a.m.—NASA Aircraft Controls and Guidance Research Plans.
1 p.m.—Simulation Technology Program Plans.

4:30 p.m.—Adjourn.

November 30, 1983

8:30 a.m.—NASA Controls and Guidance Program Issues.
4:30 p.m.—Adjourn.

December 1, 1983

8:30 a.m.—Subcommittee Deliberation.
11 a.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

October 27, 1983.

[FR Doc. 83-29941 Filed 11-3-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Dates: November 21, 1983, 8:30 to 11:45 a.m. and 1:15 to 5:00 p.m., November 22, 1983, 9:00 a.m. to 2:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC; Room 1141.

Type of Meeting: Open.

Contact Person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, Washington, DC 20550. Telephone (202) 357-9552.

Summary of Minutes: May be obtained from Contact Person.

Purpose of Meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.

Agenda:

November 21: Introduction of new members. Reports on NSF reorganization, INT reorganization, new management plan, strategic planning for fiscal year 1986. Activities of the National Science Board. Big Science and Little Science. Future international activities at NSF.

November 22: INT Program Report. Report on the work of the Office of Management and Budget. Future modes of operation of the Committee. Summarizing discussions. Resolutions and assignments. Future meetings.

Dated: November 1, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-29991 Filed 11-3-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289-SP) (Management Phase)]

Metropolitan Edison Company, et al. (Three Mile Island Nuclear Station, Unit No. 1); Rescheduling Oral Argument

October 31, 1983.

Notice is hereby given that, in accordance with the Appeal Board's order of October 25, 1983, oral argument previously calendared for December 1, 1983 has been rescheduled for *9:30 a.m., Wednesday, January 11, 1984, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: October 31, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-30013 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352 OL, 50-353 OL

Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of October 31, 1983, oral argument on the appeal of Del-AWARE Unlimited, Inc., from the Licensing Board's partial initial decision issued on March 8, 1983 (LBP-83-11), and its memorandum and order of June 1, 1983, will be held at *9:30 on Thursday, December 15, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building 4350 East-West Highway, Bethesda, Maryland.*

Dated: October 31, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-30012 Filed 11-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to the Pacific Gas and Electric Company (PG&E, the licensee), for operation of the Diablo Canyon Nuclear Power Plant, Unit 1 located at San Luis Obispo, California.

The amendment would grant a temporary one-time exception to the facility Technical Specifications (which presently require corrective action to return at least one reactor coolant loop to operation within one hour) to permit natural circulation tests to be performed during the startup test program with no reactor coolant loops in operation in accordance with the licensee's application for amendment dated February 10, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission's proposed determination is based on its findings that the natural circulation test does not increase the probability of malfunction of safety-related equipment nor does it diminish the ability to mitigate the consequences of a postulated accident. In addition, the following compensatory conditions will exist during the one-time test:

(1) No safety related equipment will be required to operate outside of its normal operating parameters;

(2) The reactor coolant pumps will be available at all times to return the RCS to a forced circulation condition;

(3) The reactor will be shut down in Mode 3.

(4) A situation which could lead to an accident or malfunction different than was previously evaluated in the FSAR is not created by performing the test as the ability to remove decay heat under natural circulation conditions has been demonstrated at similar plants (North Anna, Salem and San Onofre); and

(5) All safety related equipment will be operable.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Services Branch.

By December 7, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P.C., Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85016, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 31st day of October, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-30011 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of

implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.37, Revision 1, "In Situ Assay of Enriched Uranium Residual Holdup," describes procedures acceptable to the NRC staff for the in situ assay of enriched uranium residual holdup. Residual holdup is the inventory component remaining in and about process equipment and handling areas after those collection areas have been prepared for the inventory of special nuclear materials required by the Commission's regulations.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 31st day of October 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-30014 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523.

Type of Request: New

Title of Information Collection: Shower Bath Economizer Survey

Frequency of Use: Quarterly

Type of Affected Public: Individuals or households

Small Businesses or Organization Affected: None

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 120

Estimated Total Annual Burden Hours: 16

Estimated Annual Cost from Federal Government Appropriated Funds: 0

Need For and Uses of Information: In its efforts to promote better use and conservation of electric energy, TVA sponsors field tests of energy-conserving devices. Information collected through this proposed survey will determine the effectiveness and public acceptance of a shower bath economizer prior to promoting it as an energy conservation device. The respondents will be randomly selected homeowners who agree to participate in the testing program.

Dated: October 28, 1983.

John W. Thompson,

Assistant General Manager Senior Agency Official.

[FR Doc. 83-29942 Filed 11-3-83; 8:45 am]

BILLING CODE 8120-06-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Firearms; Granting of Relief

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

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Arndt, Mary Jo, 255 East 2nd Street, Fond Du Lac, Wisconsin, convicted on May 19, 1978, in the Fond Du Lac County Court, Fond Du Lac, Wisconsin.

Arnold, George Steven, 471 Dunlap Avenue, Jackson, Mississippi, convicted on March 5, 1976, in the First District Court, Parish of Caddo, Louisiana.

Avey, Michael R., Route 4, Box 160, Huntsville, Texas, convicted on April 4, 1973, in the 185th District Court, Harris County, Texas.

Bailey, Ricky D., R.D. #3, Box 113D, Newville, Pennsylvania, convicted on August 31, 1976, in the Court of Common Pleas of Cumberland County, Pennsylvania.

Baldwin, Wilbur T., Jr., 421 East 11th, Mitchell, South Dakota, convicted on October 24, 1980, in the Fourth Judicial Circuit Court, Davison County, South Dakota.

Barnett, Henry N., Jr., Route 1, Box 325C, Anniston, Alabama, convicted on May 15, 1979, in the Circuit Court of Calhoun County, Alabama.

Barrett, Jack Hubble, 1019 Oates, Road, Prattville, Alabama, convicted on November 21, 1963, in the 14th District Court, Calcasieu Parish, Louisiana.

Bartishofski, John Charles, 373North Camman, Coos Bay, Oregon, convicted on June 17, 1963, in the Nineth Judicial District Court, District County of Crow Wing, Minnesota.

Belveal, Robert E., 1195 Swallow Drive, Northeast, Salem, Oregon, convicted on April 13, 1978, in the Circuit Court of Matheur County, Oregon.

Bevon, John Edward, 2701 Azalea Drive, Charleston, South Carolina, convicted on October 26, 1977, in the United States District Court, Charleston, South Carolina.

Bieneman, Leroy S., 687 Garland Street, Philadelphia, Pennsylvania, convicted on December 3, 1963, in the Court of Quarter Session, Philadelphia, Pennsylvania.

Biglow, Herschel, Sr., 595 11th Street, Northeast, Paris, Texas, convicted on December 16, 1980, in the Sixth Judicial Court, Lamar County, Texas.

Billings, Larry Curtis, Route #1, Box 249, Traphill, North Carolina, convicted on May 19, 1964, in the United States District Court, Wilkesboro, North Carolina.

Black, Chauncey, M., 3850 18th Street, Ecorse, Michigan, convicted on December 15, 1975; and on July 21, 1977, in the United States District Court, Eastern District of Michigan.

Blair, Willie, J., Route 2, Box 58, Franklinton, Louisiana, convicted on January 18, 1983, in the 22nd Judicial District Court, Washington Parish, Louisiana.

Brisco, Patrick John, 2330 Bennett Avenue, North Billmore, New York, convicted on October 28, 1938, in the Sixth Judicial Circuit Court, Pinellas County, Florida.

Brodsky, George W., 3 Lava Court, Apartment 1A, Carney, Maryland, convicted on August 17, 1960, in the Baltimore County Circuit Court, Baltimore, Maryland.

Brooks, Terry Kenneth, 334 High Street, Hamlet, North Carolina, convicted on March 30, 1971, in the United States District Court, Rockingham, North Carolina.

Burgie, David E., 89 Pigeon Hill Road Exit, Windsor, Connecticut, convicted on April 12, 1978, in the Circuit Court, City of Norfolk, Virginia.

Cantrell, John Alan, 1415 Grant Street, Northeast, Minneapolis, Minnesota, convicted on December 26, 1978, in the Tenth Judicial District Court, Stillwater, Minnesota.

Centola, Merrick, 1322 Wharton Street, Philadelphia, Pennsylvania, convicted on March 22, 1979, in the Philadelphia, Municipal Court, Philadelphia, Pennsylvania.

Chakwin, Christopher, 53 Park Court, Staten Island, New York, convicted on April 15, 1979, in the Richmond County Superior Court, Staten Island, New York.

Champman, Kevin Dean, Rural Route #1, Fremont, Nebraska, convicted on November 16, 1979, in the Douglas County District Court, Omaha, Nebraska.

Cherry, Harry A., 1920 Quaker, Pekin, Illinois, convicted on April 24, 1978, in the Circuit Court of the Tenth Judicial District, Tazewell, Illinois.

Claud, Alexander Lawrence, Jefferson Townhouse Apartments, #F, Richmond, Virginia, convicted on December 19, 1975, in the Circuit Court, County of Dinwiddie, Virginia.

Cole, Dean O., RFD #2, Box 417, Great Falls Road, Gorham, Maine, convicted on January 28, 1971, in the Superior Court, Cumberland County, Maine.

Costi, Randy Joseph, 5721 East Roosevelt, Tacoma, Washington, convicted on April 3, 1974; and on June 22, 1975, in the Superior Court, Pierce County, Washington.

Cramblitt, Selena Marie, Apartment #101, Knob Apartments, Donald Avenue, Northeast, Rocky Mount, Virginia, convicted on September 26, 1980, in the Circuit Court, City of Salem, Virginia.

Crowe, Samuel Lee, 431 Peach Street, Staunton, Virginia, convicted on March 29, 1978, in the Circuit Court of Staunton, Virginia.

Culp, Larry Jeff, Star Route 1, Clifton, Texas, convicted on March 6, 1978, in the 220th District Court, Bosque County, Texas.

Curtis, Samuel Lewis, 336 Abbot Street, Southwest, Apartment 23, Atlanta, Georgia, convicted on January 29, 1957, in the Fulton County Superior Court, Atlanta, Georgia; and on April 23, 1963, in the Fulton County Superior Court, Atlanta, Georgia.

Curtright, Raymond E., 7810 Dos Rotundo, Tucson, Arizona, convicted on April 18, 1980, in the United States District Court, District of Wyoming.

Davis, Herschel Scott, Route 1, Box 452A, Philpot, Kentucky, convicted on November 6, 1978, in the United States Military Court, Army Base, Schweinfurt, Germany.

Dedeaux, Eugene, Jr., 327 Beachview, Biloxi, Mississippi, convicted on August 8, 1968, in the First Judicial District, Gulfport, Mississippi.

Detres, Carmelo, 25 Reese Street, Fort Rucker, Alabama, convicted on May 26, 1976, in the Superior Court of Thurston County, Washington.

DiNapoli, Ralph Edward, 9 Blackberry Circle, Holyoke, Massachusetts, convicted on May 12, 1965, in the Hampden Superior Court, Hampton, Massachusetts.

DiTommaso, Benito, 20778 Dean, Warren, Michigan, convicted on April 7, 1972, in the Circuit Court of Oakland County, Michigan.

Dowell, Allen Lane, 4329 Holmes Street, Northeast, Roanoke, Virginia, convicted on March 24, 1981, in the Circuit Court, Roanoke, Virginia.

Eby, Anthony Glynn, 5506 Oriole, Houston, Texas, convicted on February 26, 1980, in the 262nd District Court, Houston, Texas.

Eddings, John Franklin, Route 1, Gideon Road, Greenbrier, Tennessee, convicted on August 23, 1979, in the Roberson County General Sessions Court, Springfield, Tennessee.

Ellis, David Ernest, 3025 Oakland, Wichita, Kansas, convicted on November 10, 1958, in the 18th Judicial District Court, Sedgwick County, Kansas.

Evans, Carol L., 2403 Power House Road, Yakima, Washington, convicted on October 28, 1976, in the Superior Court, Yakima County, Washington.

Farinella, John R., 260 65th Street, Brooklyn, New York, convicted on May 28, 1976, in the Supreme Court, Kings County, New York.

Ferguson, Vivan Stanley, 348 Campground Pond Road, Tallahassee, Florida, convicted on November 7, 1973, in the Circuit Court of Leon County, Tallahassee, Florida.

Fletcher, Michael Ray, 414 East Roosevelt, Buckeye, Arizona, convicted on September 18, 1973, in the Pulaski Circuit Court, Pulaski, Arkansas; and on February 26, 1976, in the United States District Court, Tucson, Arizona.

Fowler, Jerry Watson, Route 1, Box 84, Lot #59, Roanoke, Virginia, convicted in May 1967, in the Circuit Court, Clifton Forge, Virginia; and on November 19, 1969, in the Hastings Court, Roanoke, Virginia.

Gautreaux, Alicee L. Jr., Post Office Box 114, Labadieville, Louisiana, convicted on December 10, 1980, in the United States District Court, Eastern District of Louisiana.

Genet, John Paul, 22 Williams Street, Glen Cove, New York, convicted on October 2, 1981, in the United States District Court, Eastern District of New York.

Glassburn, Stephen Allen, 55223 County Road 131, Middlebury, Indiana, convicted on April 16, 1970, in the Indiana Superior Court, Elkhart County Indiana.

Glynn, Lester W., 58 Serand Street, La Salle, Illinois, convicted on April 20, 1951, in the Circuit Court of La Salle County, Illinois.

Godsey, John William, Jr., Route #2, Box 55, Alba Mill Road, Stanley, North Carolina, convicted on October 16, 1978, in the Gaston County Superior Court, Gastonia, North Carolina.

Gordon, Mark Wendell, P.O. Box 874475, Wasilla, Alaska, convicted on August 23, 1979, in the Superior Court of Orange County, Santa Ana, California.

Gottenberg Yale Jay, 2006 Fauce Street, First Floor, Philadelphia, Pennsylvania, convicted in December 1974, in the Court of Common Pleas, Montgomery County, Pennsylvania.

Grady, Helen Belle, Route 5, Box 420, Mt. Olive, Wayne County, North Carolina, convicted on January 6, 1975, in the United States District Court, Eastern District of North Carolina; and on September 22, 1976, in the United States District Court, Fayetteville, North Carolina.

Grandy, Gary L., 7531 14th Avenue, Olympia, Washington, convicted on January 23, 1974, in the Superior Court, Thurston County, Washington.

Grant, Cloyd Harold, 15539 Preston Road, Apartment 1037, Dallas, Texas, convicted on August 21, 1975, in the Third Criminal District Court, Dallas, Texas.

Gregory, D. J., Box 101, Robbinsville, North Carolina, convicted on September 4, 1975, in the Superior Court, Graham County, North Carolina.

Guilaroff, Eugene Dale, 10418 Pearson Place, Sunland, California, Convicted on May 29, 1962, in the Superior Court, Los Angeles County, California; on December 28, 1962, in the United States District Court, Northern District of California; and on April 26, 1963, in the Orange County Superior Court, Santa Ana, California.

Gunderson, Alfred, 7402 Bay Parkway, Brooklyn, New York, convicted on November 27, 1963, in the Supreme Court, Kings County, New York.

Hack, Robert A., 830 Southwest 19th Street, Chehalis, Washington, convicted on June 23, 1980, in the Superior Court, Lewis County, Washington.

Hairston, Clarence Leo, Post Office Box 164, Walnut Cove, North Carolina, convicted on November 7, 1961, in the United States District Court, Winston-Salem, North Carolina.

Hall, Grover William, Route 3, Box 294, Appomattox, Virginia, convicted on October 2, 1973, in the Circuit Court, Appomattox County, Virginia.

Hambrick, Oscar, Jr., 1105 Westmont Road, Southeast, Atlanta, Georgia, convicted on October 9, 1952, in the Superior Court, Fulton County, Georgia.

Hamilton, Sherry Elaine Easterly, Route 4, Box 390, Abingdon, Virginia, convicted on January 28, 1980, in the Washington County Circuit Court, Abingdon, Virginia.

Hammond, Willie Larry, 442 Maynard Terrace, Southeast, Atlanta, Georgia, convicted on November 24, 1970, in the Taliaferro County Court, Crawfordville, Georgia.

Harrington, John Collins, Route 1, Box 402, Tallasee, Alabama, convicted on January 5, 1983, in the United States District Court, Middle Judicial District of Alabama.

Harris, William D., 109A North 49th Avenue, Yakima, Washington, convicted on April 21, 1955, in the Superior Court, Summit County, Ohio.

Hart, Albert Lee, 5740 Atlanta Avenue, Baton Rouge, Louisiana, convicted on April 25, 1978, in the 18th Judicial District Court, West Baton Rouge, Louisiana.

Hawryliak, Frank, 222 Eyth Street, Butler, Pennsylvania, convicted on September 27, 1957, in the Butler County Court, Butler, Pennsylvania; and on September 26, 1958, in the Butler County Court, Butler, Pennsylvania.

Hayes, Thomas Lee, 121 North 16th Street, Richmond, Indiana, convicted on April 2, 1982, in the United States District Court, Baltimore, Maryland.

Hegland, Eddy Jon, 404 South Second Street, Marshall, Minnesota, convicted on November 2, 1981, in the District Court of Marshall, Minnesota.

Hogan, Don, 415 East Brown Street, Lake City, Florida, convicted on February 12, 1973, in the Circuit Court of Columbia County, Lake City, Florida.

Holz, Fred Kenneth, 5522 South 123rd, Omaha, Nebraska, convicted on April 20, 1977, in the United States Court, Omaha, Nebraska.

Hood, Stephen Lee, 3639 North 17th Street, Philadelphia, Pennsylvania, convicted on October 21, 1973, in the Common Pleas Court, Philadelphia, Pennsylvania.

Ivey, Donald Weldon, Route 4, Dawsonville, Georgia, convicted on March 20, 1975, in the United States District Court, Northern District of Georgia.

Jackson, Bobby Wayne, 1503 East Stayton Street, Victoria, Texas, convicted in September 1976, in the Wharton County 23rd Judicial District, Wharton, Texas.

Jackson, Charles Edward, Post Office Box 11, Greenfield, Oklahoma, convicted on March 14, 1973, in the Wells Circuit Court, Indiana.

Johnson, Robert W. Jr., 207-7 Regency Apartments, Warner Robins, Georgia, convicted on October 30, 1981, in the United States District Court, Macon, Georgia.

Junkunc, George P., 51 Fort Royal Isle, Fort Lauderdale, Florida, convicted on June 1, 1977, in the United States District Court, Chicago, Illinois.

Kaplan, Joseph William, 3330 Tangley, Houston, Texas, convicted on June 14, 1979, in the 183rd District Court of Harris County, Texas.

Kelly, Carl James, Route 1, Box 26A, Cedar Vale, Kansas, convicted on November 17, 1982, in the Tenth Judicial District Osage County, Oklahoma.

Kemble, Allen F., R.D. #3, Box 129, Newport, Pennsylvania, convicted on August 6, 1979, in the Perry County Court, New Bloomfield, Pennsylvania.

Kilbourn, Michael Lee, 5409 Ithaca, Las Vegas, Nevada, convicted on June 17, 1976, in the Eighth Judicial District Court, State of Nevada.

Knight, Charlie Mathew, 428 West Third Street, Thomasville, Alabama, convicted on January 4, 1980, in the United States District Court, Mobile, Alabama.

Knox, John David, 240 Dalton street, Hillsboro, Texas, convicted on January 20, 1977, in the 66th District Court, Hillsboro, Texas.

Kodrick, Michael D., 9450 Woodridge Drive, Eden Prairie, Minnesota, convicted on September 23, 1969, in the District Court, of Hennepin County, Fourth Judicial District of Minnesota.

Lackey, Elmer C., Route 2, Box 167B, Stuart, Virginia, convicted on December 5, 1966, in the Circuit Court, Patrick County, Virginia.

Ladd, Todd Edward, Lot 74 Greenbriar Mobile Home Park, Wilson, North Carolina, convicted on November 24, 1980, in the Superior Court, Nash County, North Carolina.

Lamb, Steve D., 210 West B Street, Ellinwood, Kansas, convicted on June 18, 1980, in the District Court, Barton County, Kansas.

Laminack, Harold, Route 1, Box 292, Muscadine, Alabama, convicted on August 17, 1977, in the United States District Court, Northern District of Georgia.

Lamm, Gary Michael, Route 1, Box 48B, Farmersville, Texas, convicted on December 13, 1972, in the 196th District Court, Hunt County, Texas.

LaRose, Kenneth Paul, 6394 East Burt, Birch Run, Michigan, convicted on January 12, 1978 in the circuit Court, Gewesee County, Michigan.

Liptac, Melvin D., 608 Central, Spokane, Washington, convicted on May 10, 1976, in the Superior Court, Spokane, Washington.

Logan, Willie Junior, Route 1, Box 259G, Rice, Virginia, convicted on

November 27, 1978, in the Circuit Court, Amelia County, Virginia.

Loggins, John C., 312 Loma Place, Orange Park, Florida, convicted on October 2, 1953, in the United States Military Court, Mannheim, Germany.

Mackie, Franklin Lee Jr., Route 1, Box 287A, Jonesville, North Carolina, convicted on March 5, 1974, in the Superior Court, Surry County, North Carolina.

Martin, Joseph Louis, 254 Washington Avenue, Chelsea, Massachusetts, convicted on January 15, 1970, in the Middlesex Superior Court, Cambridge, Massachusetts.

MarTin, Wayne Joseph, 47 Arnett Road, Rhinebeck, New York, convicted on May 4, 1981, in the Dutchess County Court, Poughkeepsie, New York.

McBride, Ronald Gene, Route 1, San Saba, Texas, convicted on April 2, 1970, in the 33rd Judicial District Court, San Saba, Texas.

McClain, Robert, 416 Third Street North, Birmingham, Alabama, convicted on August 16, 1971, in the Circuit Court, Birmingham, Alabama.

McFadden, Francis Stephan, 4C Carolinas Drive, Oakdale, Connecticut, convicted on June 24, 1971, in the Stark County Common Pleas Court, Canton, Ohio.

McGee, Dana Lynn, 5305 Seguin Street, Corpus Christi, Texas, convicted on May 18, 1977, in the 185th District Court, Harris County, Texas.

Meadows, Roy Elvin, Route 1, Box 407, Elkton, Virginia, convicted on March 11, 1968, in the United States District Court, Harrisonburg, Virginia.

Morris, Willie Clay, 2321 Terpsichore Street, New Orleans, Louisiana, convicted on September 28, 1977, in the Federal District Court, Eastern District of Louisiana.

Myers, Thomas Edward, 229 North Fifth Street, Clinton, Indiana, convicted on January 31, 1978, in the Circuit Court, Vermillion County, Indiana.

Nannery, Jack W., 117 Elm Street, Beaver Dam, Wisconsin, convicted in October 1942, in the Essex County Court, Newark, New York; and on September 29, 1943, in the Kings County Court, New York, New York; and on November 17, 1965, in the Court of Waupaca, Waupaca, Wisconsin.

Napier, Joseph Wayne, Route 5, Box 392A, Martinsville, Virginia, convicted on October 5, 1976, in the United States District Court, Middle District of North Carolina.

Nesbitt, Walter, 304 Locust Street, Penn, Pennsylvania, convicted on August 28, 1964, in the Court of Dyer and Terminar, Westmoreland County, Greensburg, Pennsylvania.

Noble, Harlod J., Route 1, Box 26, Shorter, Alabama, convicted on January 5, 1983, in the United States District Court, Middle Judicial of Alabama.

Odom, Michael Ross, 232 Helm Avenue, Salt Lake City, Utah, convicted on August 13, 1975, in the Bossier Parish Court, Benton, Louisiana; and on August 26, 1975, in the Caddo Parish Court, Shreveport, Louisiana; and on December 4, 1977, in the Bossier Parish Court, Benton, Louisiana.

O' Leary, Christopher John, 6458 Cobble Way, Dublin, Ohio, convicted on July 28, 1971, in the Common Pleas Court, Painsville, Ohio.

Orsino, George Joseph, 2603 South Seventh Street, Philadelphia, Pennsylvania, convicted on September 26, 1946, in the Court of Common Pleas, Criminal Division, Philadelphia, Pennsylvania.

Outlaw, Walter Ray, Route 1, Box 323, Parson, Tennessee, convicted on August 31, 1979, in the United States District Court, Jackson, Tennessee.

Pettus, Larry Mills, 131 Summitt Ridge Drive, Branson, Mississippi, convicted on November 11, 1959, in the Southern Judicial District, Jackson, Mississippi.

Phifer, James Calvin, 402 Hickory Street, North Wilkesboro, North Carolina, convicted on April 15, 1968, in the United States District Court, Wilkesboro, North Carolina.

Phillips, Robert E., 836 Country Club Drive, Gadsden, Alabama, convicted on August 19, 1981, in the United States District Court, Birmingham, Alabama.

Plaisance, Edward O., 3903 Richmond Avenue, Shreveport, Louisiana, convicted on March 22, 1978, in the 26th District Court, Bossier Parish, Louisiana.

Plankers, James F., P.O. Box 240, Tonasket, Washington, convicted on March 6, 1981, in the St. Louis County District Court, Sixth Judicial District of Minnesota.

Pruitt, Hollie Brooks, 740 Bellemeade Avenue, Atlanta, Georgia, convicted on September 7, 1979, in the DeKalb Superior Court, Decatur, Georgia.

Reavis, Roy Ray, Route 1, Box 87, Hays, North Carolina, convicted on April 19, 1971, in the United States District Court, Wilkesboro, North Carolina.

Reid, Harold Michael, 506 Grace Street, Medical Lake, Washington, convicted on October 25, 1978, in the Superior Court, Spokane, Washington.

Riccobene, Joseph S., 7260 Ames Road, Parma, Ohio, convicted on March 8, 1962, in the Court of Common Pleas, Cuyahoga County, Ohio.

Riggs, James C. 1610 Cypress Way, Lynnwood, Washington, convicted on July 15, 1969, in the Superior Court, Kings County, Washington.

Robine, Richard Blair, 35157 Sansburn, Westland, Michigan, convicted on June 24, 1961, in the Circuit Court, Galdwin County, Michigan; and on December 13, 1961, in the Circuit Court, Wayne County, Michigan.

Robinson, Ernest, 3114 North Napa Street, Philadelphia, Pennsylvania, convicted on June 4, 1964, in the Philadelphia Court of Common Pleas, Philadelphia, Pennsylvania.

Rodriguez, Manuel M., Rural Route 608, Tucson, Arizona, convicted on November 18, 1976, in the United States District Court, Tucson, Arizona.

Roebuck, Ronald W., 30 Maple Street, Owensboro, Kentucky, convicted on August 22, 1980, in the Daviess County Circuit Court, Owensboro, Kentucky.

Ruthiff, David Walter, 1298 Kingsbury Road, Abilene, Texas, convicted on April 16, 1983, in the United States District Court, Northern District of Okahoma.

Sanders, Billy Wayne, Route 2, Box 358, Trinity, Alabama, convicted on April 11, 1972, in the Morgan County Circuit Court, Morgan County, Alabama.

Sanders, Tommy J., 1503 East Eighth Street, Lubbock, Texas, convicted on July 24, 1975, in the 49th Disrtict Court, Lubbock, Texas.

Schulte, Michael Jay, Post Office Box 32, Princeton, West Virginia, convicted on July 30, 1981, in the Mercer County Circuit Court, Princeton, West Virginia.

Scott, Jimmie L., 157 Sunset Drive, Burkesville, Kentucky, convicted on December 16, 1970, in the Monroe County Circuit Court, Tompkinsville, Kentucky; and in January 1971, in the Jefferson County Circuit Court, Louisville, Kentucky.

Shepherd, Danny, Route 1, #3 Cedar Hill Mobile Home Park, Cartersville, Georgia, convicted on January 14, 1977, in the Georgia Superior Court, Bartow County, Georgia.

Shoemaker, Donald Wayne, 901 North Avenue C, Freeport, Texas, convicted on February 5, 1973, in the District Court, Brazoria County, Texas.

Smith, Michael Eugene, Post Office Box 806, Georgetown, Idaho, convicted on January 21, 1982, in the District Court, County of Bear Lake, Idaho.

Serges, Steve, 5427 Calkins Road, Flint, Michigan, convicted on December 12, 1961, in the Circuit Court of Genesee County, Flint, Michigan; and on March 30, 1964, in the Federal District Court, Eastern District of Michigan.

Simpson, Dwight David, 1710 Edgelawn Drive, Mt. Sterling, Kentucky, convicted on September 29, 1973, in the Anderson County Circuit Court, Lawrenceburg, Kentucky.

Socorro, Franklin, 130 West 228th Street, Bronx, New York, convicted on September 10, 1975, in the Supreme Court, County of New York, New York.

Thomas, William Andrea, 1607 Bellview Boulevard, Apartment B2, Alexandria, Virginia, convicted on May 18, 1977, in the Loudoun County Court, Leesburg, Virginia.

Thompson, Curtis A. Box 392 Lakeside, Montana, convicted on October 1, 1979, in the United States District Court, Las Vegas, Nevada.

Tilley, James William Jr., 7011 Sewells Point Road, Apartment 40, Norfolk, Virginia, convicted on January 24, 1961, in the Corporation Court, City of South Norfolk.

Tilley, Kenneth Howard, 1115 Bloomfield Street, Cape Girardeau, Missouri, convicted on February 27, 1962, in the Circuit Court of Cape Girardeau, Jackson, Missouri.

Treadway, Hubert M., 322 West 22nd Street (Post Office Box 1025), South Sioux City, Nebraska, convicted on June 21, 1973, in the Superior Court, San Bernardino, California.

Trovesi, Richard J., 12519 Northeast 129th Drive, Apartment D13, Kirkland, Washington, convicted on September 17, 1979, in the Superior Court, Seattle, Washington.

Uginchus, Ronald W., 11252 South Albany, Chicago, Illinois, convicted on November 5, 1974, in the United States District Court, Northern District of Illinois, Chicago, Illinois.

Valenzuela, Jose, 7241 West Pierson, Phoenix, Arizona, concvicted on June 8, 1976, in the United States District Court, District of Arizona.

Van Asch, Donald Mark, 1907 Willow Avenue North, Minneapolis, Minnesota, convicted on December 14, 1977, in the District Court, Hennepin County, Minnesota.

Van Vleck, George E., 12308 Fleton Drive, Yakima, Washington, convicted on February 7, 1963, in the Superior Court, Yakima, Washington.

Stea, Pasquale Jr., 2739 Dudley Street, Philadelphia, Pennsylvania, convicted on December 18, 1975, in the United States District Court, Philadelphia, Pennsylvania.

Steinbrook, Rodney Scott, 2002 Whitebriar Drive, Deer Park, Texas, convicted on November 18, 1976, in the 174th District Court, Harris County, Texas.

Straus, James Harold, 102 South Maple, Prospect Heights, Illinois, convicted in June 8, 1960, in the Circuit Court, DeKalb County, Illinois.

Sullivan, Denny Harold, 748 Worthshire, Houston, Texas, convicted on March 19, 1979, in the 184th District Court, Houston, Texas.

Tanner, Charles E., 12800 Oomiak Circle, Anchorage, Alaska, convicted on February 14, 1980, in the Federal District Court, Anchorage, Alaska.

Tonneson, Robert Dean, Post Office Box 1027, Dillon, Colorado, convicted on May 6, 1980, in the District Court, Blue Earth County, Minnesota.

Tarnoff, Sherwin S., 2510 Kingston Drive, Northbrook, Illinois, convicted on February 8, 1980, in the United States District Court, Northern District of Illinois.

Teel, Douglas Ray, 322 Wilton Drive, Greenville, Texas, convicted on January 25, 1971, in the District Court of Lamar County, Sixth Judicial District of Texas.

Tharp, Sherman Bee, Route 2, Box 265B, Kenbridge, Virginia, convicted on May 16, 1962, in the Circuit Court, Lurenburg County, Virginia.

Thibodeaux, Hilary D., 505 Eighth Street, Westwego, Louisiana, convicted on December 6, 1977, in the United States District Court, Eastern District of Louisiana.

Vase, John M., 1466 Sublette, Rock Springs, Wyoming, convicted on May 20, 1977, in the Second District Court, Sweetwater County, Wyoming.

Visscher, James Neal, 405 North Powell, Essexville, Michigan, convicted on July 26, 1954, in the Circuit Court of Bay County, Bay City, Michigan; and on January 6, 1959, in the Superior Court, Stanislain County, California.

Vona, Richard, 2311 Broadway, Hatboro, Pennsylvania, convicted on July 9, 1956, in the Philadelphia Court of Common Pleas, Philadelphia, Pennsylvania.

Walker, Diane T., 1821 Rattan Palm Drive, Niceville, Florida, convicted on August 21, 1981, in the United States District Court, North District of Florida.

Warren, Joseph Vernon, 205 Detroit Avenue, Baltimore, Maryland, convicted on May 17, 1976, in the Circuit Court, Baltimore, Maryland.

Warren, Thomas Andrew, 2057 Florida Avenue, Tallahassee, Florida, convicted on November 22, 1975, in the United States District Court, Southern District, Miami, Florida.

Watkins, Judith Wilkes, Apartment 79, Westgate Village, Dothan, Alabama, convicted on July 26, 1976, in the Circuit Court, Houston County, Alabama.

Wetherbee, Garry Lee, Post Office Box 302, Woodinville, Washington, convicted on February 10, 1976, in the Superior Court, King County, Washington.

Whitesell, Robert George, 1080 Virginia Avenue, Harrisonburg, convicted on July 6, 1979, in the Rockingham Circuit Court, Harrisonburg, Virginia.

Wiley, James Richard, 1712 Mt. Olive Road, Gardendale, Alabama, convicted on January 30, 1976, in United States District Court, Southern District of Texas.

Wilkins, Waymon Allen, 1150 Long View Drive, Fayetteville, Georgia, convicted on April 3, 1978, in the United States District Court, Northern District of Georgia; and on February 22, 1973, in the Fulton Superior Court, Atlanta, Georgia.

Wilson, Norman, 418 Holland Road, Flushing, Michigan, convicted on March 30, 1964, in the United States District Court, Flint, Michigan.

Wroten, Thomas J., 1969 Welch Street, Houston, Texas, convicted on October 30, 1979, in the 185th District Court, Houston, Texas.

Wolf, Carl Robert Sr., 5112 David Way, Louisville, Kentucky, convicted on March 13, 1978, in the United States District Court, Louisville, Kentucky.

Woods, William C., 63590 Johnson Road, Bend, Oregon, convicted on April 24, 1962, in the Superior Court of King County, Seattle, Washington.

Zeller, David R., 1936 Barnett Street, Bremerton, Washington, convicted on April 27, 1979, in the Superior Court, Spokane County, Washington.

Compliance With Executive Order 12291

It has been determined that this notice 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 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.

Signed: October 31, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-29098 Filed 11-3-83; 8:45 am]

BILLING CODE 4810-31-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of

the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. on December 6, 1983, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze informatin concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may direct questins, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Roseblum, Agent Orange Projects Office (10A7), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, D.C. 20420. (Telephone: (202) 389–5411).

Dated: October 14, 1983.

By direction of the Administration.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-29057 Filed 11-3-83; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Pub. L. 92–463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Marriott Hotel, 1221 22nd Street, NW., Washington, DC 20037, December 8–9, 1983, beginning at 9 a.m. on Thursday and 9 a.m. on Friday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and make recommendations to the Director, Rehabilitation Research and Development Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the December 8th session for approximately one hour to discuss the general status of the program and the administrative details of the review process. During the closed session, the Board will be reviewing research and development applications. This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of tlre personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with Section 552b, Subsections (c)(4), (c)(6), and (c)(9)(B), Title 5, United States Code and the determination of the Administrator for Veterans Affairs under Section 10(d) of Pub. L. 92–463 as amended by Section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Dr. Larry P. Turner, Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420 (Phone: (202) 389–5177) at least 5 days before the meeting.

Dated: October 26, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-29056 Filed 11-3-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 215
Friday, November 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., November 8, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Dockets 41499, 41349, 41350, *Buffalo Airways, Inc., Fitness Investigation, Applications of Buffalo Airways, Inc.*, Order Declining Review. (OGC)
3. Exemption from section 404(b) (non-discrimination) and clarification of the exemption from section 408(a) (acquisition and control) for domestic cargo transportation. (OGC)
4. Exemption from section 404(b) (non-discrimination) for intra-Alaska and intra-Hawaii cargo transportation and for indirect cargo air transportation. (OGC)
5. Docket 41510, Elimination of tariff filing for interstate cargo transportation between points within Hawaii or Alaska. (OGC, BIA, BDA)
6. Docket 41542, Notice of terms of contracts of carriage for domestic travel sold at ticket locations outside of the United States, or for air taxi operations. (OGC, BDA, BIA, OCCCA)
7. Docket 41219, Tariff filing requirements for credit terms. (Memo 1654-A, OGC)
8. Comments on a bill to prohibit smoking aboard aircraft. (Memo 2080, OGC)
9. Docket 41443, Domestic Baggage Liability: Final rules. (OGC, BDA, OCCCA)
10. Commuter carrier fitness determination of Gulf stream Airlines, Inc. (memo 2076, BDA)
11. Commuter carrier fitness determination of Las Vegas Airlines, Inc. (BDA)
12. Docket 38623, Agreement C.A.B. 29080, IATA agreement establishing a new South Pacific fare structure through March, 1985. (Memo 2083, BIA)
13. Discussion on Thailand Negotiations. (BIA)
14. Report on Peru. (BIA)
15. Report on Malaysia. (BIA)
16. Discussion on Trinidad & Tobago. (BIA)
17. Discussion on Switzerland. (BIA)
18. Discussion on Spain. (BIA)
19. Report on Jamaica. (BIA)
20. Discussion on Ireland. (BIA)
21. Discussion on Canada. (BIA)
22. Undocketed—Application of Air Canada for a statement of authorization to conduct a series of Fifth Freedom cargo charters between the United States and Scotland. (BIA, OGC)
23. Discussion on el Salvador. (BIA)

STATUS: 1–12 (Open), 13–23 (Closed).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[FR Doc. S-1549-83 Filed 11-2-83; 3:43 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:33 a.m. on Tuesday, November 1, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session by telephone conference call to consider a recommendation with respect to the initiation and conduct of a cease-and-desist proceeding against an insured bank (name and located of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Dated: November 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1547-83 Filed 11-2-83; 12:23 pm]

BILLING CODE 6714-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 7, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, November 8:

10 a.m.
Discussion/Vote on Hearing Requests and Whether to Lift Suspension at Diablo Canyon (public meeting) (As Announced)

2 p.m.
Consideration of Options for Dealing with Management Issues (TMI-1 Restart Proceeding) (closed—Ex. 5 and 10) (Title Revised)

Wednesday, November 9:

9:30 a.m.
Briefing on BWR Pipe Crack Issues (public meeting) (As Announced)

2 p.m.
Discussion of Hydrogen Ignition System and Final Rule (public meeting) (As Announced)

Thursday, November 10:

9:30 a.m.
Discussion of Treatment of Management Issues in TMI-1 Restart Proceeding (public meeting) (Title Revised)

11:30 a.m.
Affirmation/Discussion and Vote (public meeting) (As Announced)
a. Amendments to 10 CFR 50 Related to Hydrogen Control

b. Proposed Final Rule—Deletion of Exception Filing Requirements for Appeal from Initial Decisions

ADDITIONAL INFORMATION: Meeting on Classified, Export-Related Matters (closed—Ex. 1), added to schedule on 11:30 a.m., November 3, 1983.

Affirmation of "Revision to 10 CFR 51 and Related Conforming Amendments—Implementation of CEQ NEPA Regulations" scheduled for November 3, 1983, *postponed*.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-5-1548-83 Filed 11-2-83; 3:13 pm]

BILLING CODE 7590-01-M

federal register

Friday
November 4, 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:	
AR83-4038	May 13, 1983.
AR83-4039	May 13, 1983.
AR83-4049	July 15, 1983.
AR83-4069	Sept. 16, 1983.
Florida: FL83-1056	Aug. 19, 1983
Michigan: MI83-2008	Feb. 11, 1983.
New York: NY83-3018	May 20, 1983.
Oklahoma:	
OK83-4067	Sept. 16, 1983.
OK83-4068	Sept. 16, 1983.
Pennsylvania:	
PA81-3043	July 17, 1981.
PA81-3090	Dec. 18, 1981.
Texas:	
TX83-4007	Jan. 1, 1983.
TX83-4042	June 3, 1983.
TX83-4077	Oct. 21, 1983.
TX83-4078	Oct. 21, 1983.
TX83-4082	Oct. 21, 1983.
Virginia: VA83-3039	Sept. 30, 1983.
Indiana: IN83-2031	May 13, 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 numbers are in parentheses following the numbers of the decisions being superseded.

Ney York: NY81-3065 (NY83-3050)	Sept. 11 1981

Signed at Washington, D.C. this 28th day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #AR83-4038-MOD#3 (48 FR 21775-May 13, 1983) Garland, Clark and Hot Springs, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement Masons	$12.75	$ .63
Boilermakers	16.40	2.645
Carpenters:		
Carpenters	12.50	1.44
Millwrights, Pile-drivermen	13.00	1.46
Ironworkers	13.65	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Painters:		
Brush and Roller	9.50	
Paperhanger	10.00	
Sheet Rock (tape & float only)	10.00	
Stage and Steel	11.50	
Spray and Sandblasting	12.75	
Painters operating any kind of taping or floating machine	13.25	
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01
Sprinkler Fitters	14.57	3.23

DECISION NO. FL83-1058-MOD. #1 (48 FR 37799-AUGUST 19, 1983) DUVAL COUNTY, FLORIDA		
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP I	$13.34	2.45
GROUP II	11.96	2.45
GROUP III	9.56	2.45

DECISION #AR83-4039-MOD#4 (48 FR 21774-May 13, 1983) Union and Ouachita Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.40	$2.645
Carpenters:		
Carpenters	12.50	1.44
Millwrights-Pile-drivermen	13.00	1.46
Cement Masons	12.75	.63
Ironworkers:		
Ouachita County-excluding the Southeastern portion	13.65	2.21
Union County and Southeastern portion of Ouachita County	14.55	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01

DECISION #AR83-4049-MOD#5 (48 FR 42350-July 15,1983) Sebastain,Crawford, Washington Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sebastain and Crawford Counties, Arkansas		
Boilermakers	$16.40	$2.645
Carpenters:		
Carpenters	11.54	1.54
Millwrights-Pile-drivermen	12.29	1.54
Cement Masons	12.75	.63
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Worker	14.08	3%+2.01
ADD:		
Marble Masons, Tile Layers and Terrazzo Workers	12.00	

DECISION #AR83-4069-MOD#6 (48 FR 41695-September 16, 1983) Pulaski and Jefferson Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.40	$2.645
Bricklayers,Stone-masons	12.00	1.89
Carpenters:		
Carpenters	12.50	1.44
Millwrights-Pile-drivermen	13.00	1.46
Cement Masons	12.75	.63
Ironworkers	13.65	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01

DECISION NO. MI83-2008 - Mod. #2
(48 FR 6456 - February 11, 1983)
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers: Chippewa, Luce and Mackinac Counties	$16.38	$4.55
Boilermakers	19.19	3.45
Bricklayers; Stonemasons; Plasterers, Terrazzo Workers, and Tile Setters	14.24	2.12
Laborers: General Construction Laborers	11.27	1.69
Mortar Mixer, Material Mixer, Vibrator Operator, Concrete Mixer, Motor Driven Buggy, Chipping Hammer, Tamping Machine, Green Cutting (by air, electric or gas), Sand Mixer to pour, including pour from Trucks	11.37	1.69
Cement Gun Nozzleman, Blaster, Miner, Driller, Buster Operator	11.67	1.69
Caisson Work	11.82	1.69

DECISION NO. NY83-3018 - MOD. #2
(48 FR 22870 - May 20, 1983)
DUTCHESS, ORANGE, SULLIVAN & ULSTER COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS		
DUTCHESS; ULSTER; SULLIVAN: Brush	15.14	2.33+k
Structural Steel, Bridges, Towers, Fire Escapes, Smoke Stacks, Flagpoles, and other exposed areas 15' or more in height, Swing Stage, Window Jacks, Boatswain Chairs, Safety Belts and Spray Gun	16.14	2.33+k
ORANGE: Commercial Spray, Sandblasting, Taping & Paperhanging, Epoxy & other toxic materials	13.37	2.05
Elevated work: Structural steel, Power plants, Towers	14.37	2.05
Smoke stacks, Bridges	15.05	2.05

DECISION #OK83-4067-Mod.#2
(48 FR 41710-September 16, 1983)
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits
ADD:		
Carpenters: Area 3 Millwrights	$14.38	$1.25
CHANGE:		
Carpenters: Area 3 Carpenters	11.95	1.25
Piledrivermen	12.775	1.25
Carpenters: Area 8 Carpenters	12.22	1.34
Millwrights, Piledrivermen	12.47	1.34

DECISION #OK83-4068-Mod. #2
(48 FR 41714-September 16, 1983)
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, & Woodward Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Carpenters: Area 5 (McClain & Cleveland Cos.)		

DECISION #OK83-4069
Mod. #2 (cont'd)

	Basic Hourly Rates	Fringe Benefits
ADD:		
Carpenters: Area 1 (McClain and Cleveland Counties)		
Carpenters: Area 6 Millwrights	$14.38	$ 1.25
CHANGE:		
Carpenters: Area 6 Carpenters	$11.95	$ 1.25
Piledrivermen	12.775	1.25

DECISION NO. VA83-3039-MOD. # 1
(48 FR 45003-September 30, 1983)
BLAND, BUCHANAN, DICKENSON, GRAYSON, LEE, RUSSELL, SCOTT, SMYTH, TAZEWELL, WASHINGTON, WISE, & WYTHE COUNTIES, VA

	Basic Hourly Rates	Fringe Benefits
ADD:		
TRANSIT MIX TRUCK DRIVER	$5.00	

DECISION NO. PA81-3043	Basic Hourly Rates	Fringe Benefits
MOD. #12		
(46 FR 37212 - July 17, 1981) Armstrong, Allegheny, Butler, Beaver, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania		
CHANGE:		
Asbestos Workers	$15.88	5.29
Carpenters		
Zone 1	15.00	29%
Zone 2	14.00	30%
Cement masons		
Zone 1	15.94	3.98
Electricians		
Zone 3	17.50	1.50 +8-4%
Elevator Constructors	17.375	3.00+ a+b
Elevator Constructors Helpers	12.16	3.00+ a+b
Elevator Constructors Helpers (Prob.)	8.69	
Landscaping:		
Landscape Laborers	10.30	22%
Landscape Tractor op.	10.72	22%
Line Construction:		
Zone 1		
Lineman	18.06	.80+ 3%
Winch truck op.	12.59	.80+ 3%
Groundman	10.76	.80+ 3%
Marble Setters		
Zone 1	14.92	3.77
Plasterers		
Zone 1	14.19	3.42
Plumbers		
Zone 3	16.40	4.34
Piledrivermen	16.14	28%
Soft floor layers		
Zone 2	14.00	30%
Steamfitters:		
Zone 1	17.40	3.39
Sprinkler Fitters		
Zone 1	17.60	3.19
Sheet metal workers	16.59	4.38
Stonemasons:		
Zone 1	14.48	3.93
Tile setters		
Zone 1	14.00	4.86

DECISION NO. PA81-3090	Basic Hourly Rates	Fringe Benefits
MOD. #8		
(46 FR 61813 - December 18, 1981) Lycoming County, Pa.		
CHANGE:		
Bricklayers & Stonemasons	$12.25	2.56
Electricians	12.61	3.56
LABORERS::		
General Laborers	9.20	1.40
Operator of jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta ironstone, vitrified concrete or nonmetallic pile and the making of joints for same, wagon drill op. cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterers tenders, mason tenders, scaffold builders and removal of power boggies	9.35	1.40
Plumbers & Steamfitters	16.76	2.44

DECISION #TX83-4007-MOD.#7 (48 FR 932-January 1,1983) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters	$13.45	$2.18
Millwrights	13.95	2.18

DECISION #TX83-4042-MOD.#4 (48 FR 25106-June 3,1983) Collin,Dallas,Denton, Ellis,Grayson,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant and Wise Counties	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 2		
Carpenters & Piledrivermen	16.45	2.63
Millwrights	16.08	3.73
Ironworkers:		
Zone 1	16.19	2.92
Laborers	10.24	1.10
Lathers	16.46	2.54
Line Construction:		
Zone 1 - Collin,Dallas, Ellis,Grayson,Hunt, Kaufman and Rockwall Counties		
Linemen	17.10	.80+ 8-1/2%
Cable Splicers	18.81	.80+ 8-1/2%
Operators	17.955	.80+ 8-1/2%
Groundmen	11.97	.80+ 8-1/2%
Zone 2 - Denton,Hood, Johnson,Palo Pinto, Tarrant & Wise Counties		
Linemen	15.90	.80+8½%
Cable Splicers	17.49	.80+8½%
Operators	16.695	.80+8½%
Groundmen	11.13	.80+8½%
Plumbers & Pipefitters:		
Zone 1	17.50	2.19
Sheet Metal Workers:		
Zone 1	17.515	2.065

DECISION #TX83-4077-MOD#1 (48 FR 48908-October 21, 1983) Galveston and Harris Counties, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Galveston County -		
Group 1	$14.945	$3.20
Group 2	15.195	3.20
Group 3	14.19	3.20

DECISION #TX83-4078-MOD#1 (48 FR 48909-October 21, 1983)- Armstrong,Carson, Castro,Childress, Collingsworth,Dallam, Deaf Smith,Donley,Gray, Hansford,Hartley, Hemphill,Hutchinson, Lipscomb,Moore,Ochiltree,Oldham,Potter, Randall,Roberts,Sherman,Swisher & Wheeler Counties, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 1		
Carpenters	14.85	.81
Millwrights	15.20	.81
Zone 2		
Carpenters	13.45	2.18
Millwrights	13.95	2.18
Ironworkers:		
Zone 1	14.30	3.00
Laborers:		
Group 1	8.49	1.41
Group 2	8.64	1.41

DECISION NO.TX83-4082 - MOD. #1 (48 FR 48913 - 10/21/83) Jefferson & Orange Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters-Commercial	16.52	3.065
Millwrights	16.875	1.95
Piledrivermen	16.76	2.90

MODIFICATION P. 7

DECISION NO. IN83-2031 - Mod. #3
(48 FR 21771 - May 13, 1983)
Statewide, except Lake, LaPorte, Porter and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits
Add:		
Linemen:		
Electrical Underground Construction shall include excavation of earth, laying of conduits, ducts, cable and basis for street lights, tranformers and excavation of manholes: Statewide, except Gibson, Pike, DuBoise, Crawford, Posey, Vanderburg, Warrick, Spencer, Perry Counties, and the Remainder of Lake County (exclusive of Calument Area):		
Lineman and Equipment Operator	$15.89	5.65+ 8-1/2%
Powderman and Equipment Mechanics	12.04	.65+ 8-1/2%
Groundmen and Truck Driver	10.25	.65+ 8-1/2%

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: NEW YORK
DECISION NO. NY83-3050
COUNTY: CHEMUNG
Date: Date of Publication
Supersedes Decision No. NY81-3065, dated September 11, 1981 in 46 FR 45520
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.28	3.09
BOILERMAKERS	17.85	3.77
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, & TILE SETTERS	12.45	1.35
CARPENTERS:		
All the area west of a straight line from the intersection of Southport Twp. line and Clark Hallow Road to Route 17E to Winter Street, Big Flats, then in a straight line north to the Schuyler County line:		
Carpenters	10.81	2.27
Millwrights & Piledrivers	11.06	2.27
Heavy & Highway	13.46	2.535 +a
Remainder of County:		
Carpenters	12.82	1.83
Millwrights & Piledrivers	13.17	1.83
Heavy & Highway	14.20	1.795 +a
CEMENT MASONS (Heavy & Highway)	13.71	1.85
ELECTRICIANS	16.60	3.15 + 3%
ELEVATOR CONSTRUCTORS	14.48	2.69+ b+c
HELPERS	10.14	2.69+ b+c
HELPERS (PROB.)	7.24	
GLAZIERS	10.92	1.69
IRONWORKERS	14.40	2.85
LABORERS:		
Building	9.97	1.85
Heavy and Highway:		
Class A	12.39	1.39+d
Class B	12.59	1.35+d
Class C	12.79	1.35+d
Class D	12.59	1.35+d
PAINTERS:		
Brush	10.05	1.45
Toothpick Staging over 25'; Structural Scaffold over 39'	10.30	1.45
Paperhangers; Vinyl Hangers	10.40	1.45
Swing Chair, Swing Scaffold; Power Grinder with Respirator	10.55	1.45
Epoxy - Brush and Roll	10.60	1.45
Stilts	10.80	1.45
Spray	10.90	1.45
Structural Steel; Steeplejack (over 100'); Sandblasting; Steamcleaning (acid or hi-pressure water)	11.05	1.45
Spray - Epoxy	11.30	1.45
PLUMBERS & STEAMFITTERS	15.80	2.55
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION		
GROUP I:		
I-A	16.36	3.40+e
I-B	16.69	3.40+e
I-C	17.01	3.40+e
I-D	17.34	3.40+e
I-E	17.99	3.40+e
I-F	18.64	3.40+e
I-G	19.28	3.40+e
I-H	19.93	3.40+e
GROUP II	16.04	3.40+e
GROUP III	16.12	3.40+e
GROUP IV	14.71	3.40+e
GROUP V	12.13	3.40+e
GROUP VI	16.92	3.40+e
POWER EQUIPMENT OPERATORS:		
HEAVY & HIGHWAY CONSTRUCTION		
GROUP I	15.24	3.55+d
GROUP II	14.74	3.55+d
GROUP III	13.31	3.55+d
GROUP IV	12.05	3.55+d
ROOFERS	11.00	2.18
SHEET METAL WORKERS	14.95	2.19+3%
SPRINKLER FITTERS	16.92	3.13

DECISION NO. NY83-3050

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
(HEAVY & HIGHWAY):		
Class 1	12.39	2.40+d
Class 2	12.44	2.40+d
Class 3	12.49	2.40+d
Class 4	12.64	2.40+d
Class 5	12.79	2.40+d
Welders-receive rate prescribed for craft to which welding is incidential.		

Basic Hourly Rates	Fringe Benefits

PAID HOLIDAYS: A-New Year's Day; M--Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving; F-Christmas Day.

a. Paid Holidays: C & D, provided employee works his scheduled work day before and his scheduled work day after the holiday and is on the payroll in the payroll week in which the holiday falls.

b. Paid Holiday: A through F, and the Friday after Thanksgiving.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

d. Paid Holidays: A through F, provided the employee works the working day before and the working day after the holiday.

e. Paid Holidays: A through F, provided the employee works either the work day immediately preceding the holiday or the scheduled work day immediately following the holiday.

DECISION NO. NY83-3050

CLASSIFICATION DESCRIPTIONS

LABORERS (HEAVY AND HIGHWAY CONSTRUCTION):

CLASS A: Laborers, drill tenders, outboard and hand boats.

CLASS B: Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or crew op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding, and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C: All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D: Blasters, form setter, stone or granite curb setters.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

GROUP I: Cranes (cable and hydraulic climbing and tower)
I-A: 121 ft. and under
I-B: Between 121 ft. and 151 ft.
I-C: Between 151 ft. and 201 ft.
I-D: Between 201 ft. and 251 ft.
I-E: Between 251 ft. and 301 ft.
I-F: Between 301 ft. and 351 ft.
I-G: Between 351 ft. and 401 ft.
I-H: Between 401 ft. and 451 ft.

GROUP II: Air tugger; derrick; dredge; big generator plant; cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating); bridge crane (all types); caisson auger and similar type machine; forklift (with factory rating of 15 ft. or more of lift); hoist (on steel erection); mucking machines; Boss carrier (and similar types); three drum hoist (when all three drums are in use).

GROUP III: A-frame truck; backfilling machine; hoist (1 or 2 drums); Barber Green and similar type machines; maintenance engineer (mechanic); mechanical slurry machines (all kinds); belt crete and similar type machine; bituminous spreading machines; post hole digger; bulldozer; carry-all type scraper; core drill; pumps (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity); fine grade and finish rollers, side boom tractor; stone crusher; compressors (4 not to exceed 200 CFM combined capacity, or 3 or less with more than 1200 CFM, but not to exceed 2000 CFM); concrete mixer; concrete pumps, Tournadozer and similar types; crane hoe shovel 3/8 yds. capacity or less (factory rating); Tournapull and similar types; dinky locomitives (all types), tower-mobile and similar types; elevating grader; elevator; trenching machines; fine grade macines (all kinds); welder; front end loader; forklift, with factory rating of less than 15 feet of lift; well drill; well point system; high pressure boiler.

CLASSIFICATION DESCRIPTIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION): (CONT'D)

GROUP III (CONT'D): concrete pumps, Tournadozer and similar types: crane hoe shovel 3/8 yds. capacity or less (factory rating); tournapull and similar types; dinky locomotives (all types), tower-mobile and similar types; elevating grader; elevator; trenching machines; fine grade machines (all kinds); welder; front end loader; forklift, with factory rating of less than 15 feet of lift; well drill; well point system; high pressure boiler.

GROUP IV: Any combination (not to exceed 3 pieces of equipment); welding; machine or mechanical conveyor (over 12 ft. in length); fireman; belt crete generator; mechanical heater; roller (fill & grade); pumps (regardless of motive power), no more than (3) in number, not to exceed twelve inches total capacity); rubber tired tractor; compressor 3 or less, not to exceed 1200 CFM combined capacity; longitudinal float.

GROUP V: Truck Crane.

GROUP VI: Master Mechanic.

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION):

GROUP I: Automated concrete spreader (CMI); automatic fine grade; backhoe (except tractor mounted, rubber tired); belt placer (CMI type); blacktop plant (automated); cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity); concrete pump (8" or over); crane, cranes & derricks (steel erection); dragline; dredge; dual drum paver; excavator (all purpose-hydraulically operated) (gradall or similar); fork lift (factory rated 15 ft. and over); front end loader 4 c.y. and over); head tower (sauerman or equal); hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type); piledriver; power grader; quad 9; quarry master (or equivalent); scraper; shovel; sideboom; slip form paver; tractor drawn belt type loader; truck cranes; truck or trailer mounted log chipper (self-feeder); tug operator (except manned rented equipment); tunnel shovel.

GROUP II: Backhoe (tractor mounted, rubber tired); bituminous spreader and mixer; blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted); boring machine; cage-hoist; central mix plant (non-automated and all concrete batching plants; cherry picker (5 tons capacity and under); compressors (4 or less) exceeding 2000 C.F.M. combined capacity; concrete paver (over 16S); concrete pump (under 8"); crusher; diesel power unit; drill rigs (tractor mounted); front end loader (under 4 c.y.); hi-pressure boiler (15 lbs. and over); hoist (one drum); Kolman plant loader and similar type loaders; L.C.M. work boat operator; locomotive; maintenance/engineer/greaseman/welder; mixer (for stabilized base self-propelled); monorail machine; plant engineer; pump crete; ready mix concrete plant; refrigeration equipment (for soil stabilization); road widener; roller (all above sub-grade); sea mule; tractor with dozer and/or pusher; trencher; tugger-hoist; winch; winch cat.

CLASSIFICATION DESCRIPTIONS (CONT'D)

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION): CONT'D)

GROUP III: A-frame truck; compressors, dust collectors, generators, pumps, welding machines; light plants (4 of any type of conbination); concrete pavement spreaders and finishers; conveyor; drill-core; drill-well; electric pumps used in conjunction with well point system; farm tractor with accessories; fine grade machine; fork lift (under 15 feet); grout pump; gunnite machine; hammers (hydraulic-self-propelled); hydra-spiker (ride-on); hydro blaster (water); post hole digger and post driver; power sweeper; roller (grade and fill); submersible electric pump (when used in lieu of well point system); tractor with towed accessories; vibratory compactor; vibro tamp; well point.

GROUP IV: Aggregate plant; boiler (used in conjunction with production; cement and bin operator; compressors, dust collectors, generator pumps, welding machines, light plants (3 or less of any type or combination; concrete paver or mixer (16S and under), concrete saw (self-propelled); fireman; form tamper; hydraulic pump (jacking system); mulching machine; oiler; papapet concrete or pavement grinder; power broom (towed), power beaterman; Ravinua widener; shell winder; steam cleaner; tractor.

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION):

CLASS 1: Warehouseman, yardmen, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2: Tandems, batch trucks, mechanics and dispatcher.

CLASS 3: Semi-trailers, low-boy trucks asphalt distributor trucks, agitator,

CLASS 4: Specialized earth moving equipment - Euclid type or similar off-highway equipment where not self-loaded, straddle (Ross) carrier and self-contained concrete mobile unit.

CLASS 5: Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

DECISION NO. NY83-3050

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (When not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.20	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

[FR Doc. 83-29759 Filed 11-3-83; 8:45 am]

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federal register

Friday
November 4, 1983

Part III

Department of Transportation

Coast Guard

Subdivision and Stability Regulations; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 31, 32, 35, 37, 42, 46, 56, 71, 72, 73, 74, 75, 78, 79, 91, 93, 97, 99, 106, 107, 108, 109, 111, 151, 153, 154, 163, 167, 168, 170, 171, 172, 173, 174, 177, 178, 179, 185, 189, 190, 191 and 196

[CGD 79-023]

Subdivision and Stability Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: The Coast Guard is transferring the subdivision and stability regulations for merchant vessels to a new Subchapter S. The old regulations were scattered in various places throughout Title 46 and Title 33, Code of Federal Regulations, and included several redundent and poorly stated requirements. Rewriting the regulations and placing them in one subchapter will promote a uniform set of standards that can be more easily understood and will reduce the time and costs involved to comply with the various requirements. The new subchapter also includes requirements that have been previously issued as policy statements or interpretations but that have not yet been published in the Code of Federal Regulations.

DATES:

1. Effective Date: These regulations become effective on December 5, 1983.

2. Closing date for comments: As explained in paragraph 7 of the Discussion of Comments, comments may be submitted on or before December 19, 1983.

3. The incorporation by reference of the publications listed under **ADDRESSES** have been approved by the Director of the Federal Register December 5, 1983.

ADDRESSES:

1. Standards that have been incorporated by reference into this document may be obtained from the following addresses:

MIL-P-21929B: Military Specifications, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120;

International Maritime Organization (IMO) Resolution A.265(VIII), National Technical Information Service, Springfield, Virginia 22151.

(Under the title—"Regulations on Subdivision and Stability of Passenger Ships as Equivalent to Part B of Chapter II of the International Convention for the Safety of Life at Sea, 1960" (Volume IV of the U.S. Coast Guard's "Commandant's International Technical Series", USCG CITS-74-1-1.))

2. The materials listed above are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408.

3. Comments should be mailed to Commandant (G-CMC/44) (CGD 79-023), U.S. Coast Guard, Washington, D.C. 20593. The comments, final evaluation, and materials referenced in this document will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LCDR Kevin V. Feeney, Office of Merchant Marine Safety (G-MTH-5/13), Room 1308, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2187.

SUPPLEMENTARY INFORMATION:

1. A Notice of Proposed Rulemaking was published in the **Federal Register** of August 12, 1982 (45 FR 35090). The closing date for submitting comments was November 10, 1982. Eighteen comments were received. The commenters included ship builders, ship operators, trade organizations, independent naval architects, and agencies of the federal government. The comments are discussed below.

2. As stated in the NPRM, there were four other sets of stability regulations being prepared and which were not included in the NPRM. As each project is completed, its final rules are to be transferred to Subchapter S. The status of each project is described below.

(a) *CGD 82-004 Offshore Supply Vessels.* Stability requirements for new offshore supply vessels have been published in the **Federal Register** of February 14, 1983 at page 6636. As stated in that notice, an opportunity is being afforded to submit comments on its provisions. The comment period closes on June 14, 1983.

(b) *CGD 76-053 Subdivision and Damage Stability for Certain Passenger Vessels.* Regulations for passenger vessels were published as final rules on August 26, 1982 (47 FR 37551). They have been renumbered and are included in §§ 170.015, 170.135, 171.060, 171.075, and 171.082 in these final regulations.

(c) *CGD 76-080 Stability Standards for Hopper Dredges.* A notice of proposed rulemaking was published in the **Federal Register** on December 10, 1979 (44 FR 70791) and a supplemental notice was published on January 24, 1980 (45 FR 5780). Persons were given an opportunity to comment on those proposals after they were published. The proposal is being reanalyzed based upon comments received and further action is to be determined upon completion of this analysis.

(d) *CGD 77-027 Damage Stability Standards for Ocean-Going Chemical Barges.* A notice of proposed rulemaking has not yet been published for public comment. Final rules are not expected for some time and, accordingly, the old damage stability regulations for ocean-going chemical barges are included in Subchapter S at §§ 172.103-172.110.

In addition to these projects, an advance notice of proposed rulemaking concerning damage stability requirements for Great Lakes cargo vessels was recently published in the **Federal Register** of February 28, 1983 (40 FR 8312). An opportunity is being afforded to submit comments on its provisions and the comment period closes on August 31, 1983.

3. The principal goals of this rulemaking have been to consolidate existing stability regulations into one subchapter, redraft the regulations in clearer format and style, and publish various policy statements relating to vessel stability that have not yet been published in regulatory form. As explained in the NPRM, minor substantive changes have been made but only to the extent that they would not interfere with the goals in the rulemaking. Several commenters suggested that additional substantive changes be made to the final regulations. These changes are summarized in paragraph 4. They will be analyzed to determine whether there is a demonstrated need for making them and, if so, subsequent rulemaking projects will be started to incorporate them into Subchapter S.

As stated in the NPRM, publication of these regulations will also facilitate Coast Guard plans concerning future transfers of functions associated with the regulations to the American Bureau of Shipping (ABS). Discussions with the ABS have been started and it is anticipated that in the near future the Coast Guard will begin to accept the ABS's review of particular vessels in determining compliance with requirements in subchapter S.

4. Commenters recommended changes to the following regulations:

(a) The stability requirements in Subpart 93.20 for vessels that carry grain in bulk. (A determination to revise these regulations has already been made and a rulemaking project will be started in the near future.)

(b) The weather criterion set out in Subpart E of Part 170 and certain other intact stability standards in Parts 170, 173, and 174.

(c) Damage stability standards in Part 172 relating to subdivision and watertight integrity.

(d) Requirements in Part 171 concerning collision and aft peak bulkheads.

(e) Minor changes in Subchapters E (Load Lines) and IA (Mobile Offshore Drilling Units) to clarify their applicability to Subchapter S.

5. These regulations include, in addition to the new Subchapter S, several editorial amendments that are necessary to transfer the old regulations to their new placement in Subchapter S. These amendments also update cross references throughout Title 46 to regulations that are now in new Subchapter S. Tables I through IV below show how the old regulations relate to those in the new subchapter.

Drafting Information

The principal drafter of this document was LCDR K. V. Feeney, Office of Merchant Marine Safety. Mr. W. R. Register, Office of the Chief Counsel, provided assistance.

Evaluations

These regulations have been evaluated under Executive Order 12291 and have been determined not to be major regulations. These regulations have also been evaluated under the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980) and have been determined to be nonsignificant. As explained in the final evaluation, the regulations will provide a cost savings both to the marine industry and to Federal, State, and local governments that operate vessels. The annual savings is estimated to be in the range of $146,000 to $292,000. The savings will result principally from the reduced time and personnel involved to understand and comply with the regulations.

The regulations should also produce an annual cost savings for the Coast Guard estimated to be in the range of $21,600 to $43,200. Better quality vessel plan submittals can be expected and should result in less time and personnel costs involved for the Coast Guard to review the plans for compliance with the regulations.

Regulatory Flexibility Act Certification

Small businesses and other small entities will be affected by these regulations. These include certain independent naval architects, vessel owners, shipyards, and local governments. The impact is in terms of a cost savings which is estimated to be $520 for each ship ($64 per barge) for which stability plans are submitted for approval. This cost savings will in many cases be up to 5% greater than the savings expected to result for larger entities. Based upon this data and supporting explanation in the final evaluation, it is certified pursuant to section 605 of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354) that the regulations will not have a significant economic impact on a substantial number of small entities.

OMB Control Numbers

Subparts C and D of Part 170 of these regulations contain reporting and recordkeeping requirements. These are existing requirements most of which have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The reporting and recordkeeping requirements for small passenger vessels (46 CFR Subchapter T), vessels carrying dangerous cargoes (46 CFR Subchapter O), cargo and miscellaneous vessels (46 CFR Subchapter I), tank vessels (46 CFR Subchapter D), tank vessels carrying oil in bulk (33 CFR Part 157), and mobile offshore drilling units (46 CFR Subchapter IA) have been approved by OMB and assigned control numbers 2115-0095, 2115-0114, 2115-0130, 2115-0131, 2130-0186, and 2130-0188 respectively. The reporting and recordkeeping requirements for passenger vessels (46 CFR Subchapter H), nautical school ships (46 CFR Subchapter R), and oceanographic vessels (46 CFR Subchapter U) had not been previously approved by OMB because there are currently fewer than 10 respondents for each vessel type. Since the regulations have general applicability to the class of vessels, they will be submitted to OMB for approval in accordance with OMB regulations in 5 CFR 1320.14 before December 31, 1983.

Discussion of Comments and Changes Made

General Comments

1. Most commenters supported consolidation of subdivision and stability regulations into one subchapter. However, two commenters disagreed and recommended that individual standards be retained in existing vessel subchapters. The determination to consolidate the regulations into one subchapter was made to assist vessel designers, who are the primary users of the regulations, in performing stability analyses for numerous types of vessels. A vessel operator is not as concerned with design standards as with requirements for loading and operating the vessel in compliance with those standards. This guidance is given to the operator in the form of a stability letter or a stability booklet developed by the designer. Requirements concerning stability letters are being retained in the various vessel subchapters as noted in Table III below.

2. Some commenters expressed difficulty in determining what regulations apply to a particular class of vessel. This determination can be made by looking at the titles to the various parts and their applicability statements. The format of the Stability Subchapter is basically as follows:

Part 170—General Provisions—contains rules that apply to all vessel types.

Part 171—Special Rules Pertaining to Vessels Carrying Passengers—contains rules that apply to each vessel that carries passengers.

Part 172—Special Rules Pertaining to Bulk Cargoes—contains rules that apply to each vessel that carries in bulk a cargo regulated under 46 CFR Subchapter D or O or 33 CFR Part 157, Subpart B.

Part 173—Special Rules Pertaining to Vessel Use—contains rules that apply to each vessel that performs a specific function such as lifting, training, research, or towing.

Part 174—Special Rules Pertaining to Specific Vessel Types—contains rules for specific classes of vessels such as deck cargo barges, mobile offshore drilling units, nuclear vessels, tugs and OTEC facilities.

To determine the applicability of specific regulations to a particular vessel type, it is necessary only to know its intended operation. A barge, for example, must meet—

(a) Part 170;

(b) Part 171 if it carries passengers;

(c) Part 172 if it is a tank barge;

(d) Part 173 if it has a crane on board; and

(e) Part 174 if it carries deck cargo.

3. Five commenters objected to presentation of standards and formulas in metric units only. They said that use of metric units would be a substantial burden for those who are not familiar with the metric system and whose computer programs are in English units. The formulas, tables, and graphs in the final regulations are given in both English and metric units. Also, in

preparing the NPRM minor errors were made in converting from English to metric units. These errors have been corrected in the final rules.

4. One commenter expressed confusion over the NPRM preamble explanation of the status of standards for tugboats and towboats. The standards published in the NPRM were those that have been applied by the Coast Guard since 1974. In 1976 the Coast Guard published an advance NPRM announcing that new standards were being considered to replace the 1974 standards. The advance NPRM was later cancelled since the need for upgraded standards could not be demonstrated.

5. One commenter indicated that the old regulations in 46 CFR Part 93 did not apply to a Great Lakes bulk carrier unless it was to engage in an international voyage. The various applicability statements in old Part 93 were conflicting regarding the applicability of the standards to vessels on international, coastwise, and Great Lakes voyages. It has been the Coast Guard's practice to consider the standards in old Part 93 applicable to vessels on each of these stated routes. However, regarding Great Lakes bulk carriers, the Coast Guard has not required a stability test for every vessel and has permitted the designer to estimate the vessel's vertical center of gravity. Additionally, the Coast Guard has applied a modified intact stability criterion to these vessels in lieu of the Weather Criterion in Subpart E of Part 170. The Coast Guard has no intent to change these practices. Accordingly, § 170.175(d) has been modified to indicate that the Coast Guard may dispense with the requirement for a stability test on a particular vessel. Additionally, in lieu of the Weather Criterion, the Coast Guard will continue to apply the modified intact stability criterion to Great Lakes bulk carriers under the equivalency provisions of § 170.010. In a future rulemaking project, these practices will be considered for incorporation into Subchapter S.

6. One commenter concluded that the NPRM contained a requirement for offshore supply vessels (OSV's), especially those with anchor handling capability, to meet a damage stability standard. As noted in paragraph 2(a) under **SUPPLEMENTARY INFORMATION**, and in the NPRM preamble, Subchapter S does not include requirements for OSV's.

7. Minor revisions have been made to the regulations to correct errors and improve clarity but without changing their substance. These revisions were made based upon comments received and upon Coast Guard review of the proposed regulations. The changes made in §§ 170.255(c), 170.285, and 170.290 were extensive and, accordingly, an opportunity to comment on the accuracy of the changes is being provided. Comments may be submitted to the address listed above. Persons desiring acknowledgment of their comments should enclose a self-addressed post card or envelope. All comments received before the comment period closes will be considered. These sections may be further changed based upon comments received.

Specific Comments

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

§ 170.010 One commenter suggested that the Coast Guard should not be so rigid in its requirements and that alternate stability assessment methods should be accepted for unique vessels or vessels operating in unique environments. Section 170.010 does provide the opportunity for designers, owners, and builders to propose alternatives to the Coast Guard where equivalent levels of safety can be demonstrated. The regulations themselves provide various specific alternatives. As examples, § 171.060 provides an option between two different subdivision standards for certain passenger vessels and § 173.095 provides an option between two different stability criteria for vessels that tow.

§ 170.050 Two commenters suggested that a definition of "International voyage" be included in this section. A definition is included in § 171.010(g) of Part 171 and the term is used only in that part.

§ 170.050(a) One commenter suggested that the term "Field" be deleted from the title "Commander, Merchant Marine Technical Field Office" since there is no longer a merchant marine technical office in Coast Guard Headquarters. The word "Field" has been deleted in the final rules.

§ 170.050(f) One commenter suggested that the definition of "ocean" be expanded to include "seas, bays, and inlets" so as to cover specific bodies of inland waters that are fairly large in size. The requirements for vessels on ocean voyages are more rigorous than requirements for vessels on inland voyages. The more rigorous requirements are not needed on many "seas, bays, and inlets" and, accordingly, are not included in the definition of "ocean". The definition provides, however, that the Commandant can designate as an "ocean" any specific body of water that is not listed in the definition.

§ 170.050(h) One commenter suggested that the definition of "oil" be expanded to include all liquid hydrocarbons including liquid gas. The definition is extremely broad and includes oil of any kind or in any form without limitation. Also, the final regulations include specific requirements in Part 172 for vessels that carry liquefied gases.

§§ 170.070, 170.105, and 170.160 One commenter thought that the reference to passenger vessels in the applicability statement for plan review requirements in § 170.070 was confusing and did not exempt certain barges which were exempt from plan review under the old requirements. Section 170.070 has been modified in the final rules to restate its terms more clearly and to incorporate the barge exemption from the old regulations. Similar revisions have been made in §§ 170.105 and 170.160.

§ 170.075(a)(3) One commenter suggested that, in lieu of curves of form, tables of those values should be allowed. This comment has not been adopted. Plotting curves is a more effective way to verify the accuracy of calculations of hydrostatic data. Use of curves rather than tables is the preferred practice of naval architects in vessel design.

§ 170.100 This section has been revised to include the current addresses of the 8th and 12th District Merchant Marine Technical Offices. Additionally, the address for the 9th District technical office has been deleted since it is being closed. Responsibility for the geographical area covered by the 9th Coast Guard District has recently been transferred to the 3rd District technical office.

§ 170.110 Thirteen comments were received concerning the requirement to prepare a vessel stability booklet, and concerning the information that must be included in the booklet.

Several commenters suggested that certain additional items of information be included in the booklet. The purpose of the regulation is to provide guidance as to the type if information needed to operate a vessel in compliance with stability regulations applicable to that vessel. Because the specific stability requirements to be applied vary depending on vessel type and operation, the information needed in a stability booklet will likewise vary according to vessel type and operation. For some vessel types, only minimal information is needed and preparation of a stability

booklet is unnecessary. Section 170.110 has been modified to take these differences into account and to include commenters' suggestions.

One commenter asked whether § 170.110 would require loading calculations for tank vessels of 300 feet or less in length. The requirements for loading calculations are in 46 CFR 31.10–32(b) and are not being incorporated into Subchapter S. Section 31.10–32(b) does not require loading calculations for tank vessels of 300 feet or less in length.

One commenter asked whether the stability booklet should be in English or metric units. The owner will have the option to select the system most suitable for the vessel's personnel.

One commenter suggested that provisions be added to recognize the use of on board computers in lieu of a stability booklet. Although the final regulations require a stability booklet, they do not preclude use of computers as long as the booklet is also available. The booklet is reviewed and approved as a part of the plan review process. Its information provides guidance to the master in a readily usable form and serves as a reliable source of information in the event of computer malfunction which could easily occur in an emergency or casualty situation. A master could be severely hampered in assessing a vessel's stability in such a situation if no backup to the computer were available.

§ 170.120 One commenter suggested adding a requirement to post the stability letter on the vessel. This is an operations requirement and is being placed in the operations sections of each vessel subchapter. This requirement is listed in Table III below.

§ 170.160 One commenter asked why Mobile Offshore Drilling Units (MODU's) were exempt for the Weather Criterion. The reason for this is that a separate wind heel criterion is applied to MODU's in § 174.045.

§ 170.173 One commenter objected to applying the criterion in this section to offshore supply vessels (OSV's) and the other vessels of unusual proportion and form. As noted previously, Subchapter S does not include requirements for OSV's and § 170.173 excludes tugs and tows from its applicability. Other vessels of unusual proportion and form, i.e. certain small passenger vessels, will have to meet § 170.173 unless equivalent treatment is allowed under § 170.010. The basis of the commenter's objection was that § 170.173 requires righting arms to be calculated by the "trimming free" method rather than by the "constant trim" method. The requirement to use the trimming free method with the criterion in § 170.173 is derived from IMO Resolution A.469(XII). It is the preferred method since it reflects the actual response of the vessel to heel.

170.175 Two commenters requested clarification of the stability test requirements applicable to sister vessels. As stated in paragraph (c) of this section, the Coast Guard may either accept a deadweight survey on a vessel in lieu of the stability test, or not require the test at all, if provided with approved results of a stability test of a sister vessel. Guidelines for dispensing with a stability test are contained in Coast Guard Navigation and Vessel Inspection Circular (NVC) 14–81. Since these guidelines are only voluntary, they are not being incorporated into Subchapter S. They are available for inspection and copying at the address listed in paragraph 3 under **ADDRESSES.**

§ 170.185 One commenter suggested that paragraph (c) of this section be modified to allow certain items to be on board during a stability test, if noted. The accuracy of a stability test is improved if none of those items are on board. However, §170.190 does permit the Coast Guard representative to allow deviations from this requirement if the items can be accounted for and the accuracy of the test will not be affected.

§175. 235 One commenter thought that the wording of this section precluded the use of heavy liquids as permanent ballast. To avoid confusion, "solid ballast" has been relabelled "fixed ballast" in the final rules.

Part 170, Subpart H One commenter recommended that standards for port lights be included in this subpart. These requirements are included in Subpart F of Part 171. The load line regulations also include requirements in § 42.15–65 and § 45.139 of Title 46, CFR.

Eight comments were received concerning the watertight door requirements. Many of the comments indicate a misunderstanding of the applicability of Subpart H. The watertight door requirements apply only to vessels with watertight doors in bulkheads that have been made watertight to comply with the flooding or damage stability regulations in Subchapter S. If a bulkhead is not required to be watertight, any class door, or no door at all, may be installed in it. As an example, the requirements in § 170.275 apply only to a door between cargo spaces and only if that door is in a bulkhead which is required to be watertight to comply with the regulations in Subchapter S.

§ 170.250(b)(1) One commenter suggested that plate doors secured by bolts be allowed as watertight doors. This suggestion has not been adopted. This subsection prohibits these doors because they cannot maintain the watertight integrity of the bulkhead in the event of damage.

§ 170.255(b) This paragraph permits the installation of Class 1 watertight doors on vessels of less than 150 gross tons on inland routes and routes that do not exceed 20 miles from shore. The requirement in the NPRM, which was derived from the old regulation in § 73.35–5(b), only permitted the installation of these doors on vessels of between 100 and 150 gross tons. There is no good reason however, to prohibit vessels of less than 100 gross tons from having Class 1 watertight doors when on these routes, and there was no such prohibition in the old stability regulations for passenger vessels under 100 gross tons. Accordingly, § 170.255(b) has been changed in the final rules to apply to all vessels of less than 150 gross tons.

§ 170.255(c) Four commenters pointed out that the Coast Guard has, by policy, permitted Class 1 doors in certain locations on crew boats operating in the offshore oil industry. This policy statement was inadvertently omitted from the NPRM and is included in the final rule.

§ 170.270 One commenter asked if a "quick action closing device" was different from "catches workable from either side". The words "Catches workable from either side" were included in the old regulation (§ 73.35–20(a)) to provide an example of a "quick action closing device." The example was considered to be unnecessary and has been deleted from the NPRM and the final rules.

§ 170.285 and § 170.290 Six comments were received concerning these two sections. The commenters expressed confusion over the way free surface should be handled for intact and damage stability calculations. In order to clarify the proposed requirements, the two sections have been rewritten and retitled accordingly.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

§ 171.015(b) This paragraph requires a margin line adjustment for vessels with insufficient sheer. One commenter expressed the opinion that the adjustment was not necessary and that § 171.015(b) should be deleted. The commenter's suggestion has not been adopted. The purpose of the regulation is to provide reserve buoyancy for vessels that are designed with no sheer or only minimal sheer. Reserve buoyancy is needed to aid vessels in

surviving after sustaining collision or grounding damage.

§ 171.035 (d) and (e) Two commenters thought that the requirement for small sailing vessels to remain afloat when flooded or capsized was overly restrictive. Part 171 does not include a similar requirement for mechanically propelled vessels in the same service and, accordingly, § 171.035(d) and the companion requirement in § 171.035(e) for hand holds have been deleted from the final rules. Analysis of these requirements failed to demonstrate a need for retaining them. The remaining requirements in § 171.035 set out sufficient intact stability standards for sailing vessels that must comply with that section.

§ 171.070 and § 170.055 One commenter thought that the wording of §171.070 would prohibit the addition of transverse watertight bulkheads that did not meet the spacing requirements for main transverse watertight bulkheads. This prohibition was not intended. A definition of "main transverse watertight bulkhead" has been added in § 170.055. The purpose of the definition is to make it clear that transverse watertight bulkheads are allowed as long as the main transverse watertight bulkheads required by § 171.070 are also provided.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

Part 172, Subpart B—Bulk Grain The National Cargo Bureau (NCB) made numerous recommendations for revisions to this subpart to reflect current practice. In evaluating these recommendations, several conflicts were noted between the existing regulations, as written, and the actual application of these regulations. In lieu of attempting to resolve these discrepancies as part of this rulemaking, the portions of the proposal relating to the carriage of grain have been removed and the existing regulations left in place. The existing regulations will be revised and transferred to Subchapter S in a separate rulemaking. In preparing those regulations, NCB's comments will be taken into consideration.

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

§ 173.025 One commenter asked for more explanation on how to develop the heeling moment curves due to hook load and counterballasting. A paragraph has been added to define the shapes of these curves. As noted in Table I below, the additicnal information is also included in Coast Guard Merchant Marine Technical (MMT) Note 3–69.

Part 173, Subpart E—Two commenters questioned why the standards for tugboats and towboats in Part 174 were not included in this subpart. The reason is that Part 173 includes standards which apply dependent upon the vessel's use, in this case towing. Any vessel that tows must comply with the requirements in Subpart E of Part 173. The standards in Subpart E of Part 174 apply only to tugboats and towboats. Other vessels that tow will not have to comply with Subpart E of Part 174.

§ 173.095 One commenter expressed an opinion that it is excessive to require that downflooding be assumed to occur through any opening that does not close automatically. The purpose of this section is to minimize a vessel's potential for capsizing when maneuvering to maintain control of its tow. During this maneuvering, the vessel could heel over suddenly resulting in downflooding through openings such as watertight doors, which may be latched open by the vessel's crew. Accordingly, these openings are considered to be points of downflooding.

One commenter thought that this section should not be applied to a vessel that does not have rigid means of fixing the tow rope to the vessel. This comment has not been adopted. As stated above, the purpose of this section is to minimize a vessel's potential for capsizing when maneuvering to maintain control of its tow. It it could be proven that a particular vessel was not susceptible to this danger, special consideration could be requested under the equivalency provisions in § 170.010.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

Subpart F, Part 174 Specific rules have been added for Ocean Thermal Energy Conversion plantships and floating facilities. These rules were published in the **Federal Register** of April 11, 1983 (48 FR 15469). They have been renumbered and transferred to Subpart F of Part 174 in these final regulations.

Tables

The tables below include certain abbreviations of referenced materials:

NVC—Navigation and Vessel Inspection Circular
MSM—Marine Safety Manual
MMTN—Merchant Marine Technical Note
IMO Res.—International Maritime Organization Resolution

The following table shows how these regulations relate to regulations previously in the CFR. References are to regulations in Title 46 unless otherwise noted.

TABLE I

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.001		31.10-30(a), 73.01-1, 74.01, 107.01, 107.111, 93.01-1, 167.20-5 167.20-20, 168.05-5, 176.01, 179.01, 191.01, 153.806(a), 153.15, 153.16, 154.1, 73.90, 74.90 93.07-90 33 CFR 157.01.
170.005	30.01-10	179.15-1, 91.45.
170.010	108.105	30.15-1, 175.15, 90.15, 70.15, 188.15, 108.335(c); 153.10, 154.8 33 CFR 157.07.
170.015	New	
170.050:		
(a)	New	
(b)		30.10-17, 70.10-9, 90.10-7, 151.03-15, 153.1, 175.10-5, 107.111, 167.05-10, 188.10-19.
(c)	178.05-15	
(d)	90.05-10(b)	30.10-33, 30.10-6(b), 151.03-29, 70.05-10(b), 70.10-17 175.10-11, 188.10-31, 93.20-1.
(e)	90.10-19	30.10-41, 70.10-23, 151.03-33 175.10-17, 188.10-39.
(f)	175.10-25	30.10-45, 70.10-31, 151.03-39, 90.10-25, 188.10-51.
(g)	90.10-27	30.10-47, 70.10-33, 151.03-41, 175.10-26, 188.10-55.
(h)	33 CFR 157.03	
(i)	178.05-17	
(j)	178.05-19	
(k)	175.10-33	70.10-39, 90.10-33, 151.03-45, 188.10-61, 30.10-61.
170.055:		
(a)	175.10-38	
(b)	90.10-2	30.10-65, 70.10-2, 151.03-7, 175.10-23, 188.10-5.
(c)	33CFR 157.03	73.05-4, 153.4, 191.05-4.
(d)	178.05-1	73.05-5, 191.05-5.
(e)	108.301(c)	
(f)	108.301(d)	
(g)	73.05-7	191.05-7.
(h)		42.13-5, 73.05-3, 153.2, 154.3, 175.10-19, 191.05-3, 33 CFR 157.03.
(i)	33 CFR 157.03	30.10-38, 31.10-30(h)(1).
(j)	New	
(k)	73.05-8	33 CFR 157.03, 154.3, 153.30(a), 191.05-8.
(l)	175.10-36	70.10-42.
(m)	New	
(n)	30.10-69	
(o)	30.10.65	
(p)	30.10-67	
(q)		70.10-45, 90.10-37, 151.03-55.
(r)	(New)	
170.070	107.301	31.10-5(a), 71.65-1, 189.55-1, 91.55-1, 167.20-25, 168.05-5, 179.01-1.

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.075:		
(a)(1)	107.305(b)	71.65–5(a)(2), 167.20–25(a)(1) and (c), 177.05–1(a)(4), 189.55–5(a), 91.55–5(a)(2), 166.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(2)	107.305(q)	71.65–5(c)(1), 167.20–25(a)(3) and (c), 177.05–3(a)(1), 189.55–5(c)(1), 91.55–5(c)(1), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(3)	107.305(r)	71.65–5(c)(2), 167.20–25(a)(4) and (c), 177.05–3(a)(2), 189.55–5(c)(2), 91.55–5(c)(2), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(4)	107.305(s)	71.65–5(c)(5), 167.20–25(b) and (c), 177.05–3(a)(3), 189.55–5(c)(3), 91.55–5(c)(3), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(5)	107.305(t)	71.65–5(c)(6), 167.20–25(b) and (c), 189.55–5(c)(4), 91.55–5(c)(4), 168.05–5, 31.10–5(a), 33 CFR 157.24(b), 154.4, 153.8.
(a)(6)	107.305(u)	71.65–5(c)(7), 167.20–25(b) and (c), 189.55–5(c)(5), 91.55–5(c)(5), 168.05–5, 31.10–5(a), 33 CFR 157.24(b), 154.4, 153.8.
(b)	177.05–1	
170.080	107.305(k)	177.05–3(b), 191.30–1(b), 168.05–5, 31.10–5(b), 74.20–1(b), 93.10–1(a).
170.085	108.337	93.05–5(a) and (b), 74.05–5(a) and (b), 191.15–5(a), 153.806, 154.205(a), 167.20–25(b), 168.05–5, 31.10–30(b)(2).
170.090		177.05–3(b), (d), and (e), 71.65–5(c)(3) and (4), 167.20–25(b), 168.05–5, 31.10–5(a), 107.305(u–1), 191.20–15(b)(8), 108.329, 108.313, 91.55–5(c), 33 CFR 157.24(b).
170.093	New	
170.095	MMTN 3–69	
170.100	107.317	71.65–15, 177.05–1(a), 177.05–3(a) 189.55–15, 91.55–20, 167.20–25(c), 168.05–5.
170.105	179.01–1	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.110:		
(a)	109.121(a)	74.20–1(a), 74.20–15(a) and (b), 93.10–1(a), 154.1809(a), 153.806(b), 191.30–1(a), 154.205(a), 153.806(a), 168.05–5, 31.10–30(b)(4), 167.20–20, 191.30–15.
(b)	109.121(b)	74.20–1(b), 93.10–1(a), 191.30–1(b), 154.205(a), 31.10–30(b)(4), 168.05–5, 167.20–20, 153.806(a).
(c) and (d)	109.121(d)	74.20–1(a), 74.20–15(a), 154.1809(b), 191.30–15(a), 154.205(a), 168.05–5, 31.10–30(b)(4), 167.20–20, 153.806(a), 74.20–5, 93.10–1(a) and (b), 154.1809(c), 191.30–1(a), 153.806(b), 74.20–10, 191.30–10.
(e)	New	
170.120:		
(a)	74.25–1	31.10–30(b)(5), 179.20(a) and (b), 191.35–1, 191.35–5, 154.205(a), 31.10–30(b)(4), 168.05–5, 153.806(a), 167.20–20, 93.15–1, 93.15–5.
(b)	New	
170.125	MMTN 3–69	
170.135:		
(a)	109.121(d)(6)	
(b)	109.121(d)(6)	
170.130:		
(a)	74.12–11	
(b)	74.12–7	
(c)	74.12–3	
170.160		31.10–30(a)(1), 74.01–1, 179.01–1, 93.01–1, 93.07–1, 153.806, 154.205(a), 167.20–20, 168.05–5, 191.20–5, MMTN 3–69.
170.170:		
(a)	74.10–5	31.10–30(b)(3), 93.07–10, 153.806(a), 154.205(a), 167.20–20, 168.05–5, 179.10–5, 191.20–5.
(b)	74.10–5	31.10–30(b)(3), 93.07–10, 153.806(a) 154.205(a), 167.20–20, 168.05–5, 179.10–5, 191.20–5.
(c)	MMTN 3–68	
(d)	74.10–11	31.10–30(b)(3), 93.07–15, 153.806(a), 167.20–20, 168.05–5, 179.10–5, 191.20–10.
170.173	New	NVC 3–73, IMO Res. A469(XII).
170.174		93.05–1(a), 74.05–1(a), 167.20–20, 31.10–30(b)(1), 168.05–5, 179.05–1, 191.15–1, 154.205(a), 153.806, 93.01–1, 108.335.

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.175:		
(a)	108.335(a)	93.05–1(a), 74.05–1(a), 191.15–1(a), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1), 179.10–3.
(b)	108.335(b)	93.05–1(a), 74.05–1(a), 191.15–1(a), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1), 179.10–3.
(c)	108.338(c)	93.05–1(b), 74.05–1(b), 191.15–1(b), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1), 179.10–3.
(d)	93.05–1	
170.180	74.05–(a)&(b)	93.05–5(a) and (b), 108.337, 153.806, 191.15–5(a), 154.205(a), 168.05–5, 167.20–25(a), 31.10–30(b)(1), 179.10–3, 179.10–5, 189.55–5(c).
170.185:		
(a)	108.339(a)	93.05–5(c)(3), 74.05–5(c)(3), 191.15–5(b)(3), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
(b)	108.339(b)	93.05–5(c)(2), 74.05–5(c)(2), 191.15–5(b)(2), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
(c)	108.339(c)	93.05–5(c)(4), 74.05–5(c)(4), 191.15(b)(4), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
(d)	108.339(d)	93.05–5(c)(5), 74.05–5(c)(5), 191.15–5(b)(5), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3.
(e)	108.339(e)	93.05–5(c)(5), 74.05–5(c)(5), 191.15–5(b)(5), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3.
(f)	108.339(f)	
(g)	108.339(g)	
170.190	108.341	93.05–5(c)(1), 74.05–5(c)(1), 191.15–5(b)(1), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
170.200		31.10–30(c) through (f).
170.235	74.15–5	168.05–5, 191.25–5, 93.13–5, 109.561 153.806(a) 154.205(a), 167.20–30.
170.245	MMTN 4–67	178.10–1
170.248	New	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.250:		
(a)	73.35-1(a)	167.20-5, 168.05-5, 191.10-25(b)
(b)	73.35-1(a)	167.20-5, 168.05-5, 191.10-25(b)
(c)	73.35-1(b)	167.20-5, 168.05-5.
(d)	73.35-17	
170.255:		
(a)	73.35-5(a)	167.20-5, 168.05-5, 191.10-25(c).
(b)	73.35-5(b)	167.20-5, 168.05-5.
(c)	New	
170.260:		
(a)	73.35-10(a)	167.20-5, 168.05-5, 191.10-25(d)(1).
(b)	73.35-10(b), 73.35-10(c).	167.20-5, 168.05-5, 191.10-25(d)(2).
(c)	73.35-10(b)	167.20-5, 168.05-5, 191.10-25(d)(2).
(d)	73.35-10(b)	167.20-5, 168.05-5, 191.10-25(d)(2).
170.265:		
(a)	73.35-15(a)	167.20-5, 168.05-5.
(b)	73.35-15(b)	167.20-5, 168.05-5, 191.10-25(e).
(c)	73.35-15(c)	167.20-5, 168.05-5, 191.10-25(e).
(d)	73.35-15(d)	167.20-5, 168.05-5.
170.270:		
(a)	73.35-20(a)	167.20-5, 168.05-5
(b)	73.35-30(b)	167.20-5, 168.05-5, 191.10-25(f)(2).
(c)	73.35-30(c)	167.20-5, 168.05-5, 191.10-25(f)(3).
(d)	73.35-25(a)	167.20-5, 168.05-5, 191.10-25(f)(3).
170.275:		
(a)	73.35-17(a)	167.20-5, 168.05-5.
(b)	73.35-17(b)	167.20-5, 168.05-5.
(c)	73.35-17(a)	167.20-5, 168.05-5.
170.285	154.225	31.10-30(b)(3), 151.10-15(b), 153.31, 74.10-1, 167.20-20, 168.05-5, 191.20-1, 93.07-5, 93.20-05(c).
170.290	154.225	31.10(b)(3), 151.10-15(b), 153.31, 74.10-1, 167.20-20, 168.05-5, 191.20-1, 93.07-5, 33 CFR 157, App. B, paragraphs 4 (d) & (e), 93.20-05(c).
170.295	MMTN 2-69	
170.001	New	
171.010:		
(a)	178.05-9	
(b)	73.05-2	191.05-2
(c)	New	
(d)		70.10-15, 175.10-9
(e)	73.05-12	
(f)	178.05-7	
(g)	70.05-10	
(h)	73.05-10	
(i)	178.05-13	
(j)	73.05-11	
(k)	New	
(l)	70.10-43	
(m)	New	
(n)	178.05-11	
171.015:		
(a)	73.05-6(a)	167.20-5, 168.05-5, 191.05-6(b).
(b)	73.05-6(b)	167.20-5, 168.05-5, 191.05-6(a).
(c)	73.05-6(a)	167.20-5, 168.05-5, 191.05-6(a).
(d)	73.05-6(a)	167.20-5, 168.05-5, 191.05-6(a).
171.017	178.10-1	
171.020		175.05-5(a), 178.01-1, 178.10-1, 178.10-5, 178.10-10, 179.01-1.
171.030:		
(a)		179.05, 179.10-3(a).
(b)		179.10-1(a), 179.10-1(b), 178.10-1(c).
(c)		179.10-1(d), 179.10-1(e).
(d)		179.10-1(f), 179.10-1(g).
(e)	179.10-1(f)-(g)	
(f)	179.10-1(f)	
(g)	179.10-1(h)	
(h)	179.10-1(f)	
171.035	MMTN 3-68	
171.040:		
(a)		178.10-1(a), 178.10-1(b), 178.20-1(b).
(b)		178.10-5(a), 178.10-5(b), 178.10-10.
(c)	178.25-1(b)	
(d)	178.15-5	
171.043:		
(a)	178.20-1(a)	
(b)	178.20-1(a)	
171.045		175.05-5(a) & (b), 178.01-1, 178.10-1, 178.20-5, 179.01-1, 70.05-1(a), 73.01-1, 74.01-1, 73.10-1
171.050	74.10-10	179.10-5.
171.055	MMTN 3-68	
171.057	MMTN 1-69	
171.060:		
(a)		73.10-1(a), 73.10-2, 73.12-1, 74.10-2.
(b)		178.20-5, 73.15 (title).
(c)		73.20-1(a), 178.10-1(a).
(d)	73.20-1(a)	178.15-15.
171.065:		
(a)		73.10-10, 73.10-15, 73.10-20.
(b)	73.10-23	73.10-15, 73.10-20.
(c)	73.10-30(a)	
(d)	73.10-35	
(e)	73.10-55	
(f)	73.10-60	
(g)	73.10-60	
(h)	73.10-60	
(i)	New	
(j)	New	
171.066:		
(a)		73.10-5(a), 73.10-5(b)(1), 73.10-5(c)(1), 73.10-30(b).
(b)	73.10-5(b)(2)	
(c)	73.10-5(d)	
(d)	73.10-5(e)	
171.067:		
(a)	New	
(b)	73.10-40	
(c)	73.10-45	
(d)	73.10-45	
(e)	73.10-55	
(f)	73.10-50	
171.068:		
(a)		73.10-65(a), 73.10-65(b)(1) and (2) 73.10-1(b).
(b)		73.10-65(b)(2)(i).
(c)		73.10-65(b)(2)(ii).
171.070:		
(a)	73.15-5(b)-(f)	
(b)	73.15-10(a)-(c)	
(c)	73.15-10(a)	
(d)	73.15-10(a)	
(e)	73.15-15, New	178.20-5(b)
(f)	73.15-15	178.20-5(b)
171.072	73.15-1	
171.073:		
(a)	73.15-20	
(b)		73.15-25(a) and (b).
(c)	73.15-30	
171.075:		
(a)	73.12-5	
(b)	73.12-7	
(c)	73.12-3	
171.080:		
(a)		74.10-15(a) and (b), 179.10-5.
(b)	74.10-15(c)(4)	179.10-5.
(c)	74.10-15(c)(3)	179.10-5.
(d)	74.10-15(c)(7)	179.10-5.
(e)	74.10-15(c)(5)	179.10-5.
171.082:		
(a)	74.10-2	74.12-1, 74.12-5.
(b)	74.12-7	
(c)	74.12-3	
(d)	74.12-9	
171.085:		
(a)	New	
(b)	73.20-1(a)	
(c)	73.20-1(a)	
(d)	73.20-1(a)	
(e)	73.20-1(b)	
(f)	73.20-1(b)	
(g)	73.20-1(c)	73.30-15(a)(1).
(h)	178.15-3	
(i)	178.15-3	
(j)	178.15-1	
171.090		73.20-10, 178.15-5
171.095	73.20-5	
171.100:		
(a)	73.20-15	
(b)	73.30-25(b)	
(c)	73.30-25(b)	
(d)	73.30-25(b)	
171.105:		
(a)	73.25-1	
(b)	73.25-5(b)	
(c)	73.25-5(c)	
(d)	73.25-5(d)	
(e)	73.25-5(e)	
(f)	73.25-5(e)	
(g)	73.25-5(f)	
(h)	73.25-5(g)	
171.106	73.25-10	
171.108	73.25-15	
171.109	73.25-20	
171.110	New	
171.111:		
(a)	73.30-1	
(b)	73.30-35	
(c)	73.30-1	
(d)	73.30-10	
(e)	73.30-5	
(f)	73.30-40	
(g)	73.30-40	
(h)	73.30-15(a)(2)	
171.112:		
(a)	73.30-25(a)	
(b)	73.30-25(b)	
171.113:		
(a)	New	
(b)	73.30-30(b)	
(c)	73.30-30(a)	
171.114:		
(a)	178.25-1(c)	
(b)	178.25-1(d)	
(c)	178.25-1(b)	
171.115	New	
171.116:		
(a)	73.40-5(a)	
(b)	73.40-5(b)(1)	
(c)	73.40-5(b)(1)	
(d)	73.40-5(b)(3)	
(e)	73.40-5(b)(4)	
(f)		73.40-5(b)(2), 73.40-5(b)(5).
171.117:		
(a)	73.40-5(c)(1)	
(b)	73.40-5(c)(1)	
(c)	73.40-5(c)(1)	
(d)	73.40-5(c)(2)	
171.118:		
(a)	73.40-10	
(b)	73.40-15	
(c)	73.40-15	
171.119:		
(a)		178.40-1(b) and (c).
(b)	178.40-1(d)	
(c)	178.40-1(e)	
(d)	178.40-1(e)	
(e)	178.40-1(d)	
(f)	178.40-1(d)	
171.120	New	
171.122:		
(a)	New	
(b)	73.45-5(a)	
(c)	73.45-1(a)	
(d)	73.45-1(b)	
(e)	73.45-1(b)	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
(f)	73.45-5(b)	
(g)	73.45-10(b)	
171.124:		
(a)		178.35-1(a), (b), and (c).
(b)	178.35-1(d)	
(c)	178.35-1(e)	
(d)	178.35-1(f)	
(e)	178.35-1(f)(1)	
171.130	New	
171.135	73.45-5(c)	
171.140	178.30-1	
171.145:		
(a)	178.30-3(a)	
(b)	178.30-3(b)	
(c)	178.30-3(b)	
(d)	178.30-3(c)	
(e)	178.30-3(d)	
(f)	178.30-3(d)	
171.150:		
(a)	178.30-5(a)	
(b)		178.30-5(b), (c), and (d).
(c)	178.30-5(b)	
(d)	178.30-5(b)	
171.155	178.30-7	
172.005		93.20-01, 30.25-1-151.01-10(b), 153.5, 154.2, 153.806(a), 154.205(a); 33 CFR 157.08.
172.047	32.63-1	
172.050:		
(a)	32.63-5	
(b)	32.63-15(b)	
(c)	32.63-15(b)	
(d)	32.63-15(b)	
(e)	32.63-15, New	
(f)	New	
172.060		33 CFR 157.01, 157.08, 157.21
172.065:		
(a)	33 CFR 157.03(a)	
(b)	33 CFR 157.21	
(c)		33 CFR 157—Appendix B—para. (2).
(d)		33 CFR 157—Appendix B—para. (3)(a), para. (3)(c), and para. (3)(d).
(e)		33 CFR 157—Appendix B—para. (3)(b).
(f)		33 CFR 157—Appendix B—para. (4)(a)-(b).
(g)(1)	33 CFR 157.21(a)	
(g)(2)	33 CFR 157.21(b)	
(g)(3)	33 CFR 157.21(c)	
(g)(4)		33 CFR 157—Appendix B—para. (3)(e).
(h)		33 CFR 157—Appendix B—para. (4)(c).
172.080	151.01-10	
172.085	New	
172.087	151.10-15(b)	
172.090:		
(a)	151.10-5(a)	
(b)	151.10-5(b)	
(c)	151.10-5(b)	
(d)	151.10-5(a)	
172.095	151.10-6	
172.100:		
(a)		151.10-10(a)(1).
(b)		151.10-10(a)(5).
(c)		151.10-10(a)(1).
172.103	New	
172.104:		
(a)		151.10-10(a)(2).
(b)		151.10-10(a)(2).
(c)		151.10-10(a)(3).
172.105:		
(a)(1)		151.10-10(b)(2).
(a)(2)		151.10-10(b)(1).
(a)(3)	New	
(b)		151.10-10(b)(3).

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
172.110:		
(a)	New	
(b)	New	
(c)		151.10-10(c)(1).
(d)		151.10-10(c)(1).
(e)		151.10-10(c)(2).
(f)		151.10-10(c)(2).
(g)		151.10-10(c)(2).
(h)		151.10-10(c)(2).
(i)		151.10-10(c)(2).
172.125	153.1	
172.127	153.2	
172.130:		
(a)		153.15, 153.16, 153.20 through 22.
(b)	153.5	
172.133:		
(a)	153.20	
(b)	153.21	
(c)	153.22	
(d)	153.32(c)	
172.135:		
(a)	153.32(a)	
(b)	153.32(a)	
172.140:		
(a)	153.30(b)	
(b)	153.30(b)	
(c)	153.30(c)	
172.150:		
(a)	153.34(b)	
(b)	153.34(a)	
(c)	153.34(c)	
(d)	153.34(f)	
(e)	153.34(e)	
(f)	153.34(d)	
(g)	153.34(g)	
(h)	153.34(h)	
172.155		154.1, 154.2.
172.160:		
(a)	154.3	
(b)	154.3	
172.165	154.205(b)	
172.170:		
(a)	154.210(a)	
(b)	154.210(b)	
172.175:		
(a)	154.215(a)	
(b)	154.215(b)	
(c)	154.215(c)	
(d)	154.215(d)	
(e)	154.215(e)	
(f)	154.215(e)	
172.180:		
(a)	154.220(a)	
(b)	154.220(b)	
172.185:		
(a)	154.225(d)	
(b)	154.225(c)	
(c)	154.225(e)	
172.195:		
(a)	154.230(b)	
(b)	154.230(a)	
(c)	154.230(c)	
(d)	154.230(h)	
(e)	154.230(e)	
(f)	154.230(d)	
(g)	154.230(g)	
(h)	154.230(h)	
172.205	154.230(f)	
173.001	New	
173.005	New	
173.007 through 173.025.	MMTN 3-69	
173.050	167.20-5	
173.055	167.20-5	
173.060	168.05-5	
173.070		191.01-1, 188.05-1.
173.075:		
(a)		191.10-1, 191.10-5, 191.10-10, 191.50-13.
(b)	191.10-15	
173.080		191.20-15(a), (b)(1)-(7), and (c).
173.085		
(a)	-	191.10-15(a), 191.10-20(e).
(b)	191.10-16	
(c)	191.10-17	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
(d)	191.10-18	
(e)	191.10-19	
(f)		191.10-20(a)-(c) and (f).
(g)	191.10-20(g)	
(h)		191.10-20(b)(2).
(i)	191.10-30(b)	
(j)		191.10-30(c)(2).
(k)		191.10-30(c)(1).
(l)	191.10-30(d)	
(m)	191.10-35	
(n)		191.10-35(b)(2).
(o)	191.10-20(d)	
173.090	65-4-C MSM	
173.095	65-4-C MSM	
174.005		93.07-15, 107.01
174.010 through 174.020.	MMTN 3-69	
174.030	107.01	
174.035:		
(a)	107.111	
(b)	108.301	
174.040	108.303	
174.045:		
(a)	108.305(a)	
(b)	108.305(b)	
(c)	108.305(c)	
(d)	108.305(d)	
174.050	108.309	
174.055:		
(a)	108.311(a)	
(b)	108.311(b)	
(c)	108.311(c)	
174.065:		
(a)	108.315(a)	
(b)	108.315(b)	
174.070:		
(a)	108.317(a)	
(b)	108.317(b)	
174.075	108.319	
174.080:		
(a)	108.321(a)	
(b)	108.321(b)	
174.085:		
(a)	108.323(a)	
(b)	108.323(b)	
174.090	108.325	
174.100		108.114, 108.115
174.110	79.01-1	37.01-1, 99.01-1
174.115	79.05-5(a)	37.05-5(a), 99.05-5(a).
174.120	79.05-5(a)	37.05-5(a), 99.05-5(a).
174.125	79.05-5(a)-(b)	37.05-5(a)-(b), 99.05-5(a)-(b).
174.140	65-4-C MSM	
174.145	65-4-C MSM	
174.150	106.400(a)	
174.155	106.400(a)	
174.160	106.400(b)	
174.165	106.403	
174.170	106.405	

The following table lists rules that are being deleted because they are the same as other rules in other parts of Title 46, CFR.

TABLE II

Deleted rule	Rule repeated in—
73.35-20(b)	163.001-4(a) and (b).
73.35-20(c)(1)	163.001-5(b).
73.35-20(c)(2)	163.001-5(c)(1), 163.001-(5)(f), 163.001-5 (b)(4), 58.30-10.
73.35-20(c)(3)	163.001-5(b).
73.35-25(b)	163.001-5(d).
74.15-10	78.85-1.
93.13-10	97.75-1.

The following table shows where in Title 46, CFR, certain old stability rules

not contained in Subchapter S are being transferred:

TABLE III

Old rule	New location in CFR
73.35–20(d)	163.001–4.
73.40–5(b)(4)	76.16–1.
74.10–12	72.30–5.
74.25–1(a)	78.12–1.
93.15–1	97.11–1.
179.20–1	185.12–1.
191.25–10	196.18–1.
191.35–1	196.12–1.

The following Table lists old regulations in chronological order and the new regulations that correspond to them. References are to Title 46, CFR, unless otherwise noted.

TABLE IV

Old regulation	New regulation
31.10–30:	
(a)(1)	170.160, 170.001.
(a)(2)	170.001.
(b)(1)	170.175, 170.174.
(b)(2)	170.085, 170.185, 170.190.
(b)(3)	170.170.
(b)(4)	170.110, 170.120.
(b)(5)	170.120.
(c)	170.200.
(d)	170.200.
(e)	170.200.
(f)(1)	170.055(i).
(f)(2)	170.200.
32.63–1	172.047, 172.050.
32.63–15	172.047, 172.050.
37.05–5	174.110–174.125.
71.65–5	170.075, 170.090.
73.01–1	170.001, 171.045.
73.05–1	Deleted—unnecessary.
73.05–2	171.010(b).
73.05–3	170.055(h)(1).
73.05–4	170.055(c).
73.05–5	170.055(d).
73.05–6	171.015.
73.05–7	171.055(g).
73.05–8	170.055(k).
73.05–9	Deleted—unnecessary.
73.05–10	171.010(h).
73.05–11	171.010(j).
73.05–12	171.010(e).
73.10–1:	
(a)	171.045, 171.060.
(b)	171.068.
73.10–2	171.060.
73.10–3	Deleted—unnecessary.
73.10–5	171.066.
73.10–10	171.065(a).
73.10–15	171.065 (a) and (b).
73.10–20	171.065 (a) and (b).
73.10–23	171.065(b).
73.10–25	171.015(d).
73.10–30:	
(a)	171.065(c).
(b)	171.066(a).
73.10–35	171.065(d).
73.10–40	171.067(b).
73.10–45	171.067 (b) and (c).
73.10–50	171.067(f).
73.10–55	171.065(e), 171.067(e).
73.10–60	171.065(f).
73.10–65	171.068.
73.12–1	171.060.
73.12–3	171.075(c).
73.12–5	171.075(a).
73.12–7	171.075(b), 170.015.
73.12–9	Deleted—unnecessary.
73.15–1	171.072.
73.15–5:	
(a)	Deleted—unnecessary.
(b)–(f)	171.070(a).
73.15–10	171.070(b)–(d).
73.15–15	171.070(e).
73.15–20	171.073(a).
73.15–25	171.073(b).
73.15–30	171.073(c).
73.20–1	171.085.
73.20–5	171.095.
73.20–10	171.090.
73.20–15	171.100(a).
73.25–1	171.105(a).
73.25–5:	
(a)	Deleted—unnecessary.
(b)	171.105(b).
(c)	171.105(c).
(d)	171.105(d).
(e)	171.105 (e) and (f).
(f)	171.105(g).
(g)	171.105(h).
73.25–10	171.106.
73.25–15	171.108.
73.25–20	171.109.
73.30–1	171.111(c).
73.30–5	171.111(o).
73.30–10	171.111(d).
73.30–15	171.111(h), 171.085(g).
73.30–20	Deleted—unnecessary.
73.30–25:	
(a)	171.112(a).
(b)	171.112(b).
73.30–30	171.113 (b) and (c).
73.30–35	171.111(b).
73.30–40	171.111 (f) and (g).
73.35–1	170.250.
73.35–5	170.255.
73.35–10	170.260.
73.35–15	170.265.
73.35–17	170.275.
73.35–20(a)	170.270(a).
73.35–20(b)–(c)	Deleted—repetitious (see Table II).
73.35–25(a)	170.270(d).
73.35–25(b)	Deleted—repetitious (see Tables II and III).
73.35–30(a)	Deleted—unnecessary.
73.35–30 (b) and (c)	170.270.
73.40–1	Deleted—unnecessary.
73.40–5:	
(a) and (b)	171.116.
(c)	171.117.
73.40–10	171.118(a).
73.40–15	171.118 (b) and (c).
73.40–20	Deleted—unnecessary.
73.45–1	171.122(c)–(e).
73.45–5:	
(a)	171.122(b).
(b)	171.122(f).
(c)	171.135.
73.45–10	171.122(g).
73.90	170.001(b).
74.01–1	170.001, 171.045.
74.05–1	170.175.
74.05–5:	
(a) and (b)	170.180, 170.085.
(c)	170.185, 170.190.
74.10–1	170.020.
74.10–2	171.060.
74.10–5	170.170.
74.10–10	171.050.
74.10–11	170.170(d).
74.10–15:	
(a)	171.080(a).
(b)(1)	171.080(a).
(b)(2)	Deleted—unnecessary.
(c)(1)	Deleted—unnecessary.
(c)(2)	Deleted—unnecessary.
(c)(3)	171.080(c).
(c)(4)	171.080(b).
(c)(5)	171.080(e).
(c)(6)	171.080(d).
(c)(7)	171.080(d).
(c)(8)	171.080(d).
(c)(9)	171.080(d).
(d)(1)	Deleted—unnecessary.
(d)(2)	Deleted—unnecessary.
74.10–20	Deleted—unnecessary.
74.12–1	171.060.
74.12–3	171.082(c).
74.12–5	171.082(a).
74.12–7	171.082(b).
74.12–9	171.082(d).
74.12–11	170.135(a).
74.15–1	Deleted—unnecessary.
74.15–5	170.235.
74.20–1	170.110.
74.20–5	170.110.
74.20–10	170.110.
74.20–15	170.110.
74.25–1	170.120.
74.90–1	170.001(b).
79.05–5	174.110–174.125.
91.55–5(c)	170.075.
93.01–1	170.001.
93.05–1	170.175.
93.05–5	170.160, 170.185.
93.07–1	170.160.
93.07–5	170.020.
93.07.10	170.170.
93.07–15	170.170.
93.07–90	170.001(b).
93.10–1	170.110.
93.13–1	Deleted—unnecessary.
93.13–5	170.235.
93.15–5	170.120.
99.05–5	174.110–174.125.
106.400	174.150, 174.155, 174.160.
106.403	174.165.
106.405	174.170.
107.305	170.075, 170.090.
108.114	174.100.
108.115	174.100.
108.301	174.035(b), 170.055(c)–(d).
108.303	174.040.
108.305	174.045.
108.309	174.050.
108.311	174.055.
108.313	170.090.
108.315	174.065.
108.317	174.070.
108.319	174.075.
108.321	174.080.
108.323	174.085.
108.325	174.090.
108.329	170.090.
108.335	170.174, 170.175.
108.337	170.180.
108.339	170.185.
108.341	170.190.
108.343	170.005.
109.121	170.110, 170.130.
109.561	170.235.
151.10–5	172.090.
151.10–6	172.095.
151.10–10:	
(a)	172.100, 172.104.
(b)	172.105.
(c)	172.110.
151.10–15:	
(a)	Deleted—unnecessary.
(b)	172.087.
153.20	172.130, 172.133(a).
153.21	172.130, 172.133(b).
153.22	172.130, 172.133(c).
153.30	170.055(k), 172.140.
153.31	170.285, 170.290.
153.32(a)	172.135.
153.32(b)	Deleted—unnecessary.
153.32(c)	172.133(d).
153.34	172.150.
153.35	Deleted—unnecessary.
153.806(a)	170.001, 170.085, 170.110, 170.120, 170.160, 170.170, 170.175, 170.180, 170.185, 170.235, 172.005, 172.015, 172.030
153.806(b)	170.110.
154.200	170.020.
154.205(a)	170.001, 170.085, 170.110, 170.120, 170.160, 170.170, 170.175, 170.180, 170.185, 170.235, 172.005, 172.015, 172.030.
154.205(b)	172.165.
154.210	172.170.
154.215	172.175.
154.220	172.180.
154.225:	
(a) and (b)	170.285.
(c)–(e)	172.185.
154.230	172.195.
154.1809	170.110.
167.20–5	173.050, 173.055.
167.20–20	170.110, 170.120, 170.170, 170.160, 170.174, 170.175, 170.185, 170.190.
167.20–25(a)	170.160.
167.20–25 (b) and (c).	170.070, 170.075, 170.080, 170.085, 170.090, 170.100.
167.20–30	170.235.
167.20–35	Deleted—unnecessary.

TABLE IV—Continued

Old regulation	New regulation
168.05-5	173.060, 170.070, 170.075, 170.080, 170.085, 170.090, 170.100, 170.110, 170.120, 170.160, 170.170, 170.174, 170.175, 170.180, 170.185, 170.190, 170.235, 170.250, 170.255, 170.260, 170.265, 170.270, 170.285, 170.290.
175.05-5	171.020, 171.045.
177.05-3	170.075, 170.090
178.10-1	171.017, 171.045, 171.040.
178.10-5	171.040.
178.10-10	171.040.
178.15-1	171.085.
178.15-3 (a)-(b)	171.085.
178.15-5	171.090.
178.20-1	171.040, 171.043.
178.20-5	171.060.
178.25-1	171.114.
178.30-1	171.140
178.30-3	171.145.
178.30-5	171.150.
178.30-7	171.155.
178.35	171.124.
178.40-1	171.119.
179.05-1	170.174, 171.030.
179.10-1	171.030.
179.10-3	171.030, 170.175, 170.180, 170.185, 170.190.
179.10-5	170.170, 170.180, 170.185, 170.190, 171.050, 171.060.
179.15-1	170.005.
179.20-5	170.120.
189.55-5(c)	170.180.
191.01-1	173.070.
191.05-1	Deleted—unnecessary.
191.05-2	171.010(b).
191.05-3	170.055(h).
191.05-4	170.055(c).
191.05-5	170.055(d).
191.05-6	171.015.
191.05-7	171.055(g).
191.05-8	170.055(i).
191.10-1	173.075.
191.10-5	173.075.
191.10-10	173.075.
191.10-13	173.075.
191.10-15	173.075, 173.080, 173.085.
191.10-16	173.085(b).
191.10-17	173.085(c).
191.10-18	173.085(d).
191.10-19	173.085(e).
191.10-20	173.085(f)-(h).
191.10-25	170.250, 170.255, 170.260, 170.265, 170.270.
191.10-30	173.085(i)-(l).
191.10-35	173.085 (m) and (n).
191.15-1	170.174, 170.175.
191.15-5(a)	170.180.
191.15-5(b)	170.185.
191.20-1	170.020.
191.20-5	170.160, 170.170.
191.20-10	170.170(d).
191.20-15	173.080.
191.20-20	Deleted—unnecessary.
191.25-1	Deleted—unnecessary.
191.25-5	170.235.
191.30-1	170.110.
191.30-5	170.110.
191.30-10	170.110
191.30-15	170.110.
191.35-5	170.120.
33 CFR	
157.21(a)	172.060, 172.065.
157.24(b)	170.090.
157.24(d)	170.075.
Appendix B	172.060, 172.065.

List of Subjects

46 CFR Part 2

Vessels, Law enforcement, Penalties, Fire protection, Marine safety.

46 CFR Part 31

Marine safety, Tank vessels, Barges, Law enforcement, Flammable materials.

46 CFR Part 32

Cargo vessels, Marine safety, Fire protection, Tank vessels, Barges.

46 CFR Part 35

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Tank vessels, Barges, Seaman.

46 CFR Part 37

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 42

Penalties, Vessels, Marine safety, Foreign trade, Treaties, Navigation (water).

46 CFR Part 46

Passenger vessels, Penalties, Foreign trade, Marine safety.

46 CFR Part 56

Vessels, Marine safety.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Foreign trade, Law enforcement.

46 CFR Part 72

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 73

Marine safety, Passenger vessels.

46 CFR Part 74

Marine safety, Passenger vessels.

46 CFR Part 75

Marine safety, Passenger vessels.

46 CFR Part 78

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements, Navigation (water).

46 CFR Part 79

Marine safety, Nuclear vessels, Passenger vessels, Radiation protection.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Law enforcement.

46 CFR Part 93

Cargo vessels, Marine safety.

46 CFR Part 97

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Navigation (water), Penalties.

46 CFR Part 99

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 106

Energy, Environmental protection, Fire protection, Hazardous materials, Marine safety, Ocean thermal energy conversion, Vessels.

46 CFR Part 107

Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 108

Fire prevention, Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 109

Reporting and recordkeeping requirements, Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 111

Vessels, Electric power, Marine safety.

46 CFR Part 151

Hazardous materials transportation, Marine safety, Flammable material, Tank vessels, Barges.

46 CFR Part 153

Hazardous materials transportation, Marine safety, Tank vessels, Barges.

46 CFR Part 154

Gases, Hazardous materials transportation, Marine safety, Natural gas, Vessels.

46 CFR Part 163

Marine safety.

46 CFR Part 167

Fire prevention, Reporting and recordkeeping requirements, Schools, Vessels, Marine safety.

46 CFR Part 168

Schools, Vessels, Marine safety.

46 CFR Part 170

Marine safety, Subdivision, Stability, Vessels, Tank vessels, Cargo vessels, Nuclear vessels, Passenger vessels, Oceanographic vessels, Sailing vessels, Nautical schools, Tugboats, Towboats, Mobile offshore drilling units, Barges, Grain, Oil and gas exploration, Hazardous materials transportation, Gases, Natural gas, Incorporation by reference.

46 CFR Part 171

Marine safety, Subdivision, Stability, Vessels, Passenger vessels, Sailing vessels, Barges, Incorporation by reference.

46 CFR Part 172

Marine safety, Subdivision, Stability, Vessels, Tank vessels, Cargo vessels, Passenger vessels, Sailing vessels, Barges, Grain, Hazardous materials transportation, Gases, Natural gas.

46 CFR Part 173

Marine safety, Subdivision, Stability, Vessels, Cargo vessels, Oceanographic vessels, Nautical schools, Tugboats, Towboats, Barges.

46 CFR Part 174

Marine safety, Subdivision, Stability, Vessels, Cargo vessels, Nuclear vessels, Tugboats, Towboats, Mobile offshore drilling units, Barges, Oil and gas exploration.

46 CFR Part 177

Marine safety, Passenger vessels.

46 CFR Part 178

Marine safety, Passenger vessels.

46 CFR Part 179

Marine safety, Passenger vessels.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Navigation (water).

46 CFR Part 189

Marine safety, Oceanographic vessels.

46 CFR Part 190

Fire prevention, Marine safety, Oceanographic vessels.

46 CFR Part 191

Marine safety, Oceanographic vessels.

46 CFR Part 196

Marine safety, Oceanographic vessels, Reporting and recordkeeping requirements, Navigation (water), Penalties.

In consideration of the foregoing, Chapter 1 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority citations for each part amended below, except parts in Subchapter S, read as currently stated in the Code of Federal Regulations. This document makes no changes to those citations. The authority citations for parts in Subchapter S are listed in the amendments to that subchapter.

PART 2—VESSEL INSPECTIONS

2. In § 2.01–1 by revising paragraph (c) to read as follows:

§ 2.01–1 Applications for inspection.

* * * * *

(c) *New vessels.* Applications for inspection of new vessels must be preceded by the submission of applicable drawings or prints in accordance with the specific requirements in Subchapters D (Tank Vessels), E (Load Lines), F (Marine Engineering), H (Passenger Vessels), I (Cargo and Miscellaneous Vessels), J (Electrical Engineering), O (Certain Bulk Dangerous Cargoes), S (Subdivision and Stability), and T (Small Passenger Vessels) of this chapter applicable to that particular type of service in which the vessel is proposed to be operated.

* * * * *

3. In § 2.01–15, by adding a new paragraph (a)(11) to read as follows:

§ 2.01–15 Vessel repairs.

(a) * * *

(11) For repairs to a vessel that affects its subdivision or stability, see § 170.005 of this chapter.

* * * * *

4. In § 2.90–1, by adding a new paragraph (i) to read as follows:

§ 2.90–1 General requirements.

* * * * *

(i) The requirements for subdivision and stability plans and calculations are in Part 170 of this chapter.

PART 31—INSPECTION AND CERTIFICATION

5. In § 31.01–1 by revising paragraph (a) to read as follows:

§ 31.01–1 Inspections required—TB/ALL.

(a) Every tank vessel subject to the regulations in this subchapter shall be inspected biennially, annually, or oftener, if necessary, by the Coast Guard to see that the hull, boilers, machinery, equipment, apparatus for storage, and appliances of the vessel comply with the marine inspection laws, and the regulations in this subchapter, and when applicable, Subchapters E, F, J, O, Q, and S of this chapter and 33 CFR Part 155 and 157.

* * * * *

6. In § 31.05–1, by revising paragraph (a) to read as follows:

§ 31.05–1 Issuance of certificate of inspection—TB/ALL.

(a) When a tank vessel is found to comply with law and the regulations in this subchapter, and applicable provisions of Subchapters E, F, J, O, Q, and S of this chapter and 33 CFR Parts 155 and 157, a certificate of inspection will be issued to it, or to its owners, by the Officer in Charge, Marine Inspection.

* * * * *

7. By revising § 31.10–30 to read as follows:

§ 31.10–30 Stability requirements—TB/ALL.

Each tank vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

8. By removing § 32.63–15.

PART 35—OPERATIONS

9. By adding a new Subpart 35.08 to read as follows:

Subpart 35.08—Stability Information

§ 35.08–1 Posting of stability letter.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

PART 37—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

10. By revising § 37.05–5 to read as follows:

§ 37.05–5 Subdivision and stability—TB/ALL.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

11. In § 42.20–5, by revising paragraph (a–1) to read as follows:

§ 42.20–5 Type "A" vessels.

* * * * *

(a–1) A vessel that meets the requirements of Subpart D, F, or G of Part 172 of this chapter is considered by the Coast Guard to meet the requirements in this section.

* * * * *

PART 46—SUBDIVISION LOAD LINES FOR PASSENGER VESSELS

12. In § 46.10–10 by revising paragraph (b) to read as follows:

§ 46.10–10 Marks to indicate subdivision load lines.

* * * * *

(b) The Commandant, U.S. Coast Guard, will determine the position of the subdivision load lines by the application of the requirements contained in this Part and Parts 170 and 171 of this chapter. The correct marking of subdivision load lines will be certified by the American Bureau of Shipping or a classification society approved by the Commandant for that purpose.

* * * * *

13. In § 46.10–65 by revising paragraph (a) to read as follows:

§ 46.10–65 Construction.

(a) The watertight subdivision of every passenger vessel must be as efficient as possible, having regard to its intended service. This principle is given effect by applying the requirements in Part 171 of this chapter.

* * * * *

14. In § 46.10–70, by revising paragraph (c) to read as follows:

§ 46.10–70 Plans and inspections of new and converted vessels.

* * * * *

(c) Upon completion of construction or conversion of a passenger vessel, a stability test must be performed and stability information must be supplied to the operator as required by Part 170 of this chapter.

15. In § 46.15–1, by revising paragraph (a) to read as follows:

§ 46.15–1 Procedure for determination of subdivision load line.

The procedure for determining the subdivision load line as well as special construction features of the vessel must be as set forth in Subpart 72.01 and Parts 170 and 171 of this chapter.

PART 56—PIPING SYSTEMS AND APPURTENANCES

16. By revising footnote 4 of Table 56.50–55(a) to read as follows:

§ 56.50–55 Bilge pumps.

* * * * *

* When the criterion numeral exceeds 30, an additional independent power driven bilge pump is required. (See Part 171 of this chapter for determination of criterion numeral.)

* * * * *

17. In § 56.50–57, by revising paragraph (a) to read as follows:

§ 56.50–57 Bilge piping and pumps, alternative requirements.

(a) If a passenger vessel complies with §§ 171.075 and 171.082 of this chapter, its bilge pumping and piping systems must meet §§ 56.50–50 and 56.50–55, except as follows:

* * * * *

PART 71—INSPECTION AND CERTIFICATION

18. In § 71.20–20, by revising paragraph (a)(6) to read as follows:

§ 71.20–20 Specific tests and inspections.

(a) * * *

(6) For inspection and testing of watertight doors, see § 170.270 of this chapter.

19. In § 71.65–5 by revising paragraph (c) to read as follows:

§ 71.65–5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans and calculations required by Subchapter S of this chapter.

* * * * *

PART 72—CONSTRUCTION AND ARRANGEMENT

20. In § 72.01–25 by revising the introductory text of paragraph (a) to read as follows:

§ 72.01–25 Additional structural requirements.

(a) Vessels required by Part 171 of this chapter to have subdivision bulkheads, double bottoms, etc. must comply with the following structural requirements:

* * * * *

21. By adding a new Subpart 72.30 to read as follows:

Subpart 72.30—Subdivision and Stability

Sec.
72.30–1 Application.
72.30–5 Bulk Grain Cargoes.

Subpart 72.30—Subdivision and Stability

§ 72.30–1 Application.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

§ 72.30–5 Bulk grain cargoes.

Each vessel that carries grain in bulk must meet the requirements in Subpart 93.20 of this chapter.

PART 73—WATERTIGHT SUBDIVISION [REMOVED]

22. By removing Part 73

PART 74—STABILITY [REMOVED]

23. By removing Part 74.

PART 75—LIFESAVING EQUIPMENT

24. In § 75.10–10, by revising paragraph (a)(6) to read as follows:

§ 75.10–10 Requirements for vessels in ocean service.

(a) * * *

(6) This subparagraph applies to a vessel on a short international voyage. If compliance with paragraph (a)(1) of this section is impracticable, the Commandant may relax the requirement to the extent permitted by Regulations 27 and 28 of Chapter III of the International Convention for the Safety of Life at Sea, 1974, as long as the vessel complies with § 171.068 of this chapter.

* * * * *

PART 78—OPERATIONS

25. By adding a new Subpart 78.12 to read as follows:

Subpart 78.12—Stability Information

§ 78.12–1 Posting of stability letter.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

26. By revising Subpart 78.16 to read as follows:

Subpart 78.16—Port Lights

§ 78.16–1 General.

If port lights are fitted in spaces used alternatively for the carriage of cargo or passengers as permitted by § 171.116(d) of this chapter, dead covers must be fitted on the port lights when cargo is carried.

27. In § 78.17–35, by revising paragraphs (b) (1), (2), and (3) to read as follows:

§ 78.17–35 Hatches and other openings.

* * * * *

(b) * * *

(1) Watertight doors between cargo spaces prescribed in § 170.275 of this chapter.

(2) Portable plates in watertight bulkheads prescribed in § 171.111(b) of this chapter.

(3) Gangway, cargo, and coaling ports fitted below the margin line that is determined in accordance with § 171.015 of this chapter.

* * * * *

28. In § 78.47–37, by revising paragraph (b) to read as follows:

§ 78.47–37 Watertight doors.

* * * * *

(b) Class 1 doors fitted in accordance with the requirements in § 170.255 of this chapter must additionally be marked "RECLOSE AFTER USE."

PART 79—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

29. By revising § 79.05–5 to read as follows:

§ 79.05–5 Subdivision and stability.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 91—INSPECTION AND CERTIFICATION

30. In § 91.55–5, by revising paragraph (c) to read as follows:

§ 91.55–5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans and calculations as required by Subchapter S of this chapter.

* * * * *

PART 93—STABILITY

31. By revising Subpart 93.01 to read as follows:

Subpart 93.01—Application

§ 93.01–1 General.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

Subparts 93.05, 93.07, 93.10, 93.13, and 93.15—[Removed]

32. By removing all remaining portions of Part 93 except Subpart 93.20 and Table 93.17–15. Specifically, the regulations to be removed from Part 93 are Subparts 93.05, 93.07, 93.10, 93.13, and 93.15.

PART 97—OPERATIONS

33. By adding a new Subpart 97.11 to read as follows:

Subpart 97.11—Stability Letter

§ 97.11–1 Posting.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

PART 99—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

34. By revising § 99.05–5 to read as follows:

§ 99.05–5 Subdivision and stability.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 106—OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

35. By revising § 106.400 to read as follows:

§ 106.400 Application.

Each plantship and floating facility must meet the requirements in Subpart F of Part 174 of this chapter.

§§ 106.403 and 106.405 [Removed]

36. By removing §§ 106.403 and 106.405.

PART 107—INSPECTION AND CERTIFICATION

37. In § 107.231, by revising paragraph (a)(7)(ii) and adding a new paragraph (a)(8) to read as follows:

§ 107.231 Inspection for certification.

(a) * * *

(7) * * *

(ii) 33 CFR Parts 80, 85, or 86.

(8) Subchapter S of this chapter.

* * * * *

38. In § 107.305, by removing paragraphs (r) through (u–1) and revising paragraph (q) to read as follows:

§ 107.305 Plans and information.

* * * * *

(q) The plans and information required by Subchapter S of this chapter.

* * * * *

PART 108—DESIGN AND EQUIPMENT

39. In § 108.114, by revising paragraphs (d) (1) and (2) to read as follows:

§ 108.114 Appliances for watertight and weathertight integrity.

* * * * *

(d) * * *

(1) Damage causing flooding described in § 174.075 through § 174.085 of this chapter; and

(2) A wind heeling moment calculated in accordance with § 174.055 of this chapter using a wind velocity of 50 knots (25.8 meters per second).

§ 108.115 [Removed]

40. By removing § 108.115.

41. By revising § 108.301 in Subpart C to read as follows:

Subpart C—Stability

§ 108.301 Stability.

Each unit must meet the requirements in Subchapter S of this chapter that apply to Mobile Offshore Drilling Units.

42. By removing § 108.303 through § 108.343.

PART 109—OPERATIONS

43. By revising § 109.121 to read as follows:

§ 109.121 Operating manual.

An operating manual must be prepared for each unit in accordance with § 170.130 of this chapter.

44. By removing § 109.581.

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

45. By revising § 111.97–1 to read as follows:

§ 111.97–1 Applicability.

This subpart applies to electric power-operated watertight door systems required under Subpart H of Part 170 of this chapter.

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

46. In § 151.01–1, by adding the following to the end of paragraph (d):

§ 151.01–1 Purpose of regulations.

* * * * *

(d) * * *

Subchapter S—Parts 170–174, Subdivision and Stability.

47. In § 151.10–1, by revising paragraphs (a)(1)(i), (b)(1), (b)(3), and (b)(4) to read as follows:

§ 151.10–1 Barge hull classifications.

(a) * * *

(1) * * *

(i) Barges constructed or converted between July 1, 1964, and June 1, 1970, in accordance with the construction requirements of §§ 32.63 and 98.03 of this chapter are considered to comply with the basic provisions of this subpart and will retain the hull type classification for the service for which they were originally approved. Changes in product endorsement will not be considered a change in service, except when a change to a product of higher specific gravity necessitates a reevaluation of the intact and damage stability requirements in Subpart E of Part 172 of this chapter.

(b) * * *

(1) *Type I barge hull.* Barge hulls classed as Type I are those designed to

carry products which require the maximum preventive measures to preclude the uncontrolled release of the cargo. These barges are required to meet—

(i) Standards of intact stability and a modified two compartment standard of subdivision and damage stability, as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements, including an assumed grounding condition.

* * * * *

(3) *Type II barge hull.* Barge hulls classed as Type II are those designed to carry products which require significant preventive measures to preclude the uncontrolled release of the cargo. These barges are required to meet—

(i) Standards of intact stability and a modified one compartment standard of subdivision and damage stability, as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements, including an assumed grounding condition.

(4) *Type III barge hull.* Barge hulls classed as Type III are those designed to carry products of sufficient hazard to require a moderate degree of control. These barges are required to meet—

(i) Standards of intact stability as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements.

48. By revising § 151.10–5 including the heading to read as follows:

§ 151.10–5 Subdivision and stability.

Each barge must meet the applicable requirements in Subchapter S of this chapter.

49. By removing §§ 151.10–6 and 151.10–10.

50. By removing paragraphs (a) and (b) in § 151.10–15 and changing the heading to read "Certificate Endorsement". Paragraph (c) of § 151.10–15 is being retained and paragraphs (a) and (b) are being reserved.

PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

51. In § 153.7, by revising paragraphs (c)(3) introductory text, (c)(4)(ii), and (c)(5) to read as follows:

§ 153.7 Existing tankships.

* * * * *

(c) * * *

(3) The Commandant (G–MTH) considers on a case by case basis endorsing as a type II containment system one that fails to meet §§ 153.231(b), 153.234, 172.130 and 172.133 of this chapter if the tankship and containment system meet the following minimum conditions:

* * * * *

(4) * * *

(ii) The tankship can survive the damage described in §§ 172.135 and 172.150 of this chapter to those parts of the tankship other than machinery spaces.

(5) The Commandant (G–MTH) considers on a case by case basis endorsing as a type III containment system one that does not meet §§ 153.234, 172.130 and 172.133 of this chapter if the tankship has a load line certificate.

* * * * *

52. By adding a new § 153.19 to read as follows:

§ 153.19 Stability requirements.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

§§ 153.20 through 153.35 [Removed]

53. By removing the heading "HULL TYPE CALCULATIONS" and §§ 153.20 through 153.35, inclusive.

54. In § 153.230, by revising paragraphs (a) and (b)(2) to read as follows:

§ 153.230 Type I system.

* * * * *

(a) The vessel must meet the requirements in Subpart F of Part 172 of this chapter for a type I hull.

(b) * * *

(2) It may not be located in any part of the tankship subject to the damage described in Table 172.135 of this chapter for—

(i) COLLISION PENETRATION, Transverse extent; and

(ii) GROUNDING PENETRATION, Vertical extents from the baseline upward.

55. In § 153.231, by revising paragraphs (a) and (b)(2) to read as follows:

§ 153.231 Type II system.

* * * * *

(a) The vessel must meet the requirements in Subpart F of Part 172 of this chapter for a type I or II hull.

(b) * * *

(2) It may not be located in any part of the tankship subject to the damage described in Table 172.135 of this chapter for GROUNDING PENETRATION, Vertical extent from the baseline upward.

56. By revising § 153.232 to read as follows:

§ 153.232 Type III system.

A type III containment system must be in either a type I, II, or III hull. The requirements for type I, II, and III hulls are in Subpart F of Part 172 of this chapter.

57. In § 153.235, by revising paragraphs (a) and (b) to read as follows:

§ 153.235 Exceptions to cargo piping location restrictions.

* * * * *

(a) Drains back to the cargo tank under any heel or trim resulting from the damage specified in § 172.135 of this chapter; and

(b) Enters the cargo tank above the liquid level for a full tank in any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter.

58. By revising § 153.806 including the heading to read as follows:

§ 153.806 Loading information.

Each tankship must have a manual containing information that enables the master to load and ballast the tankship while keeping structural stresses within design limits.

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

59. In § 154.4, by revising paragraph (b)(1) to read as follows:

§ 154.4 U.S. flag vessel: Endorsement application.

* * * * *

(b) * * *

(1) Hull type calculations required by § 172.175 of this chapter.

* * * * *

60. In § 154.5, by revising paragraph (a)(1) to read as follows:

§ 154.5 Foreign flag vessel: Letter of Compliance endorsement application.

(a) * * *

(1) The design ambient temperatures and cargo tank design stress factors, listed in item 3 of the IMO Certificate, that meet §§ 154.174, 154.176, 154.447, 154.450, 154.466 and 172.175(c) of this chapter.

* * * * *

61. By revising § 154.200 to read as follows:

§ 154.200 Stability requirements: General.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

62. By removing § 154.205 through and including § 154.230.

63. In § 154.235 by revising paragraphs (a), (b), and (d) to read as follows:

§ 154.235 Cargo tank location.

(a) For type IG hulls, cargo tanks must be located inboard of—

(1) The transverse extent of damage for collision penetration specified in Table 172.180 of this chapter;

(2) The vertical extent of damage for grounding penetration specified in Table 172.180 of this chapter; and

(3) 30 inches (760 mm) from the shell plating.

(b) For type IIG, IIPG, and IIIG hulls, cargo tanks must be located inboard of—

(1) The vertical extenf of damage for grounding penetration specified in Table 172.180 of this chapter; and

(2) 30 inches (760 mm) from the shell plating.

* * * * *

(d) For type IIG, IIPG, and IIIG hulls, cargo tank suction wells may penetrate into the area of bottom damage specified as the vertical extent of damage for grounding penetration in Table 172.180 of this chapter if the penetration is the lesser of 25% of the double bottom height or 13.8 in. (350 mm).

64. In § 154.1809, by revising paragraph (b) to read as follows:

§ 154.1809 Loading and stability manual.

* * * * *

(b) The loading and stability manual must contain—

(1) Information that enables the master to load and ballast the vessel while keeping structural stresses within design limits; and

(2) The information required by § 170.110 of this chapter.

PART 163—CONSTRUCTION

65. In § 163.001–2, by revising paragraph (c) to read as follows:

§ 163.001–2 General requirements for sliding watertight doors.

* * * * *

(c) *Location.* The permitted locations of the several types of watertight doors are contained in Subchapters E and S of this chapter.

* * * * *

66. In § 163.001–4, by adding paragraph (b)(3) to read as follows:

§ 163.001–4 Manual operating controls for sliding watertight doors.

* * * * *

(b) * * *

(3) Manual operating equipment must be capable of closing a door with the vessel listed 15 degrees either way.

* * * * *

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

§§ 167.20–5, 167.20–20, 167.20–25, and 167.20–30 [Removed]

67. By removing §§ 167.20–5, 167.20–20, 167.20–25, and 167.20–30.

68. By adding a new § 167.20–7 to read as follows:

§ 167.20–7 Subdivision and stability.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 168—CIVILIAN NAUTICAL SCHOOL VESSELS

69. By adding a new § 168.05–10 to read as follows:

§ 168.05–10 Subdivision and stability.

Each vessel must meet the applicable requirements in Subchapter S of the chapter.

70. By adding a new Subchapter S—Subdivision and Stability to read as follows:

SUBCHAPTER S—SUBDIVISION AND STABILITY

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

Subpart A—General Provisions

Sec.

Subpart B—Definitions

Subpart C—Plan Approval

Subpart D—Stability Instructions for Operating Personnel

Sec.

Subpart E—Weather Criterion

Subpart F—Determination of Lightweight Displacement and Centers of Gravity

Subpart G—Special Installations

Subpart H—Watertight Bulkhead Doors

Subpart I—Free Surface

Authority: Section 2, 87 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General Provisions

§ 170.001 Applicability.

(a) This subchapter applies to each vessel contracted for on or after (60 days after publication) that is—

(1) Inspected under another subchapter of this chapter; or

(2) A foreign vessel that must comply with the requirements in Subchapter O of this chapter.

(b) Each vessel contracted for before (60 days after publication) may be constructed in accordance with the regulations in effect at the time. However, any alterations or repairs

must be done in accordance with § 170.005.

(c) Certain regulations in this subchapter apply only to limited categories of vessels. Specific applicability statements are provided at the beginning of those regulations.

§ 170.005 Vessel alteration or repair.

(a) Alterations and repairs to inspected vessels must be done—

(1) Under the direction of the Officer in Charge, Marine Inspection; and

(2) Except as provided in paragraph (b) of this section, in accordance with the regulations in this subchapter, to the extent practicable.

(b) Minor alterations and repairs may be done in accordance with regulations in effect at the time the vessel was contracted for.

§ 170.010 Equivalents.

Substitutions for fittings, equipment, arrangements, calculations, information, or tests required in this subchapter may be approved by the Commandant, the Commander, Merchant Marine Technical Office, or the Officer in Charge, Marine Inspection, if the substitution provides an equivalent level of safety.

§ 170.015 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, D.C. 20408 and at the Office of Merchant Marine Safety (G–MTH–5/13), Room 1308, U.S. Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

(b) The materials approved for incorporation by reference in this subchapter are:

Military Specification MIL–P–21929B.

International Maritime Organization (IMO) Resolution A.265 (VIII) dated December 10, 1973.

Subpart B—Definitions

§ 170.050 General terms.

(a) "Commander, Merchant Marine Technical Office (Commander (mmt))" means a district commander described in 33 CFR Part 3 whose command includes a merchant marine technical office or an authorized representative of the district commander.

(b) "Commandant" means the Commandant of the Coast Guard or an authorized representative of the Commandant.

(c) "Exposed waters" means waters more than 20 nautical miles (37 kilometers) from the mouth of a harbor of safe refuge and other waters which the Officer in Charge, Marine Inspection determines to present special hazards due to weather or other circumstances.

(d) "Great Lakes" includes both the waters of the Great Lakes and of the St. Lawrence River as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along the 63rd meridian from Anticosti Island to the north shore of the St. Lawrence River.

(e) "Lakes, Bays, and Sounds" includes the waters of any lake, bay, or sound, except the Great Lakes.

(f) "Oceans" includes the waters of—

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Gulf of Alaska; and

(5) Any other waters designated as "oceans" by the Commandant.

(g) "Officer in Charge Marine Inspection (OCMI)" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or an authorized representative of that officer.

(h) "Oil" means oil of any kind or in any form, and includes but is not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(i) "Partially protected waters" means—

(1) Waters within 20 nautical miles (37 kilometers) of the mouth of a harbor of safe refuge, unless determined by the OCMI to be exposed waters; and

(2) Those portions of rivers, harbors, lakes, etc. which the OCMI determines not to be sheltered.

(j) "Protected waters" means sheltered waters presenting no special hazards such as most rivers, harbors, lakes, etc.

(k) "Rivers" means any river, canal, or any other similar body of water designated by the OCMI.

§ 170.055 Definitions concerning a vessel.

(a) "Auxiliary sailing vessel" means a vessel capable of being propelled both by mechanical means and by sails.

(b) "Barge" means a vessel not equipped with a means of self-propulsion.

(c) "Beam" or "B" means the maximum width of a vessel from—

(1) Outside of planking to outside of planking on wooden vessels; and

(2) Outside of frame to outside of frame on all other vessels.

(d) "Bulkhead deck" means the uppermost deck to which watertight bulkheads and the watertight shell extend.

(e) "Downflooding" means, except as provided in § 174.035(b), the entry of seawater through any opening into the hull or superstructure of an undamaged vessel due to heel, trim, or submergence of the vessel.

(f) "Downflooding angle" means, except as specified in §§ 171.055(f), 172.090(d), 173.095(e), 174.015(b), and 174.035(b), the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that cannot be closed watertight and through which downflooding can occur.

(g) "Draft" means the vertical distance from the molded baseline amidships to the waterline.

(h) "Length" means the distance between fore and aft points on a vessel. The following specific terms are used and correspond to specific fore and aft points:

(1) "Length between perpendiculars (LBP)" means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest operating draft.

(2) "Length overall (LOA)" means the horizontal distance between the forward-most and after-most points on the hull.

(3) "Length on the waterline (LWL)" means the horizontal distance between the forward-most and after-most points on a vessel's waterline.

(4) "Length on deck (LOD)" means the length between the forward-most and after-most points on a specified deck measured along the deck, excluding sheer.

(5) "Load line length (LLL)" has the same meaning that is provided for the term "length" in § 42.13–15(a) of this chapter.

(i) "Lightweight" means with fixed ballast and with machinery liquids at operating levels but without any cargo, stores, consumable liquids, water ballast, or persons and their effects.

(j) "Main transverse watertight bulkhead" means a transverse bulkhead that must be maintained watertight in order for the vessel to meet the damage stability and subdivision requirements in this subchapter.

(k) "Permeability" is the percentage of the volume of a space that can be occupied by water.

(l) "Sailing vessel" means a vessel propelled only by sails.

(m) "Ship" means a self-propelled vessel.

(n) "Tank vessel" means a vessel that is specially constructed or converted to carry liquid bulk cargo in tanks.

(o) "Tank barge" means a tank vessel not equipped with a means of self-propulsion.

(p) "Tank ship" means a tank vessel propelled by mechanical means or sails.

(q) "Vessel" means any vessel and includes both ships and barges.

(r) "Weather deck" means the uppermost deck exposed to the weather.

Subpart C—Plan Approval

§ 170.070 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is less than 150 gross tons.

(4) A tank barge that—

(i) Operates only in rivers or lakes, bays, and sounds service;

(ii) Does not have to meet 33 CFR Part 157, Subpart B; and

(iii) Only carries a product listed in § 30.25–1 of this chapter.

§ 170.075 Plans.

(a) Except as provided in paragraph (b) of this section, each applicant for an original certificate of inspection and approval of plans must also submit three copies of each of the following plans:

(1) General arrangement plan of decks, holds, and inner bottoms including inboard and outboard profiles.

(2) Lines.

(3) Curves of form.

(4) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.

(5) Tank sounding tables showing—

(i) Capacities, vertical centers of gravity, and longitudinal centers of gravity in graduated intervals; and

(ii) Free surface data for each tank.

(6) Draft mark locations including longitudinal location and vertical reference points.

(b) Each small passenger vessel that is designed to comply with the alternate intact stability requirements in § 171.030(b)(2) of this subchapter and the simplified method of spacing main transverse watertight bulkheads in § 171.043 of this subchapter does not have to submit the plans required by paragraph (a) of this section.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.080 Stability booklet.

Before issuing an original certificate of inspection, three copies of the stability booklet required by § 170.110 must be submitted for approval to the Commander (mmt).

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 1125–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.085 Information required before a stability test.

If a stability test is to be performed, a stability test procedure that contains the information prescribed in § 170.185(g) must be submitted to the Commander (mmt) at least two weeks before the test.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.090 Calculations.

(a) Except as provided in § 170.098, all calculations required by this subchapter must be submitted with the plans required by § 170.075.

(b) If it is necessary to compute and plot any of the following curves as part of the calculations required in this subchapter, these plots must also be submitted:

(1) Righting arm or moment curves.

(2) Heeling arm or moment curves.

(3) Cross curves of stability.

(4) Floodable length curves.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.093 Specific approvals.

Certain rules in this subchapter require specific approval of equipment or arrangements by the Commandant, Commander (mmt), or OCMI. These approval determinations will be made as a part of the plan review process.

§ 170.095 Data submittal for a vessel equipped to lift.

The following data must be submitted with the plans required by § 170.075 if the vessel is engaged in lifting and is required to comply with Subpart B of Part 173 of this chapter:

(a) A graph of maximum hook load versus maximum crane radius.

(b) A table of crane radius versus the maximum distance above the main deck to which the hook load can be raised.

(c) A table showing maximum vertical and transverse moments at which the crane is to operate.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188.)

§ 170.098 Submittal of information for the carriage of bulk grain. [Reserved]

§ 170.100 Addresses for submittal of plans and calculations.

Except as provided in § 170.098, the plans, information, and calculations required by this subpart must be submitted to one of the following:

(a) The Marine Inspection Office, in the zone where the vessel is to be built or altered.

(b) One of the following Merchant Marine Technical offices:

(1) Commander (mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st, 3rd, 5th, and 9th Coast Guard Districts.

(2) Commander (mmt), 8th Coast Guard District, Room 845, F. Edward Hebert Building, 600 South St., New Orleans, La. 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard Districts.

(3) Commander (mmt), 12th Coast Guard District, Government Island, Building 51, Alameda, Calif. 94501, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

Subpart D—Stability Instructions for Operating Personnel

§ 170.105 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the

stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is less than 150 gross tons.

(4) A tank barge that—

(i) Operates only in rivers or lakes, bays, and sounds service;

(ii) Does not have to meet 33 CFR Part 157, Subpart B; and

(iii) Only carries a product listed in § 30.25–1 of this chapter.

§ 170.110 Stability booklet.

(a) Except as provided in paragraph (e) of this section, a stability booklet must be prepared for each vessel. On a mobile offshore drilling unit, the stability booklet is referred to as an operating manual.

(b) Each stability booklet must be approved by the Commander (mmt).

(c) Each stability booklet must contain sufficient information to enable the master to operate the vessel in compliance with the applicable regulations in this subchapter.

(d) The format of the stability booklet and the information included will vary dependent on the vessel type and operation. In developing the stability booklet, consideration must be given to including the following information:

(1) A general description of the vessel, including lightweight data.

(2) Instructions on the use of the booklet.

(3) General arrangement plans showing watertight compartments, closures, vents, downflooding angles, and allowable deck loadings.

(4) Hydrostatic curves or tables.

(5) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.

(6) Tank sounding tables showing capacities, vertical centers of gravity, and longitudinal centers of gravity in graduated intervals and showing free surface data for each tank.

(7) Information on loading restrictions, such as a maximum KG or minimum GM curve that can be used to determine compliance with applicable intact and damage stability criteria.

(8) Examples of loading conditions.

(9) A rapid and simple means for evaluating other loading conditions.

(10) A brief description of the stability calculations done including assumptions.

(11) General precautions for preventing unintentional flooding.

(12) A table of contents and index for the booklet.

(13) Each ship condition which, if damage occurs, may require cross-flooding for survival and information concerning the use of any special cross-flooding fittings.

(14) The amount and location of fixed ballast.

(15) Any other necessary guidance for the safe operation of the vessel under normal and emergency conditions.

(e) A stability booklet is not required if sufficient information to enable the master to operate the vessel in compliance with the applicable regulations in this subchapter can be placed on the Certificate of Inspection, Load Line Certificate, or in the stability letter required in § 170.120.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.120 Stability letter.

(a) Except as provided in paragraph (b) of this section, each vessel must have a stability letter issued by the Coast Guard before the vessel is placed in service. This letter sets forth conditions of operation.

(b) A stability letter is not required if the information can be placed on the Certificate of Inspection or the Load Line Certificate.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.125 Operating information for a vessel engaged in lifting.

In addition to the information required in 170.110, the following information must be included in the stability booklet of a vessel that is required to comply with § 173.005 of this subchapter:

(a) *Non-counterballasted vessel.* If a vessel is not counterballasted, stability information setting forth hook load limits corresponding to boom radii based on the intact stability criterion in § 173.020 must be provided.

(b) *Counterballasted vessel.* If a vessel is counterballasted with water, the following information must be provided:

(1) Instructions on the effect of the free surface of the counterballast water.

(2) Instructions on the amounts of counterballast needed to compensate for hook load heeling moments.

(3) If a vessel has fixed counterballast, a table of draft versus maximum vertical moment of deck cargo and hook load combined.

(4) If a vessel has variable counterballast, a table of draft versus maximum vertical moment of deck cargo and hook load combined for each counterballasted condition.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.130 Operating information for a mobile offshore drilling unit.

In addition to the information required in § 170.110, the following instructions must be included in the operating manual for a mobile offshore drilling unit:

(a) Instructions for operating the unit while preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness.

(b) Instructions for operating the unit while changing its operating condition including preparations for making a move.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.135 Operating information for a vessel with Type III subdivision.

(a) In addition to the information required in § 170.110, the stability booklet of a passenger vessel with Type III subdivision must contain the information required by Regulation 8(b) of IMO Resolution A.265 (VIII).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U. S. Coast Guard.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

Subpart E—Weather Criterion

§ 170.160 Specific applicability

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is—

(i) Less than 150 gross tons; or

(ii) A tank barge that operates only in river or lakes, bays, and sounds service.

(c) This subpart does not apply to the following vessels:

(1) A tank barge that carries a product listed in Table 151.01–10(b) of this chapter.

(2) A mobile offshore drilling unit.

(3) A vessel that performs the test required by § 171.030(c) of this subchapter.

§ 170.170 Calculations required.

(a) Each vessel must be shown by design calculations to have a metacentric height (GM) that is equal to or greater than the following in each condition of loading and operation:

$$GM > \frac{PAH}{W \tan (T)}$$

Where—

P = .005 + (L/14,200)² tons/ft² . . . for ocean service, Great Lakes winter service, or service on exposed waters.

P = .005 + (L/1309)² metric tons/m² . . . for ocean service, Great Lakes winter service, or service on exposed waters.

P = .0033 + (L/14,200)² tons/mt² . . . for Great Lakes summer service or service on partially protected waters.

P = .036 + (L/1309)² metric tons/ft² . . . for Great Lakes summer service or service on partially protected waters.

P = .0025 + (L/14,200)² tons/ft² . . . for service on protected waters.

P = .028 + (L/1309)² metric tons/m² . . . for service on protected waters.

L = LBP in feet (meters).

A = projected lateral area in square feet (square meters) of the portion of the vessel and deck cargo above the waterline.

H = the vertical distance in feet (meters) from the center of A to the center of the underwater lateral area or approximately to the one-half draft point.

W = displacement in long (metric) tons.

T = 14 degrees or the angle of heel at which one-half the freeboard to the deck edge is immersed, whichever is less.

(b) If approved by the Commander (mmt), a larger value of T may be used for a vessel with a discontinuous weather deck or abnormal sheer.

(c) When doing the calculations required by paragraph (a) of this section for a sailing vessel or auxiliary sailing vessel, the vessel must be assumed—

(1) To be under bare poles; or

(2) If the vessel has no auxiliary propulsion, to have storm sails set and trimmed flat.

(d) The criterion specified in this section is generally limited in application to flush deck, mechanically powered vessels of ordinary proportions and form that carry cargo below the main deck. On other types of vessels, the Commander (mmt) requires calculations in addition to those in paragraph (a) of this section. On a mechanically powered vessel under 328 feet (100 meters) in length, other than a tugboat or a towboat, the requirements in § 170.173 are applied.

§ 170.173 Criterion for vessels of unusual proportion and form.

(a) If required by the Commander (mmt), each mechanically powered vessel less than 328 feet (100 meters) LLL, other than a tugboat or towboat, must be shown by design calculations to comply with—

(1) Paragraph (b) or (c) of this section if the maximum righting arm occurs at an angle of heel less than or equal to 30 degrees; or

(2) Paragraph (b) of this section if the maximum righting arm occurs at an angle of heel greater than 30 degrees.

(b) Each vessel must have—

(1) An initial metacentric height (GM) of at least 0.49 feet (0.15 meters);

(2) A maximum righting arm (GZ) of at least 0.66 feet (0.20 meters) at an angle of heel equal to or greater than 30 degrees;

(3) A maximum righting arm that occurs at an angle of heel not less than 25 degrees;

(4) An area under each righting arm curve of at least 10.3 foot-degrees (3.15 meter-degrees) up to an angle of heel of 30 degrees;

(5) An area under each righting arm curve of at least 16.9 foot-degrees (5.15 meter-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less; and

(6) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, of not less than 5.6 foot-degrees (1.72 meter-degrees).

(c) Each vessel must have—

(1) An initial metacentric height (GM) of at least 0.49 feet (0.15 meters);

(2) A maximum righting arm that occurs at an angle of heel not less than 15 degrees;

(3) An area under each righting arm curve of at least 16.9 foot-degrees (5.15 meter-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less;

(4) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, of not less than 5.6 foot-degrees (1.72 meter-degrees); and

(5) An area under each righting arm curve up to the angle of maximum righting arm of not less than the area determined by the following equation:

$A = 10.3 + 0.187\,(30 - Y)$ foot-degrees

$A = 3.15 + 0.057\,(30 - Y)$ meter-degrees

where—

A = area in foot-degrees (meter-degrees).

Y = angle of maximum righting arm, degrees.

(d) For the purpose of demonstrating compliance with paragraphs (b) and (c) of this section, at each angle of heel a vessel's righting arm is calculated after the vessel is permitted to trim free until the trimming moment is zero.

Subpart F—Determination of Lightweight Displacement and Centers of Gravity

§ 170.174 Specific applicability.

This subpart applies to each vessel for which the lightweight displacement and centers of gravity must be determined in order to do the calculations required in this subchapter.

§ 170.175 Stability test: General.

(a) Except as provided in paragraphs (c) and (d) of this section and in § 170.200, the owner of a vessel must conduct a stability test of the vessel and calculate its vertical and longitudinal centers of gravity and its lightweight displacement.

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section.

(c) The stability test may be dispensed with, or a deadweight survey may be substituted for the stability test, if the Coast Guard has a record of, or is provided with, the approved results of a stability test of a sister vessel.

(d) The stability test of a vessel may be dispensed with if the Coast Guard determines that an accurate estimate of the vessel's lightweight characteristics can be made and that locating the precise position of the vessel's vertical center of gravity is not necessary to insure that the vessel has adequate stability in all probable loading conditions.

§ 170.180 Plans and information required at the stability test.

The owner of a vessel must provide the following Coast Guard approved plans and information to the authorized Coast Guard representative at the time of the stability test:

(a) Lines.

(b) Curves of form.

(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.
(d) Tank sounding tables.
(e) Draft mark locations.
(f) General arrangement plan of decks, holds, and inner bottoms.
(g) Inboard and outboard profiles.
(h) The stability test procedure described in § 170.185(g).

(Approved by the Office of Management and Budget under OMB control numbers 2115-0095, 2115-0114, 2115-0130, 2115-0131, 2130-0186, and 2130-0188)

§ 170.185 Stability test preparations.

The following preparations must be made before conducting a stability test:
(a) The vessel must be as complete as practicable at the time of the test.
(b) Each tank must be empty and dry, except that a tank may be partially filled or full if the Commander (mmt) determines that empty and dry tanks are impracticable and that the effect of filling or partial filling on the location of the center of gravity and on the displacement can be accurately determined.
(c) All dunnage, tools, and other items extraneous to the vessel must be removed.
(d) The water depth at the mooring site must provide ample clearance against grounding.
(e) Each mooring line must be arranged so that it does not interfere with the inclination of the unit during the test.
(f) The draft and axis of rotation selected for testing a mobile offshore drilling unit must be those that result in acceptable accuracy in calculating the center of gravity and displacement of the unit.
(g) The stability test procedure required by § 170.085 must include the following:
(1) Identification of the vessel to be tested.
(2) Date and location of the test.
(3) Inclining weight data.
(4) Pendulum locations and lengths.
(5) Approximate draft and trim of the vessel.
(6) Condition of each tank.
(7) Estimated items to be installed, removed, or relocated after the test, including the weight and location of each item.
(8) Schedule of events.
(9) Person or persons responsible for conducting the test.

§ 170.190 Stability test procedure modifications.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirements of § 170.180 and § 170.185 if the representative determines that the deviation would not decrease the accuracy of the test results.

§ 170.200 Estimated lightweight vertical center of gravity.

(a) Each tank vessel that does not carry a material listed in either Table 1 of § 153 or Table 4 of § 154 of this chapter may comply with this section in lieu of § 170.175 if it—
(1) Is 150 gross tons or greater;
(2) Is or ordinary proportions and form;
(3) Has a flush weather deck, one or more longitudinal bulkheads, and no independent tanks; and
(4) Is designed not to carry cargo above the freeboard deck.
(b) When doing the calculations required by § 170.170 and § 172.065, the vertical center of gravity of a tank vessel in the lightweight condition must be assumed to be equal to the following percentage of the molded depth of the vessel measured from the keel amidship:
(1) For a tank ship—70%.
(2) For a tank barge—60%.
(c) As used in this section, "molded depth" has the same meaning that is provided for the term in § 42.13-15(e) of this chapter.

Subpart G—Special Installations

§ 170.235 Fixed ballast.

(a) Fixed ballast, if used, must be—
(1) Installed under the supervision of the OCMI; and
(2) Stowed in a manner that prevents shifting of position.
(b) Fixed ballast may not be removed from a vessel or relocated unless approved by the Commander (mmt). However, ballast may be temporarily moved for vessel examination or repair if done under the supervision of the OCMI

§ 170.245 Foam flotation material.

(a) Installation of foam must be approved by the OCMI.
(b) If foam is used to comply with § 171.070(d) or § 171.095(c) of this subchapter, the following applies:
(1) Foam may be installed only in void spaces that are free of ignition sources.
(2) The foam must comply with MIL-P-21929B including the requirements for fire resistance.
(3) A submergence test must be conducted for a period of at least 7 days to demonstrate whether the foam has adequate strength to withstand a hydrostatic head equivalent to that which would be imposed if the vessel were submerged to its margin line.
(4) The effective buoyancy at the end of the submergence test must be used as the buoyancy credit; however, in no case will a credit greater than 55 lbs per cubic foot (881 kilograms per cubic meter) be allowed.
(5) The structure enclosing the foam must be strong enough to accommodate the buoyancy of the foam.
(6) Piping and cables must not pass through foamed spaces unless they are within piping and cable trunks accessible from both ends.
(7) Sample specimens must be prepared during installation and the density of the installed foam must be determined.
(8) Foam may be installed adjacent to fuel tanks if the boundary between the tank and space has double continuous fillet welds.
(9) MIL-P-21929B is incorporated by reference into this part.
(10) The results of all tests and calculations must be submitted to the OCMI.
(11) Blocked foam must—
(i) Be used in each area that may be exposed to water; and
(ii) Have a protective cover approved by the OCMI.

Subpart H—Watertight Bulkhead Doors

§ 170.248 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to vessels with watertight doors in bulkheads that have been made watertight to comply with the flooding or damage stability regulations in this subchapter
(b) A watertight door on a MODU must comply with § 174.100 of this subchapter.

§ 170.250 Types and classes.

(a) Watertight doors, except doors between cargo spaces, are classed as follows:
(1) Class 1—Hinged door.
(2) Class 2—Sliding door, operated by hand gear only
(3) Class 3—Sliding door, operated by power and by hand gear.
(b) The following types of watertight doors are not permitted:
(1) A plate door secured only by bolts; and
(2) A door required to be closed by dropping or by the action of dropping weights.
(c) Whenever a door of a particular class is prescribed by these regulations, a door of a class bearing a higher number may be used.

§ 170.255 Class 1 doors; permissible locations.

(a) Except as provided in paragraphs (b) and (c) of this section, Class 1 doors within passenger, crew, and working spaces are permitted only above a deck, the molded line of which, at its lowest point at side, is at least 7 feet (2.14 meters) above the deepest load line.

(b) Class 1 doors are permitted within passenger, crew, and working spaces, wherever located, if—

(1) In the judgment of the OCMI, the door is in a location where it will be closed at all times except when actually in use; and

(2) The vessel is less than 150 gross tons and will not proceed more than 20 nautical miles (37 kilometers) from shore; or

(3) The vessel is in rivers or lakes, bays, and sounds service.

(c) Class 1 doors are permitted in any location on a vessel that—

(1) Is less than 100 gross tons; and

(2) Will operate only in the offshore oil industry trade.

§ 170.260 Class 2 doors; permissible locations.

(a) Except as provided in paragraphs (b) and (c) of this section, a Class 2 door is permitted only if—

(1) Its sill is above the deepest load line; and

(2) It is not a door described in § 170.265(d).

(b) If passenger spaces are located below the bulkhead deck, Class 2 doors with sills below the deepest load line may be used if—

(1) The number of watertight doors located below the deepest load line that are used intermittently during operation of the vessel does not exceed two, and;

(2) The doors provide access to or are within spaces containing machinery.

(c) If no passenger spaces are located below the bulkhead deck, Class 2 doors may be used if the number of watertight doors located below the deepest load line that are used intermittently during operation of the vessel does not exceed five.

(d) In determining whether Class 2 doors are allowed under paragraph (c) of this section, the watertight doors at the entrance to shaft tunnels need not be counted. If Class 2 doors are allowed under paragraph (c) of this section, the doors at the entrance to shaft tunnels may also be Class 2.

§ 170.265 Class 3 doors; required locations.

The following doors must always be Class 3:

(a) Doors in all locations not addressed in §§ 170.255 and 170.260.

(b) Doors between coal bunkers below the bulkhead deck that must be opened at sea.

(c) Doors into trunkways that pass through more than one main transverse watertight bulkhead if the door sills are less than 2.14 meters above the deepest load line.

(d) Doors below a deck, the molded line of which, at its lowest point at side, is not at least 7 feet (2.14 meters) above the deepest load line if—

(1) The vessel is engaged on a short international voyage as defined in § 171.010 of this subchapter; and

(2) The vessel is required by § 171.065 of this subchapter to have a factor of subdivision of 0.05 or less.

§ 170.270 Door design, operation, installation, and testing.

(a) Each Class 1 door must have a quick action closing device operative from both sides of the door.

(b) Each Class 1 door on a vessel in ocean service must be designed to withstand a head of water equivalent to the depth from the sill of the door to the margin line but in no case less than 10 feet (3.05 meters).

(c) Each Class 2 and Class 3 door must be designed, tested, and installed in accordance with Subpart 163.001 of Subchapter Q (Specifications) of this chapter.

(d) For each watertight door, an indicator must be installed in the pilothouse and at each other vessel operating station from which the door is not visible. The indicator must show whether the door is open or closed.

§ 170.275 Special requirements for cargo space watertight doors.

(a) A door between cargo spaces—

(1) Must not be designed for remote operation;

(2) Must be located as high as practicable; and

(3) Must be located as far inboard of the side shell as practicable but in no case closer to the side shell than one-fifth of the beam of the vessel where the beam is measured at right angles to the centerline of the vessel at the level of the deepest load line.

(b) If the door is accessible while the ship is in operation, it must have installed a lock or other device that prevents unauthorized opening.

(c) Before installing a watertight door in a cargo space, approval must be obtained from the Commander(mmt).

Subpart I—Free Surface

§ 170.285 Free surface correction for intact stability calculations.

(a) When doing the intact stability calculations required by this subchapter, the virtual increase in the vessel's vertical center of gravity due to liquids in tanks must be determined by calculating—

(1) For each type of consumable liquid, the maximum free surface effect of at least one transverse pair of wing tanks or a single centerline tank; and

(2) The maximum free surface effect of each partially filled tank containing non-consumable liquids.

(b) For the purpose of paragraph (a)(1) of this section, the tank or combination of tanks selected must be those having the greatest free surface effect.

§ 170.290 Free surface correction for damage stability calculations.

(a) When doing the damage stability calculations required by this subchapter, the virtual increase in the vessel's vertical center of gravity due to liquids in tanks must be determined by calculating—

(1) For each type of consumable liquid, the free surface effect of at least one transverse pair of wing tanks or a single centerline tank; and

(2) The free surface effect of each partially filled tank containing other than consumable liquids.

(b) For the purpose of paragraph (a)(1) of this section, the tank or combination of tanks selected must be those having the greatest free surface effect.

(c) When doing the calculations in paragraph (a) of this section, the free surface effect of a liquid in a tank must be determined by—

(1) Assuming the vessel is heeled five degrees from the vertical; or

(2) Calculating the shift of the center of gravity of the liquid in the tank by the moment of transference method.

§ 170.295 Special consideration for free surface of passive roll stabilization tanks.

(a) The virtual increase in the vertical center of gravity due to a liquid in a roll stabilization tank may be calculated in accordance with paragraph (b) of this section if—

(1) The virtual increase in the vertical center of gravity of the vessel is calculated in accordance with § 170.285(a); and

(2) The slack surface in the roll stabilization tank is reduced during vessel motions because of the shape of the tank or the amount of liquid in the tank.

(b) The virtual rise in the vertical center of gravity calculated in accordance with § 170.285(a) for a stabilization tank may be reduced in accordance with the following equation:

$$E.F.S. = (K)(F.F.S.)$$

where—

E.F.S. = the effective free surface.
F.F.S. = the full free surface calculated in accordance with § 170.285(a).
F = the reduction factor calculated in accordance with paragraph (c) of this section.

(c) The factor (K) must be calculated as follows:

(1) Plot (I/d)tan T on Graph 170.295 where—

(i) (I) is the moment of inertia of the free surface in the roll tank;

(ii) (d) is the density of the liquid in the roll tank; and

(iii) (T) is the angle of heel.

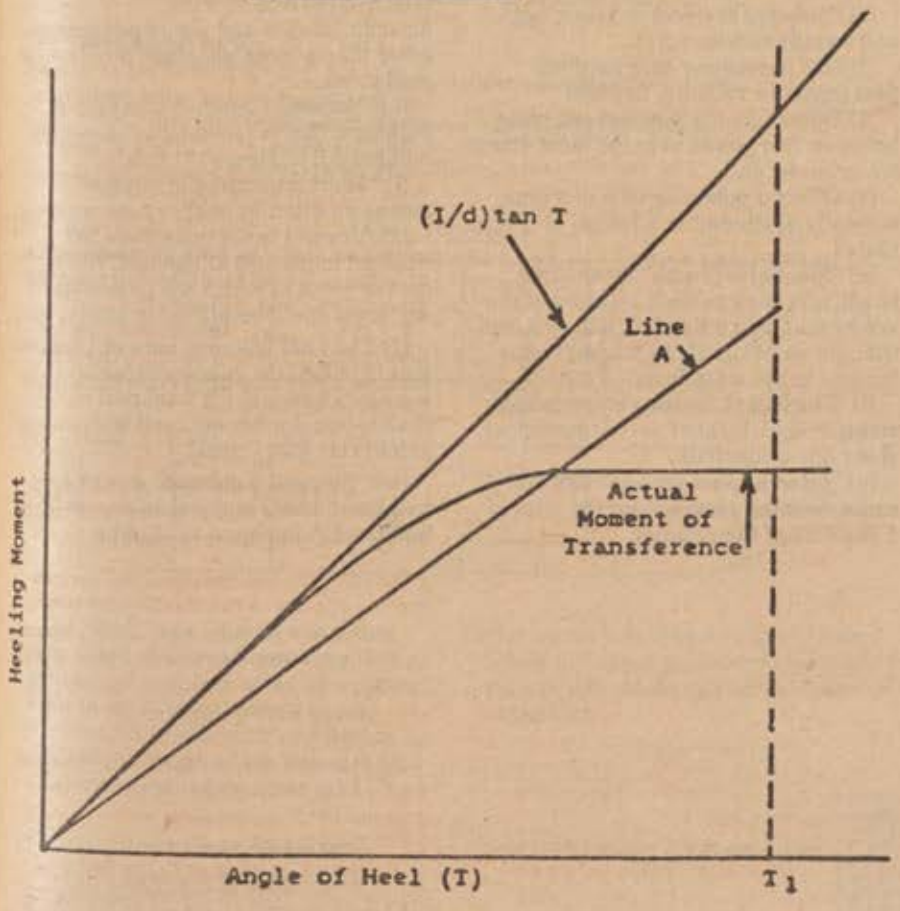
d(2) Plot the moments of transference of the liquid in the roll tank on Graph 170.295.

(3) Construct a line A on Graph 170.295 so that the area under line A between T = 0 and the angle at which the deck edge is immersed or 28 degrees, whichever is smaller, is equal to the area under the curve of actual moments of transference between the same angles.

(4) The factor (K) is calculated by determining the ratio of the ordinate of line A to the ordinate of the curve of (I/d)tan T, both measured at the angle at which the deck edge is immersed or 28 degrees, whichever is smaller.

GRAPH 170.295

Special Free Surface Correction for Stabilization Tanks



T_1 = the angle at which the deck edge is immersed or 28 degrees, whichever is smaller.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

Subpart A—General

Sec.

Subpart B—Small Vessels

Subpart C—Large Vessels

Subpart D—Additional Subdivision Requirements

Subpart E—Penetrations and Openings in Watertight Bulkheads

Subpart F—Openings in the Side of a Vessel Below the Bulkhead or Weather Deck

Authority: Section 2, 57 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 171.001 Applicability.

(a) This part applies to passenger vessels inspected under Subchapter T or H of this chapter.

(b) Specific sections of this part also apply to nautical school ships, oceanographic vessels, and nuclear vessels. The applicable sections are listed in Subparts C and D of Part 173 and Subpart D of Part 174 of this subchapter.

§ 171.010 Definitions.

(a) "Cockpit" means an exposed recess in the weather deck extending no more than one-half of the length of the vessel (LOD) measured over the weather deck.

(b) "Deepest subdivision load line" means the waterline that corresponds to the deepest draft permitted by the applicable subdivision requirements in this part.

(c) "Equivalent plane bulkhead" means a bulkhead that is—

(1) Used in lieu of a recessed or stepped bulkhead when doing the subdivision calculations required in this part; and

(2) Located as shown in Figure 171.010(a).

(d) "Ferry" means a vessel that—

(1) Operates in rivers or lakes, bays, and sounds service only;

(2) Has provisions only for deck passengers or vehicles, or both;

(3) Operates on a frequent schedule between two points over the most direct water route; and

(4) Offers a public service of a type normally attributed to a bridge or tunnel.

(e) "Floodable length" means the length of a shell to shell segment of the vessel that, when flooded, will sink and trim the vessel until the margin line is tangent to the waterline.

(f) "Flush deck" means a continuous weather deck located at the uppermost sheer line of the hull.

(g) "International voyage" has the same meaning provided for the term in § 70.05–10 of this chapter.

(h) "Machinery space" means, unless otherwise prescribed by the Commandant for unusual arrangements, the space extending from the molded base line to the margin line and between the main transverse watertight bulkheads bounding the following spaces:

(1) Each space containing main and auxiliary propelling machinery.

(2) Each space containing propulsion boilers.

(3) Each space containing permanent coal bunkers.

(i) "Open boat" means a vessel not protected from entry of water by means of a complete deck, or by a combination of a partial weather deck and superstructure which is seaworthy for the waters upon which the vessel operates.

(j) "Passenger space" means a space which is provided for the accommodation and use of passengers, other than a baggage, store, provision or mail room.

(k) "Recessed bulkhead" means a bulkhead that is recessed as shown by bulkhead B in Figure 171.010(b).

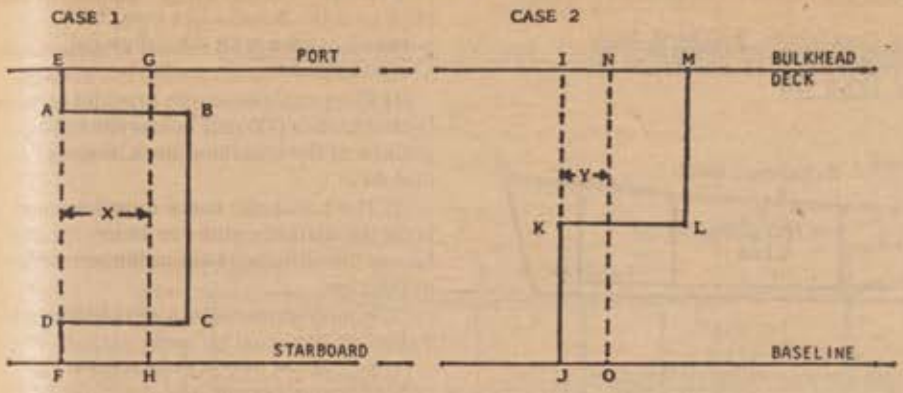
(l) "Short international voyage" means an international voyage where—

(1) A vessel is not more than 200 nautical miles (370 kilometers) from a port or place in which the passengers and crew could be placed in safety; and

(2) The total distance between the last port of call in the country in which the voyage began and the final port of destination does not exceed 600 nautical miles (1111 kilometers).

(m) "Stepped bulkhead" means a bulkhead that is stepped as shown by bulkhead A in Figure 171.010(b).

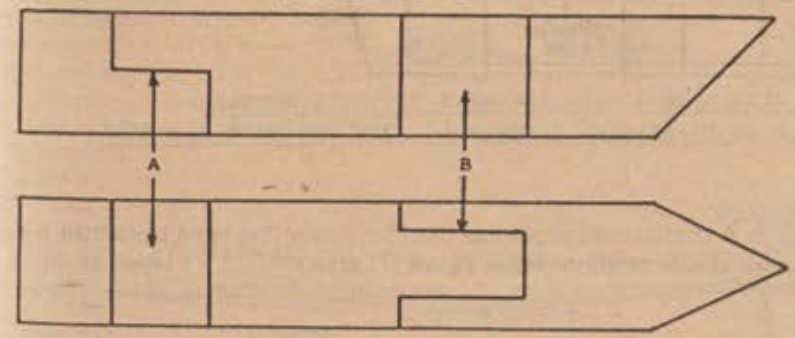
Figure 171.010(a)



Case 1: X = V/A
where-
X = Distance between EF and the equivalent plane bulkhead GH.
V = Volume of the space directly below ABCD and extending to the shell.
A = Sectional area midway between EF and GH.

Case 2: Y = V/A
where-
Y = Distance between IJ and the equivalent plane bulkhead NO.
V = Volume of the space directly below IKLM and extending to the shell.
A = Sectional area midway between IJ and NO.

Figure 171.010(b)



(n) "Well deck" means a weather deck fitted with solid bulwarks that impede the drainage of water over the sides or an exposed recess in the weather deck extending one-half or more of the length of the vessel (LOD) measured over the weather deck.

§ 171.015 Location of margin line.

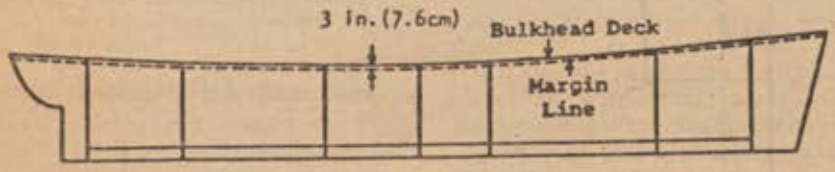
(a) *A vessel with a continuous bulkhead deck and sufficient sheer.* If the average value of the sheer at the forward perpendicular (FP) and the after perpendicular (AP) is at least 12 inches (30.5 cm), the margin line must be located no less than 3 inches (7.6 cm) below the upper surface of the bulkhead deck at side as illustrated in Figure 171.015(a).

TABLE 171.015

Average value of sheer at FP and AP in inches (cm)	Required position of margin line below top of deck amidships in inches (cm)
12 (30.5)	3 (7.6)
6 (15.2)	6 (15.2)
0	9 (22.8)

Figure 171.015(a)

Margin Line for a Vessel With a Continuous Bulkhead Deck and With an Average Value of Sheer at the FP and AP of at Least 12 Inches (30.5 cm)



(b) *A vessel with a continuous bulkhead deck and insufficient sheer.* If the average value of the sheer at the forward perpendicular (FP) and the after perpendicular (AP) is less than 12 inches (30.5 cm), the margin line must be a parabolic curve with the following characteristics:

(1) The parabolic curve must be at least 3 inches (7.6 cm) below the upper surface of the bulkhead deck at the FP and AP.

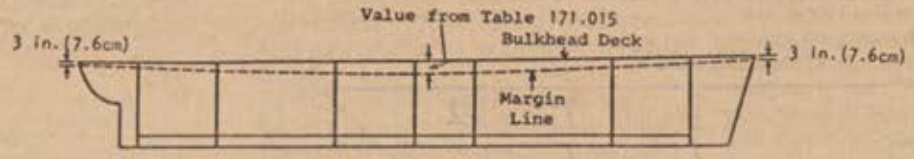
(2) The parabolic curve must be at least the distance given in Table 171.015 below the surface of the bulkhead deck amidships.

(3) Intermediate values not shown in Table 171.015 must be interpolated.

(4) Figure 171.015(b) illustrates a margin line drawn in this manner.

Figure 171.015(b)

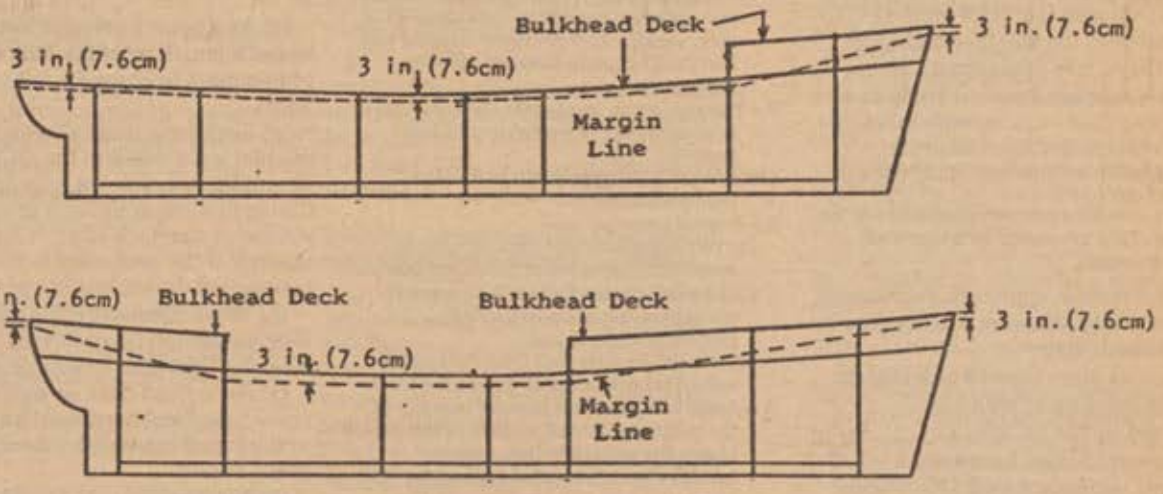
Margin Line for a Vessel With a Continuous Bulkhead Deck and With an Average Value of Sheer at the FP and AP Less Than 12 Inches (30.5 cm)



(c) *A vessel with a discontinuous bulkhead deck.* A continuous margin line must be drawn that is no more than 3 inches (7.6 cm) below the upper surface of the bulkhead deck at side as illustrated in Figure 171.015(c).

Figure 171.015(c)

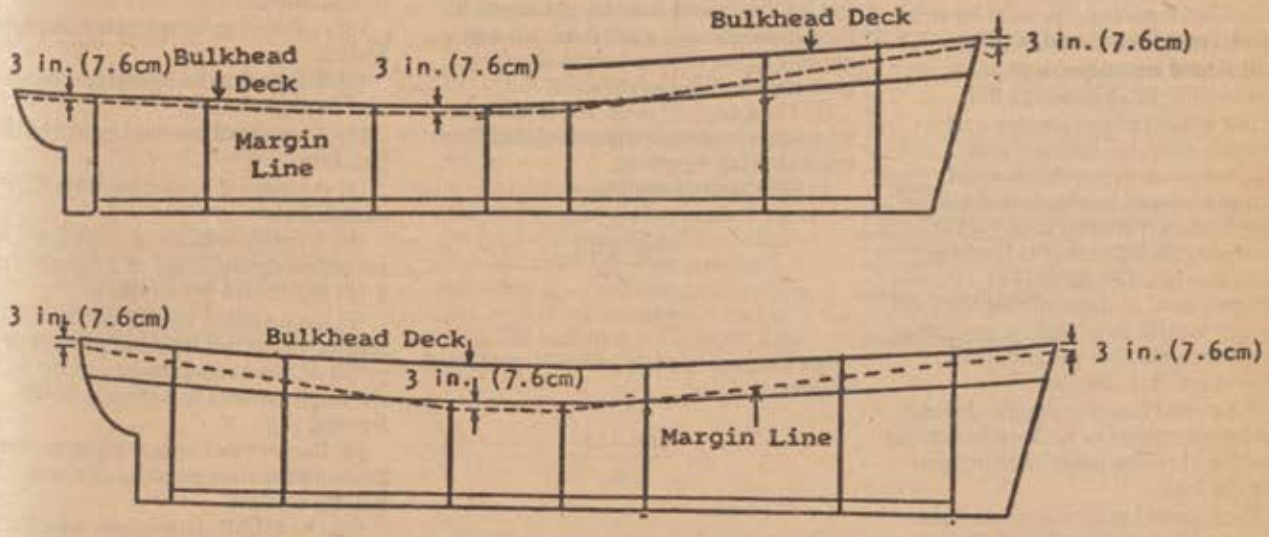
Margin Line for a Vessel With a Discontinuous Bulkhead Deck



(d) *A vessel with a discontinuous bulkhead deck where the side shell is carried watertight to a higher deck.* A continuous margin line must be drawn as illustrated in Figure 171.015(d).

Figure 171.015(d)

Margin Line for a Vessel With a Discontinuous Bulkhead Deck and With Side Shell Watertight to a Higher Deck



§ 171.017 One and two compartment standards of flooding.

(a) *One compartment standard of flooding.* A vessel is designed to a one compartment standard of flooding if the margin line is not submerged when the total buoyancy between each set of two adjacent main transverse watertight bulkheads is lost.

(b) *Two compartment standard of flooding.* A vessel is designed to a two compartment standard of flooding if the margin line is not submerged when the total buoyancy between each set of

three adjacent main transverse watertight bulkheads is lost.

Subpart B—Small Vessels

§ 171.020 Specific applicability.

(a) Except as provide in paragraph (b) of this section, this subpart applies to each vessel that is less than 100 gross tons, less than 65 feet (19.8 meters) LOD measured over the weather deck, and carries 150 or less passengers.

(b) This subpart does not apply to a vessel described in paragraph (a) of this section that carries more than 12 passengers on an international voyage.

§ 171.030 Intact stability requirements for a mechanically propelled or a non-self-propelled vessel.

(a) This section applies to each vessel, except a sailing vessel or an auxiliary sailing vessel, that—

(1) Carries more than 49 passengers;

(2) The stability of which is questioned by the OCMI; or

(3) Is permitted an increased passenger allowance by § 176.01–25(b) of this chapter.

(b) Each vessel must—

(1) Comply with § 170.170 and § 171.050 of this subchapter; or

(2) Perform the test in paragraph (d) of this section in the presence of the OCMI.

(c) Each vessel must be in the following condition when the test in paragraph (d) is performed:

(1) The construction of the vessel must be complete in all respects.

(2) Ballast, if necessary, must be solid and must be on board and in place.

(3) Fuel and water tanks must be approximately three-quarters full.

(4) The weight of passengers and other loads must be onboard and distributed so as to provide normal operating trim and to simulate the vertical center of gravity causing the least stable condition that is likely to occur in service. The number of passengers used in determining the total passenger weight must not be more than the maximum number permitted by § 176.01–25 of this chapter.

(5) If a vessel has non-return closures on cockpit scuppers or on weather deck drains, the closures must be kept open during the test.

(d) Each vessel must not exceed the limitations in paragraph (e) of this section, when subjected to the greater of the following heeling moments:

$$Mp = \frac{(W)(B)}{6}$$

or

$$Mw = (P)(A)(H)$$

where—

Mp = Passenger heeling moment in foot-lbs. (kilogram-meters).

W = the total passenger weight. (Assume 140 lbs. (63.5 kg) per passenger on protected waters when passenger load consists of men, women, and children. Assume 160 lbs. (72.6 kg) per passenger all other times.)

B = The maximum transverse distance that is accessible to the passengers in feet (meters).

Mw = Wind heeling moment in foot-lbs. (kilogram-meters).

P = A wind pressure of—

(1) 7.5 lbs./square foot (36.6 kg/square meter) for operation in protected waters;

(2) 10.0 lbs/square foot (48.8 kg/square meter) for operation in partially protected waters; and

(3) 15.0 lbs./square foot (73.2 kg/square meter) for operation in exposed waters.

A = Area, in square feet (square meters), of the projected lateral surface of the vessel above the waterline (this surface includes each projected area of the hull, superstructure and area bounded by railings and structural canopies).

H = Height, in feet (meters), to the center of area (A) above the waterline.

(e) Each vessel must not exceed the following limits of heel when doing the test in paragraph (d) of this section:

(1) *On a flush deck or well deck vessel,* no more than one half the freeboard may be immersed, except that, on a well deck vessel that operates on protected waters and has scuppers, the full freeboard may be immersed if the full freeboard is not more than one quarter of the distance from the waterline to the gunwale.

(2) *On a cockpit boat,* the maximum allowable immersion is calculated from the following equation:

(i) On exposed waters—

$$i = \frac{f(2L - 1.5L')}{4L}$$

(ii) On protected or partially protected waters

$$i = \frac{f(2L - L')}{4L}$$

Where—

i = maximum allowable immersion in feet (meters).

f = freeboard in feet (meters).

L = LOD, measured over the weather deck, in feet (meters).

L' = length of cockpit in feet (meters).

(3) *On an open boat,* no more than one-quarter of the freeboard may be immersed.

(4) In no case may the angle of heel exceed 14 degrees.

(f) The limits of heel must be measured at—

(1) The point of minimum freeboard; or

(2) At a point three quarters of the vessel's length from the bow if the point of minimum freeboard is aft of this point.

(g) Each ferry must also be tested in a manner acceptable to the OCMI to determine whether the trim or heel during loading or unloading will submerge the deck edge. A ferry passes this test if the deck edge is not submerged during loading or unloading.

(h) When demonstrating compliance with paragraph (e) of this section, the freeboard must be measured as follows:

(1) *For a flush deck or well deck vessel,* the freeboard must be measured to the top of the weatherdeck at the side of the vessel.

(2) *For a vessel with a cockpit or for an open boat,* the freeboard must be measured to the top of the gunwale.

§ 171.035 Intact stability requirements for a sailing vessel or an auxiliary sailing vessel.

(a) Except as provided in paragraph (b) of this section, each of the following sailing vessels and auxiliary sailing vessels must meet the intact stability standards of § 170.170 and § 171.055 of this subchapter:

(1) A vessel to be operated in exposed waters.

(2) A vessel to be operated during non-daylight hours.

(3) A vessel of unusual type, rig, or hull form.

(4) A vessel that carries more than 49 passengers.

(b) A catamaran must meet the intact stability requirements of § 170.170 and § 171.057 of this subchapter.

(c) Each sailing vessel and auxiliary sailing vessel not listed in paragraph (a) or (b) of this section must comlpy with the requirements in paragraphs (d) through (h).

(d) Each vessel operating in partially protected waters must have a self-bailing cockpit.

(e) The OCMI determines whether the vessel has adequate stability for protected waters or partially protected waters. When making this determination, the analysis techniques of paragraphs (f) or (g) of this section are used unless the OCMI determines

that other analysis techniques are more appropriate.

(f) Operational tests may be performed to assure that the vessel shows satisfactory handling characteristics under sail.

(g) The simplified stability test of § 171.030 may be used. The heeling moment used for this test must be the greater of the following:

(1) Passenger heeling moment from § 171.030.

(2) Wind heeling moment from § 171.030 under bare poles, or, if the vessel has no auxiliary power, with storm sails set.

(3) Wind heeling moment calculated from the following equation:

$$Mw = (P)(A)(H)$$

where—

Mw = wind heeling moment in foot-lbs. (kilogram-meters).

A = the windage area of the vessel in square feet (square meters) with all sail set and trimmed flat.

H = the distance in feet (meters) from the center of the windage area to the waterline.

P = 1.0 lbs./square foot (4.9 kilograms/square meter) for both protected and partially protected waters.

(h) Additional or different stability requirements may be needed for a broad, shallow draft vessel with little or no ballast outside the hull. The additional requirements, if needed, will be prescribed by the appropriate Commander (mmt).

§ 171.040 Watertight subdivision.

(a) Each vessel that carries more than 49 passengers must comply with the following:

(1) Each vessel must have a collision bulkhead.

(2) If the vessel is designed to comply with §171.030(b)(1), it must also meet the subdivision and damage stability requirements in § 171.070 and § 171.080.

(3) If the vessel is designed to comply with § 171.030(b)(2), the main transverse watertight bulkheads must be spaced in accordance with § 171.043.

(b) Each vessel that does not carry more than 49 passengers must have a collision bulkhead unless it is—

(1) Less than 40 feet (12 meters) in length and operated on partially protected waters; or

(2) Operated on other than ocean waters.

(c) Insofar as practicable, watertight bulkheads must be installed in one plane without steps or recesses.

(d) Each double-ended ferry that is required by paragraphs (a) or (b) of this section to have a collision bulkhead must also have a second collision bulkhead. One collision bulkhead must be located in each end of the vessel.

§ 171.043 Simplified method of spacing main transverse watertight bulkheads.

(a) The maximum distance between adjacent main transverse watertight bulkheads on vessels required by § 171.040(a)(3) to comply with this section, must not be greater than the smaller of the following:

(1) One-third of LOD measured over the bulkhead deck; or

(2) The distance given by the following equation:

$$d = \frac{(F)(f)(L)}{D}$$

where—

d = the maximum distance in feet (meters) between adjacent main transverse watertight bulkheads.

f = the effective freeboard in feet (meters) calculated for each pair of adjacent bulkheads in accordance with paragraph (b) of this section.

L = LOD in feet (meters) measured over the bulkhead deck.

F = the floodable length factor from Table 171.043.

D = the distance in feet (meters) from the inside of the shell plating or planking to the point of intersection of the bulkhead deck and side shell when measured amidships at a point one-quarter of the maximum beam, amidships, from the centerline as shown in Figure 171.043(a).

(b) The effective freeboard for each compartment is calculated by the following equation:

$$f = \frac{a+b}{2}$$

where—

f = the effective freeboard in feet (meters).

a = the freeboard in feet (meters) measured—

(1) at the forward main transverse watertight bulkhead; and

(2) from the deepest load line to—

(i) the top of the bulkhead deck on a flush deck vessel; or

(ii) if a vessel has a stepped bulkhead deck, the line shown in Figure 171.043(b); or

(iii) if a vessel has an opening port light below the bulkhead deck, the line shown in Figure 171.043(c).

b = the freeboard in feet (meters) measured—

(1) at the aft main transverse watertight bulkhead; and

(2) from the deepest load line to—

(i) the top of the bulkhead deck on a flush deck vessel; or

(ii) if a vessel has a stepped bulkhead deck, the line shown in Figure 171.043(b); or

(iii) if a vessel has an opening port light below the bulkhead deck, the line shown in Figure 171.043(c).

TABLE 171.043—TABLE OF FLOODABLE LENGTH FACTORS

(d/L)X100 [1]	Floodable length factor [2]
0-10	0.33
15	.33
20	.34
25	.36
30	.38
35	.43
40	.48
45	.54
50	.61
55	.63
60	.58
65	.53
70	.48
75	.44
80	.40
85	.37
90-100	.34

[1] where—
d = the distance in feet (meters) from the midpoint of the compartment to the forward most point of the bulkhead deck excluding sheer; and
L = the length of the vessel (LOD) in feet (meters) measured over the bulkhead deck.

[2] Intermediate values of floodable length factor can be obtained by interpolation.

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BILLING CODE 4910-14-C

Figure 171.043(a)

Transverse Location for Measuring Depth (D)

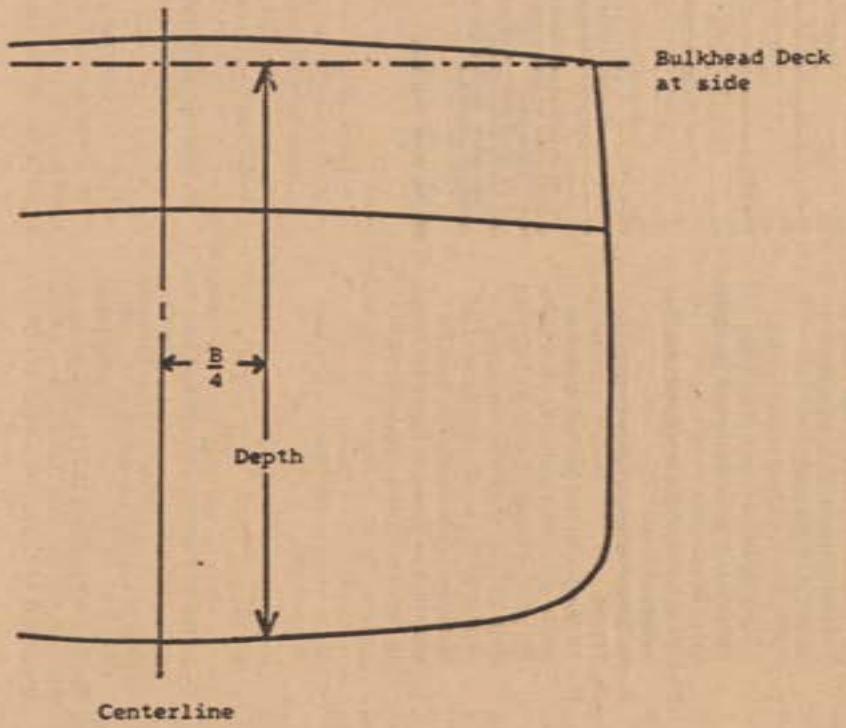
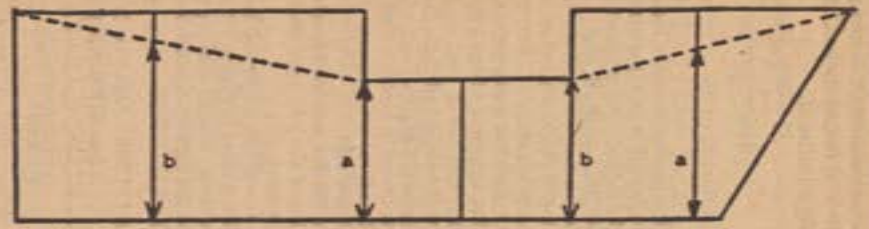


Figure 171.043(b)

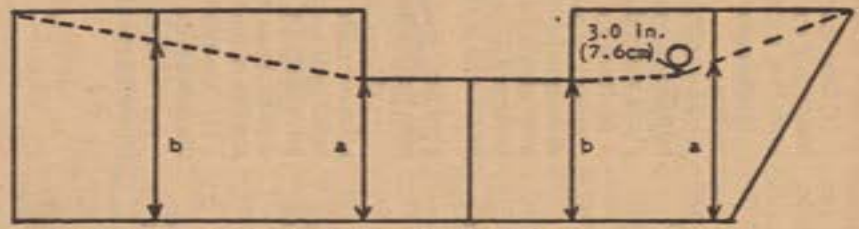
Freeboard Measurement-
Vessel With a Stepped Bulkhead Deck



a and b shown for two sample compartments

Figure 171.043(c)

Freeboard Measurement-
Vessel With a Stepped Bulkhead Deck and
a Port Light Below the Bulkhead Deck



a and b shown for two sample compartments

Subpart C—Large Vessels

§ 171.045 Specific applicability.

This subpart applies to each vessel that fits into any one of the following categories:

(a) Greater than 100 gross tons.

(b) Greater than 65 feet (19.8 meters) in length.

(c) Carries more than 12 passengers on an international voyage.

(d) Carries more than 150 passengers.

(e) The stability of which is questioned by the OCMI.

§ 171.050 Intact stability requirements for a mechanically propelled or nonself-propelled vessel.

Each vessel must be shown by design calculations to have a metacentric height (GM) in feet (meters) in each condition of loading and operation, that is not less than the value given by the following equation:

$$GM = \frac{Nb}{(K)(W)(\tan[T])}$$

where—

N = number of passengers.

W = displacement of the vessel in long (metric) tons.

T = 14 degrees or the angle of heel at which the deck edge is first submerged, whichever is less.

b = distance in feet (meters) from the centerline of the vessel to the geometric center of the passenger deck on one side of the centerline.

K = 24 passengers/long ton (23.6 passengers/metric ton).

§ 171.055 Intact stability requirements for a monohull sailing vessel or a monohull auxiliary sailing vessel.

(a) Except as specified in paragraph (b) of this section, each monohull sailing vessel and auxiliary sailing vessel must be shown by design calculations to meet the stability requirements in this section.

(b) Additional or different stability requirements may be needed for a vessel of unusual form, proportion, or rig. The additional requirements, if needed, will be prescribed by the Commandant.

(c) Each vessel must have positive righting arms in each condition of loading and operation from—

(1) 0 to at least 70 degrees of heel for service on protected or partially protected waters; and

(2) 0 to at least 90 degrees of heel for service on exposed waters.

(d) Each vessel must be designed to satisfy the following equations:

(1) For a vessel in service on protected or partially protected waters—

$$\frac{1000(W)HZA}{(A)(H)} > X$$

$$\frac{1000(W)HZB}{(A)(H)} > Y$$

$$\frac{1000(W)HZC}{(A)(H)} > Z$$

where—

X = 1.0 long tons/sq. ft. (10.9 metric tons/sq. meter).

Y = 1.1 long tons/sq. ft. (12.0 metric tons/sq. meter).

Z = 1.25 long tons/sq. ft. (13.7 metric tons/sq. meter).

(2) For a vessel on exposed waters—

$$\frac{1000(W)HZA}{(A)(H)} > X$$

$$\frac{1000(W)HZB}{(A)(H)} > Y$$

$$\frac{1000(W)HZC}{(A)(H)} > Z$$

where—

HZA, HZB, and HZC are calculated in the manner specified in paragraph (e) or (f) of this section.

X = 1.5 long tons/sq. ft. (16.4 metric tons/sq. meter).

Y = 1.7 long tons/sq. ft. (18.6 metric tons/sq. meter).

Z = 1.9 long tons/sq. ft. (20.8 metric tons/sq. meter).

A = the projected lateral area in square feet (square meters) of the portion of the vessel above the waterline computed with all sail set and trimmed flat, except that 100% of the fore triangle area may be used in lieu of the area of the individual headsails when determining A if the total area of the headsails exceeds the fore triangle area.

H = the vertical distance in feet (meters) from the center of A to the center of the underwater lateral area or approximately to the one-half draft point.

W = the displacement of the vessel in long (metric) tons.

(e) Except as provided in paragraph (f) of this section, HZA, HZB, and HZC must be determined as follows for each condition of loading and operation:

(1) Plot the righting arm curve on Graphs 171.005 (b), (c), and (d) or (e).

(2) If the angle at which the maximum righting arm occurs is less than 35 degrees, the righting arm curve must be truncated as shown on Graph 171.055(a).

(3) Plot an assumed heeling arm curve on Graph 171.055(b) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by the equation—

$$HZ = HZA \cos^2(T)$$

where—

HZ = heeling arm.

HZA = heeling arm at 0 degrees of heel.

T = angle of heel.

(ii) The first intercept shown on Graph 171.055(b) must occur at the angle of heel corresponding to the angle at which deck edge immersion first occurs.

(4) Plot an assumed heeling arm curve on Graph 171.055(c) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by the equation—

$$HZ = HZB \cos^2(T)$$

where—

HZ = heeling arm.

HZB = heeling arm at 0 degrees of heel.

T = angle of heel.

(ii) The area under the assumed heeling arm curve between 0 degrees and the downflooding angle or 60 degrees, whichever is less, must be equal to the area under the righting arm curve between the same limiting angles.

(5) Plot an assumed heeling arm curve on Graph 171.055 (d) or (e) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by—

$$HZ = HZC \cos^2(T)$$

Where—

HZ = heeling arm.

HZC = heeling arm at 0 degrees of heel.

T = angle of heel.

(ii) The area under the assumed heeling arm curve between the angles of 0 and 90 degrees must be equal to the area under the righting arm curve between 0 degrees and—

(A) 90 degrees if the righting arms are positive to an angle less than or equal to 90 degrees; or

(B) The largest angle corresponding to a positive righting arm but no more than 120 degrees if the righting arms are positive to an angle greater than 90 degrees.

(6) The values of HZA, HZB, and HZC are read directly from Graphs 171.055 (b), (c), and (d) or (e).

(f) For the purpose of this section, the downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm

water to the first opening that cannot be rapidly closed watertight.

(g) HZB and, if the righting arms are positive to an angle of 90 degrees or greater, HZC may be computed from the following equation:

$$HZB \text{ (or } HZC) = \frac{I}{([T/2] + 14.3 \sin 2T)}$$

where—

I = the area under the righting arm curve to—

(1) the downflooding angle or 60 degrees, whichever is less, when computing HZB; or

(2) the largest angle corresponding to a positive righting arm or 90 degrees, whichever is greater, but no greater than 120 degrees when computing HZC.

T = the downflooding angle or 60 degrees, whichever is less, when computing HZB or 90 degrees when computing HZC.

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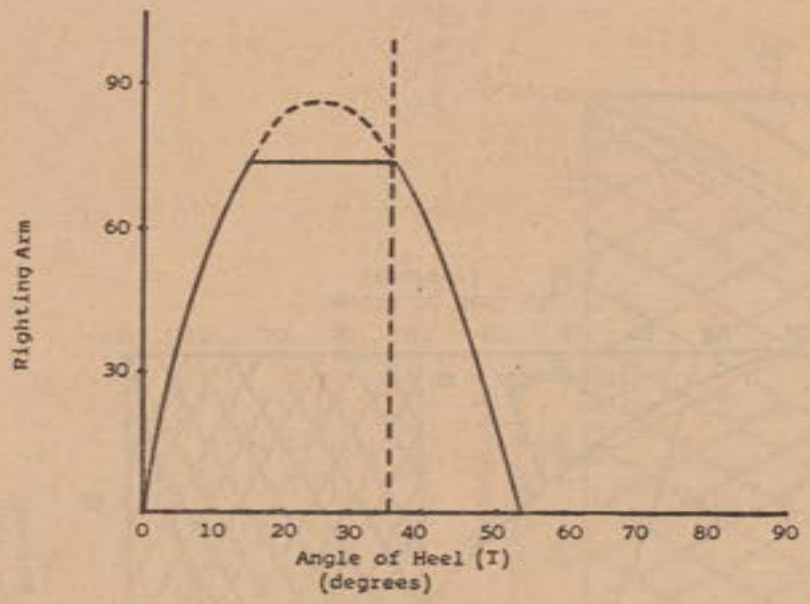
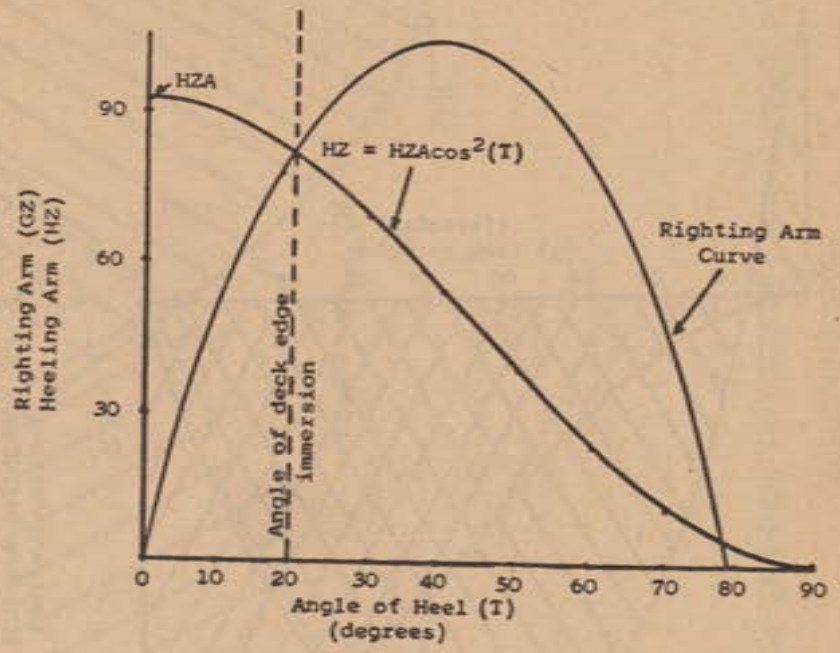
GRAPH 171.055(a)

Truncation of Righting Arm Curve if Maximum Righting Arm Occurs at an Angle of Heel Less Than 35 Degrees



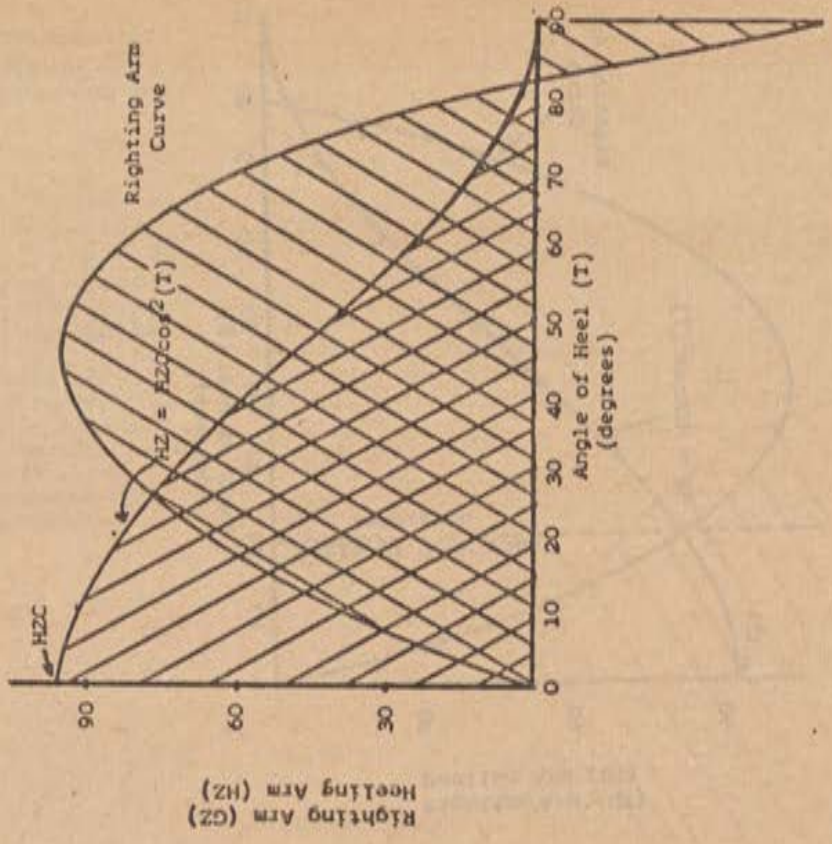
GRAPH 171.055(b)

First Intercept Occurs at the Angle at Which Deck Edge Immersion First Occurs



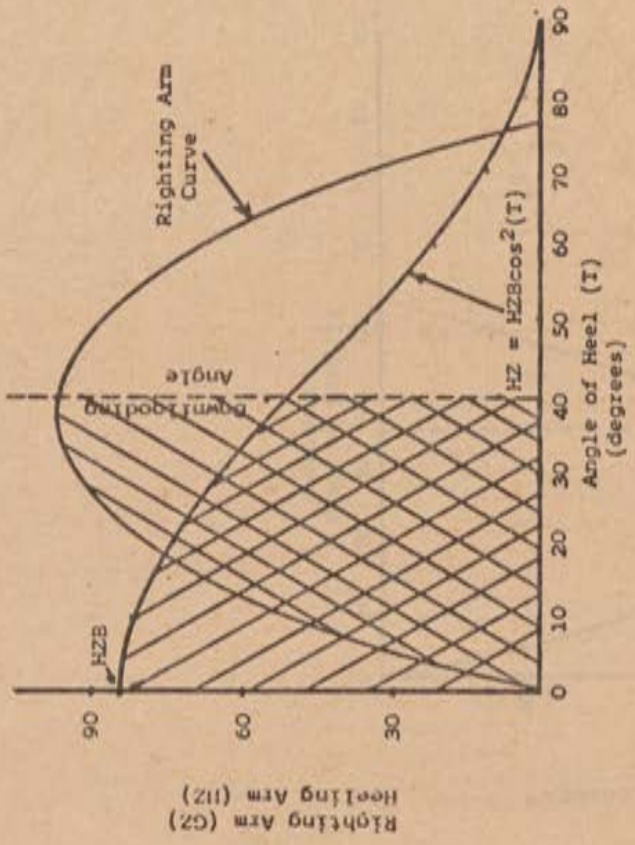
GRAPH 171.055(d)

Righting Arm Curve is not Positive to 90 Degrees and Negative Area is Included



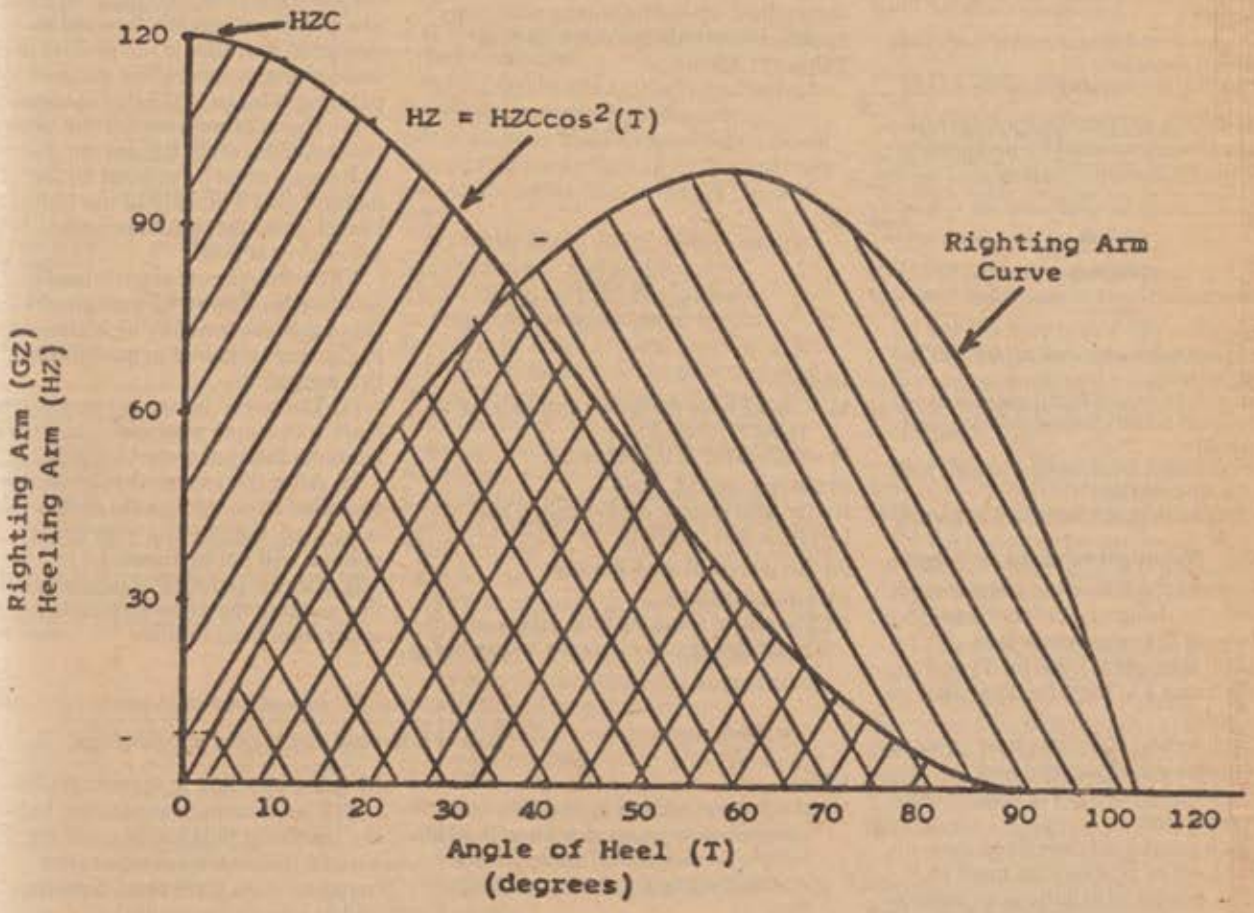
GRAPH 171.055(c)

Shaded Areas are Balanced to the Downflooding Angle



GRAPH 171.055(e)

Righting Arm Curve is Positive Beyond 90 Degrees



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§ 171.057 Intact stability requirements for a sailing catamaran.

(a) A sailing catamaran that operates on protected or partially protected waters must be designed to satisfy the following equation:

$$\frac{0.6(W)B}{2(As)(Hm)} > X$$

where—
B = the distance between hull centerlines in feet (meters).
As = sail area in square feet (square meters).
Hm = the mast height above the deck in feet (meters).
W = the combined displacement of both hulls in lbs. (kilograms).
X = 1.0 lbs./sq. ft. (4.88 kilograms/sq. meter).

(b) A sailing catamaran that operates on exposed waters must be designed to satisfy the following equation:

$$\frac{0.6(W)B}{2(As)(Hm)} > X$$

where—
B = the distance between hull centerlines in feet (meters).
As = sail area in square feet (square meters).
Hm = the mast height above the deck in feet (meters).
W = the combined displacement of both hulls in lbs. (kilograms).
X = 1.5 lbs./sq. ft. (7.32 kilograms/sq. meter).

§ 171.060 Watertight subdivision: General.

(a) Each of the following vessels must be shown by design calculations to comply with the requirements in §§ 171.065 through 171.068 for Type I subdivision or § 171.075 for Type III subdivision:

(1) Each vessel 100 gross tons or more on an international voyage: and

(2) Each vessel 150 gross tons or more in ocean service.

(b) Each vessel not described in paragraph (a) of this section must be shown by design calculations to comply with the requirements in §§ 171.070–171.073 for Type II subdivision.

(c) Except as allowed in § 171.070(c), each vessel must have a collision bulkhead.

(d) Each double-ended ferry that is required by paragraph (c) of this section to have a collision bulkhead must also have a second collision bulkhead. One collision bulkhead must be located in each end of the vessel.

§ 171.065 Subdivision requirements—Type I.

(a) Except as provided in paragraphs (c) and (f) of this section, the separation between main transverse watertight bulkheads on a vessel, other than one described in paragraph (b) of this section, must not exceed—

(floodable length) X (factor of subdivision)

where—
the factor of subdivision is listed under FS in Table 171.065(a).

(b) The factor of subdivision used to determine compliance with paragraph (a) of this section must be the smaller of 0.5 or the value determined from Table 171.065(a) if—

(1) The vessel is 430 feet (131 meters) or more in LBP; and

(2) The greater of the values of Y as determined by the following equations equals or exceeds the value of X in Table 171.065(b):

$$Y = \frac{(M + 2P)}{V}$$

or

$$Y = \frac{(M + 2P1)}{V + P1 - P}$$

where—
M, V, and P have the same value as listed in Table 171.065(a); and
P1 = the smaller of the following:
(i) 0.6LN (0.056LN) where—
N = the total number of passengers; and
L = LBP in feet (meters).
(ii) The greater of the following:
(A) 0.4LN (0.037LN).
(B) The sum of P and the total volume of passenger spaces above the margin line.

(c) The distance A in Figure 171.065 between main transverse watertight bulkheads may exceed the maximum allowed by paragraphs (a) or (b) of this section if each of the distances B and C between adjacent main transverse watertight bulkheads in Figure 171.065 does not exceed the smaller of the following:

(1) The floodable length.

(2) Twice the separation allowed by paragraphs (a) or (b) of this section.

(d) In each vessel 330 feet (100 meters) or more in LBP, one of the main transverse watertight bulkheads aft of the collision bulkhead must be located at a distance from the forward perpendicular that is not greater than the maximum separation allowed by paragraph (a) or (b) of this section.

(e) The minimum separation between two adjacent main transverse watertight bulkheads must be at least 10 feet (3.05 meters) plus 3 percent of the LBP of the vessel, or 35 feet (10.7 meters), whichever is less.

(f) The maximum separation of bulkheads allowed by paragraphs (a) or (b) of this section may be increased by the amount allowed in paragraph (g) of this section if—

(1) The space between two adjacent main transverse watertight bulkheads contains internal watertight volume; and

(2) After the assumed side damage specified in paragraph (h) of this section is applied, the internal watertight volume will not be flooded.

(g) For the purpose of paragraph (f) of this section, the allowable increase in separation is as follows:

$$\text{Increase in separation} = \frac{\text{"total volume of allowed local subdivision"}}{\text{"transverse sectional area at center of compartment"}}$$

where—
"total volume of allowed local subdivision" is determined by calculating the unflooded volume on each side of the centerline and multiplying the smaller volume by two.

(h) The assumed extents of side damage are as follows:

(1) *The longitudinal extent of damage* must be assumed to extend over a length equal to the minimum spacing of bulkheads specified in paragraph (e) of this section.

(2) *The transverse extent of damage* must be assumed to penetrate a distance from the shell plating equal to one-fifth the maximum beam of the vessel and at right angles to the centerline at the level of the deepest subdivision load line.

(3) *The vertical extent of damage* must be assumed to extend vertically from the baseline to the margin line.

(i) The maximum separation between the following bulkheads must not exceed the maximum separation between main transverse watertight bulkheads:

1. The collision bulkhead and the first main transverse watertight bulkhead aft of the collision bulkhead; and

2. The last main transverse watertight bulkhead and the aftermost point on the bulkhead deck.

(j) The minimum separation between the following bulkheads must not be less than the minimum separation between main transverse watertight bulkheads:

(1) The collision bulkhead and the first main transverse watertight bulkhead aft of the collision bulkhead: and

(2) The last main transverse watertight bulkhead and the aftermost point on the bulkhead deck.

Figure 171.065

Combined Separation of Bulkheads

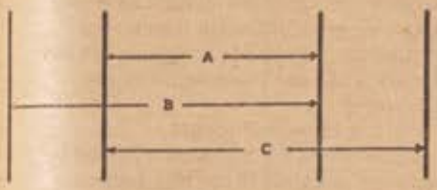

TABLE 171.065(a) (ENGLISH UNITS)

Vessel length (LBP)	Criterion numeral (CN)	FS
Vessel length greater than 392 feet.	CN less than or equal to 23.	A
	CN greater than 23 and less than 123.	F1
	CN greater than or equal to 123.	B
Vessel length greater than or equal to 200 feet and less than or equal to 392 feet.	CN less than or equal to S.	1
	CN greater than S and less than 123.	F2
	CN greater than or equal to 123.	B
Vessel length less than 200 feet.		1

Where—
FS = the factor of subdivision.
$CN = 60[(M + 2P)/V] + 30000(N/L^2)$
$A = (190/(L - 160)) + 0.18$
$B = (94/(L - 85)) + 0.18$
$F1 = A - ((A - B)(CN - 23)/100)$
$S = (10904 - 25L)/48$
$F2 = 1 - ((1 - B)(CN - S)/(123 - S))$
L = the length of the vessel (LBP) in feet.
M = the sum of the volume of the machinery space and the volumes of any fuel tanks which are located above the inner bottom forward or aft of the machinery space in cubic feet.
P = the volume of passenger spaces below the margin line.
V = the volume of the vessel below the margin line.
N = the number of passengers that the vessel is to be certificated to carry.

TABLE 171.065(a) (METRIC UNITS)

Vessel length (LBP)	Criterion numeral (CN)	FS
Vessel length greater than 120 meters.	CN less than or equal to 23.	A
	CN greater than 23 and less than 123.	F1
	CN greater than or equal to 123.	B
Vessel length greater than or equal to 61 meters and less than or equal to 120 meters.	CN less than or equal to S.	1
	CN greater than S and less than 123.	F2
	CN greater than or equal to 123.	B
Vessel length less than 61 meters.		1

Where—
FS = the factor of subdivision.
$CN = 60[(M + 2P)/V] + 2787(N/L^2)$
$A = (58/(L - 49)) + 0.18$
$B = (29/(L - 26)) + 0.18$
$F1 = A - ((A - B)(CN - 23)/100)$
$S = (3323.5 - 25L)/14.6$
$F2 = 1 - ((1 - B)(CN - S)/(123 - S))$
L = the length of the vessel (LBP) in meters.
M = the sum of the volume of the machinery space and the volumes of any fuel tanks which are located above the inner bottom forward or aft of the machinery space in cubic meters.
P = the volume of passenger spaces below the margin line.
V = the volume of the vessel below the margin line.
N = the number of passengers that the vessel is to be certificated to carry.

TABLE 171.065(b).—Table of X

Vessel LBP in feet (meters)	X[1]
430 (131)	1.336
440 (134)	1.285
450 (137)	1.230
460 (140)	1.174
470 (143)	1.117
480 (146)	1.060
490 (149)	1.002
500 (152)	0.944
510 (155)	0.885
520 (158)	0.826
530 (162)	0.766
540 (165)	0.706
550 (168)	0.645
554 (169) and up	0.625

[1] Interpolate for intermediate values.

§ 171.066 Calculation of permeability for Type I subdivision.

(a) Except as prescribed in paragraph (b) of this section, the following permeabilities must be used when doing the calculations required to demonstrate compliance with §§ 171.065(a), (b), and (c):

(1) When doing calculations required to demonstrate compliance with §§ 171.065(a) and (b), the uniform average permeability given by the formulas in Table 171.066 must be used.

(2) When doing calculations required to demonstrate that compartments on opposite sides of a main transverse watertight bulkhead that bounds the machinery space comply with § 171.065(c), the mean of the uniform average permeabilities determined from Table 171.066 for the two compartments must be used.

(b) If an average permeability can be calculated that is less than that given by the formulas in Table 171.066, the lesser value may be substituted if approved by the Commander (mmt). When determining this lesser value, the following permeabilities must be used:

(1) 95% for passenger, crew, and all other spaces that, in the full load condition, normally contain no cargo, stores, provisions, or mail.

(2) 60% for cargo, stores, provisions, or mail spaces.

(3) 85% for spaces containing machinery.

(4) Values approved by the Commander (mmt) for double bottoms, oil fuel, and other tanks.

(c) In the case of unusual arrangements, the Commander (mmt) may require a detailed calculation of average permeability for the portions of the vessel forward or aft of the machinery spaces. When doing these calculations, the permeabilities specified in paragraph (b) of this section must be used.

(d) When calculating permeability, the total volume of the 'tween deck spaces between two adjacent main transverse watertight bulkheads that contains any passenger or crew space must be regarded as passenger space volume, except that the volume of any space that is completely enclosed in steel buldheads and is not a crew or passenger space may be excluded.

TABLE 171.066.—TABLE OF UNIFORM AVERAGE PERMEABILITIES

Location	Uniform average permeability
Machinery space	$85 + \frac{10(a - c)}{v}$
Volume forward of machinery space	$63 + \frac{35(a)}{v}$
Volume aft of machinery space	$63 + \frac{35(a)}{v}$

For each location specified in this table—
a = volume below the margin line of all spaces that, in the full load condition, normally contain no cargo, baggage, stores, provisions, or mail.
c = volume below the margin line of the cargo, stores, provisions, or mail spaces within the limits of the machinery space.
v = total volume below the margin line.

§ 171.067 Treatment of stepped and recessed bulkheads in Type I subdivision.

(a) For the purpose of this section—

(1) The main transverse watertight bulkhead immediately forward of a stepped bulkhead is referred to as bulkhead 1; and

(2) The main transverse watertight bulkhead immediately aft of the stepped bulkhead is referred to as bulkhead 3.

(b) If a main transverse watertight bulkhead is stepped, it and bulkheads 1 and 3 must meet one of the following conditions:

(1) The separation between bulkheads 1 and 3 must not exceed the following:

(i) If the factor of subdivision (FS) determined from § 171.065 (a) or (b) is greater than 0.9, the distance between bulkheads 1 and 3 must not exceed the maximum separation calculated to demonstrate compliance with § 171.065.

(ii) If the factor of subdivision is 0.9 or less, the distance between bulkheads 1 and 3 must not exceed 90% of the floodable length or twice the maximum bulkhead separation calculated to demonstrate compliance with § 171.065, whichever is smaller.

(2) Additional watertight bulkheads must be located as shown in Figure 171.067(a) so that distances A, B, C, and D, illustrated in Figure 171.067(a), satisfy the following:

(i) Distances A and B must not exceed the maximum spacing allowed by § 171.065.

(ii) Distances C and D must not be less than the minimum separation prescribed by § 171.065(e).

(3) The distance A, illustrated in Figure 171.067(b), must not exceed the maximum length determined in § 171.065

corresponding to a margin line taken 3 inches (7.6 cm) below the step.

(c) A main transverse bulkhead may not be recessed unless all parts of the recess are inboard from the shell of the vessel a distance A as illustrated in Figure 171.067(c).

(d) Any part of a recess that lies outside the limits defined in paragraph (c) of this section must be treated as a step in accordance with paragraph (b) of this section.

(e) The distance between a main transverse watertight bulkhead and the transverse plane passing through the nearest portion of a recessed bulkhead must be greater than the minimum separation specified by § 171.065(e).

(f) If a main transverse bulkhead is stepped or recessed, equivalent plane bulkheads must be used in the calculations required to demonstrate compliance with § 171.065.

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Figure 171.067(c)

Limits of a Recess

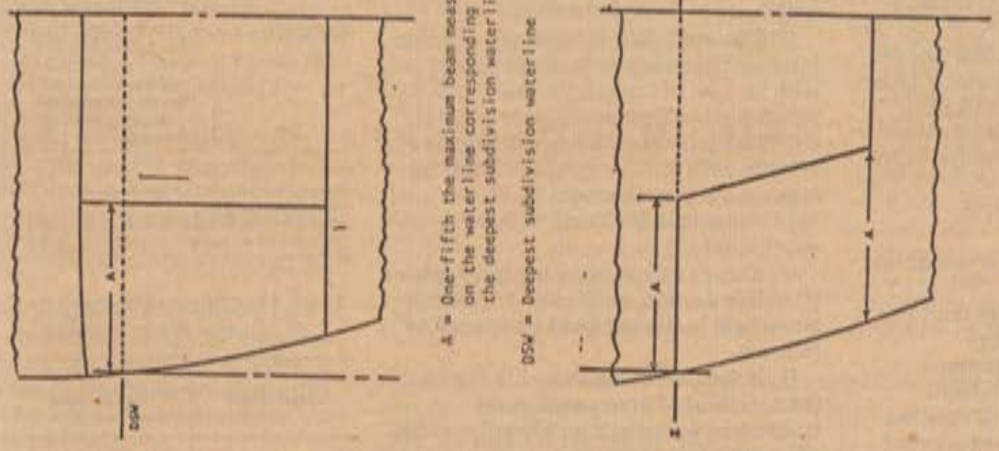


Figure 171.067(a)

Additional Subdivision

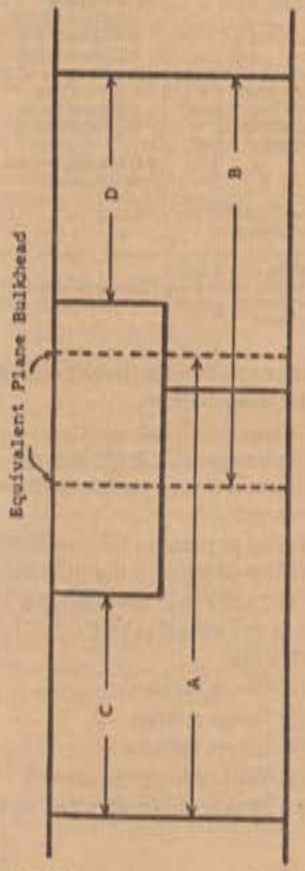
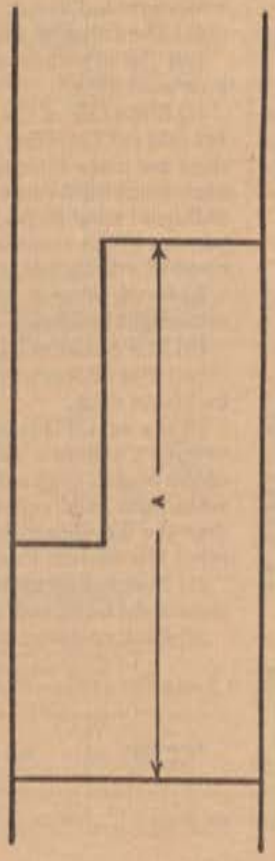


Figure 171.067(b)

Margin Line Below Step



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§ 171.068 Special considerations for Type I subdivision for vessels on short international voyages.

(a) The calculations done to demonstrate compliance with § 171.065 for a vessel that makes short international voyages and is permitted under § 75.10–10 of this chapter to carry a number of persons on board in excess of the lifeboat capacity must—

(1) Assume the uniform average permeabilities given in Table 171.068 in lieu of those in Table 171.066; and

(2) Use a factor of subdivision (FS) that is the smaller of the following:

(i) The value from Table 171.065(a).

(ii) 0.50.

(b) For a vessel less than 300 feet (91 meters) in length, the Commander (mmt) may approve the separation of main transverse watertight bulkheads greater than that permitted by paragraph (a) of this section if—

(1) The shorter separation is impracticable; and

(2) The separation is the smallest that is practicable.

(c) In the case of ships less than 180 feet (55 meters) in length, the Commander (mmt) may approve a further relaxation in the bulkhead spacing. However, in no case may the separation be large enough to prevent the vessel from complying with the flooding requirements for Type II subdivision in § 171.070.

TABLE 171.068—TABLE OF UNIFORM AVERAGE PERMEABILITIES

Location	Uniform average permeability
Machinery Space	$85 + \frac{10\,(a-c)}{v}$
Volume Forward of Machinery Space	$95 - \frac{35(b)}{v}$
Volume Aft of Machinery Space	$95 - \frac{35(b)}{v}$

For each location specified in this table—

a = volume below the margin line of all spaces that, in the full load condition, normally contain no cargo, baggage, stores, provisions, or mail.

b = volume below the margin line and above the tops of floors, inner bottoms, or peak tanks of coal or oil fuel bunkers, chain lockers, fresh water tanks, and of all spaces that, in the full load condition, normally contain stores, baggage, mail, cargo, or provisions. If cargo holds are not occupied by cargo, no part of the cargo space is to be included in this volume.

c = volume below the margin line of the cargo, stores, provisions, or mail spaces within the limits of the machinery space.

v = total volume below the margin line.

§ 171.070 Subdivision requirements—Type II.

(a) Each vessel, except a ferry vessel, must be designed so that, while in each condition of loading and operation, it complies with the standard of flooding specified in Table 171.070(a).

(b) Except as provided in paragraph (c), each ferry vessel must be designed so that, while in each condition of loading and operation, it meets the standard of flooding specified in Table 171.070(b).

(c) A ferry vessel described in paragraph (d) of this section need not meet the standard of flooding specified in Table 171.070(b), except that a ferry vessel in Great Lakes service must at least have a collision bulkhead.

(d) Paragraph (c) of this section applies to a ferry vessel that—

(1) Is 150 feet (46 meters) or less in length; and

(2) Has sufficient air tankage, or other internal buoyancy to float the vessel with no part of the margin line submerged when the vessel is completely flooded. If foam is used to comply with this paragraph, it must be installed in accordance with the requirements in § 170.245 of this subchapter.

(e) Except as specified in paragraph (f) of this section, each main transverse watertight bulkhead must be spaced as follows:

(1) If the LBP of the vessel is 143 feet (43.5 meters) or more, each main transverse watertight bulkhead must be at least 10 feet (3 meters) plus 3 percent of the vessel's LBP from—

(i) Every other main transverse watertight bulkhead;

(ii) The collision bulkhead; and

(iii) The aftermost point on the bulkhead deck.

(2) If the LBP of the vessel is less than 143 feet (43.5 meters) and the vessel does not make international voyages, each main transverse watertight bulkhead must be no less than 10 percent of the vessel's LBP or 6 feet (1.8 meters), whichever is greater, from—

(i) Every other main transverse watertight bulkhead;

(ii) The collision bulkhead; and

(iii) The aftermost point on the bulkhead deck.

(f) If a vessel is required by § 171.060 to have a collision bulkhead in each end of the vessel, then each main transverse watertight bulkhead must be no less than the distance specified in paragraph (e) of this section from—

(1) Every other main transverse watertight bulkhead; and

(2) Each collision bulkhead.

TABLE 171.070(a).—STANDARD OF FLOODING

Passengers carried	Part of vessel	Standard of flooding (compartments)
400 Or less	All	1
401 to 600	All of the vessel forward of the first MTWB aft of the collision bulkhead	2
	All remaining portions of the vessel	1
601 to 800	All of the vessel forward of the first MTWB that is aft of a point 40% of the vessel's LBP aft of the forward perpendicular	2
	All remaining portions of the vessel	1
801 to 1000	All of the vessel forward of the first MTWB that is aft of a point 60% of the vessel's LBP aft of the forward prependicular	2
	All remaining portions of the vessel	1
More than 1000	All	2

Where for this table—

"MTWB" means main transverse watertight bulkhead; and "Standard of Flooding" is explained in § 171.017 of this subchapter.

TABLE 171.070(b).—STANDARD OF FLOODING FOR FERRY VESSELS

Vessel length	Part of vessel	Standard of flooding (compartments)
150 feet (46 meters) or less.	All	1
Greater than 150 feet (46 meters) and less than or equal to 200 feet (61 meters).	All of the vessel forward of the first MTWB aft of the collision bulkhead.	2
	All of the vessel aft of the first MTWB forward of the aft peak bulkhead.	2
	All remaining portions of the vessel.	1
Greater than 200 feet (61 meters).	All	2

Where for this table—

"MTWB" means main transverse watertight bulkhead; and "Standard of Flooding" is explained in § 171.017 of this subchapter.

§ 171.072 Calculation of permeability for Type II subdivision.

When doing calcualtions to show compliance with § 171.070, the following uniform average permeabilities must be assumed:

(a) 85 percent in the machinery space.

(b) 60 percent in the following spaces:

(1) Tanks that are normally filled when the vessel is in the full load condition.

(2) Chain lockers.

(3) Cargo spaces.

(4) Stores spaces.

(5) Mail or baggage spaces.

(c) 95 percent in all other spaces.

§ 171.073 Treatment of stepped and recessed bulkheads in Type II subdivision.

(a) A main transverse watertight bulkhead may not be stepped unless additional watertight bulkheads are located as shown in Figure 171.067(a) so that the distances A, B, C, and D illustrated in Figure 171.067(a) comply with the following:

(1) A and B must not exceed the maximum bulkhead spacing that permits compliance with § 171.070; and

(2) C and D must not be less than the minimum spacing specified in § 171.070(e).

(b) A main transverse watertight bulkhead may not be recessed unless all parts of the recess are inboard from the shell of the vessel as illustrated in Figure 171.067(c).

(c) If a main transverse watertight bulkhead is recessed or stepped, an equivalent plane bulkhead must be used in the calculations required by § 171.070.

§ 171.075 Subdivision requirements—Type III.

(a) Each vessel must be shown by design calculations to comply with the requirements of Regulations 1, 2, 3, 4, 6, and 7 of the Annex to Resolution A.265 (VIII) of the International Maritime Organization (IMO).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U.S. Coast Guard.

§ 171.080 Damage stability standards for vessels with Type I or Type II subdivision.

(a) *Calculations.* Each vessel with Type I or Type II subdivision must be shown by design calculations to meet the survival conditions in paragraph (d) of this section in each condition of loading and operation assuming the extent and character of damage specified in paragraph (b) of this section.

(b) *Extent and character of damage.* For the purpose of paragraph (a) of this section, design calculations must assume that the damage—

(1) Has the character specified in Table 171.080(a); and

(2) Consists of a penetration having the dimensions specified in Table 171.080(a) except that, if the most disabling penetration would be less than the penetration described in the table, the smaller penetration must be assumed.

(c) *Permeability.* When doing the calculations required in paragraph (a) of this section, the permeability of each space must be calculated in a manner approved by the Commander (mmt) or be taken from Table 171.080(c).

(d) *Damage survival.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) On a vessel required to survive assumed damage with a longitudinal extent of 10 feet (3 meters) plus 0.03L, the final angle of equilibrium must not exceed 7 degrees after equalization, except that the final angle may be as large as 15 degrees if—

(i) The vessel is not equipped with equalization or is equipped with fully automatic equalization; and

(ii) The Commander (mmt) approves the vessel's range of stability in the damaged condition.

(2) On a vessel required to survive assumed damage with a longitudinal extent of 20 feet (6.1 meters) plus 0.04L, the angle of equilibrium must not exceed 15 degrees after equalization.

(3) The margin line may not be submerged at any point.

(4) The vessel's metacentric height (GM) must be at least 2 inches (5 cm) when the vessel is in the upright position.

(e) *Equalization.* (1) Equalization systems on vessels of 150 gross tons or more in ocean service must meet the following:

(i) Equalization must be automatic except that the Commander (mmt) may approve other means of equalization if—

(A) It is impracticable to make equalization automatic; and

(B) Controls to cross-flooding equipment are located above the bulkhead deck.

(ii) Equalization must be fully accomplished within 15 minutes after damage occurs.

(2) Equalization on vessels under 150 gross tons in ocean service and on all vessels in other than ocean service must meet the following:

(i) Equalization must not depend on the operation of valves.

(ii) Equalization must be fully accomplished within 15 minutes after damage occurs.

(3) The estimated maximum angle of heel before equalization must be approved by the Commander (mmt).

TABLE 171.080(a).—EXTENT AND CHARACTER OF DAMAGE

Vessel designator [1]	Longitudinal penetration [2]	Transverse penetration [3] [4]	Vertical penetration	Character of Damage
Z	10 feet (3 meters) plus .03L or 35 feet (10.7 meters) whichever is less (5).	B/5	from the baseline upward without limit.	Assumes no damage to any main transverse watertight bulkhead.
Y	10 feet (3 meters) plus .03L or 35 feet (10.7 meters) whichever is less.	B/5	From the baseline upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
X	10 feet (3 meters) plus .03L or 35 feet (10.7 meters whichever is less.	B/5	from the baseline upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
	20 feet (6.1 meters) plus 0.04L	B/5	From the top of the double bottom upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
W	20 feet (6.1 meters) plus 0.04L	B/5	From the baseline upward without limit.	Assumes damage to at least two main transverse watertight bulkheads.

(1) W,X,Y, and Z are determined from Table 171.080(b).
(2) L=LBP of the vessel in feet (meters).
(3) B=the beam of the vessel in feet (meters) measured at or below the deepest subdivision load line as defined in 171.010(a) except that, when doing calculations for a vessel that operates only on inland waters or a ferry vessel, B may be taken as the mean of the maximum beam on the bulkhead deck and the maximum beam at the deepest subdivision load line.
(4) The transverse penetration is applied inboard from the side of the vessel, at right angles to the centerline, at the level of the deepest subdivision load line.
(5) .1L or 6 feet (1.8 meters) whichever is greater for vessels described in § 171.070(a)(2).

TABLE 171.808(b)

Vessel category	Vessel designator
Vessels with type I subdivision and a factor of subdivision as determined from § 171.065 (a) or (b) of 0.33 or less.	W.
Vessels with type I subdivision and a factor of subdivision as determined from § 171.065 (a) or (b) greater than 0.33 and less than or equal to 0.50.	X.
Vessels with Type II subdivision that are required to meet a two compartment standard of flooding.	Y.
All other vessels	Z.

TABLE 171.080(c).—PERMEABILITY

Spaces and tanks	Permeability (percent
Cargo, coal, stores	60
Accommodations	95.
Machinery	85.
Tanks	0 or 95 [1]

[1] Whichever value results in the more disabling condition.

§ 171-082 Damage stability standards for vessels with Type III subdivision.

(a) Each vessel must be shown by design calculations to comply with the requirements of Regulations 1 and 5 of the Annex to Resolution A.265 (VIII) of

the International Maritime Organization (IMO).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U.S. Coast Guard.

(d) Section 56.50-57 of this chapter contains additional requirements on bilge pumping and piping systems.

Subpart D—Additional Subdivision Requirements

§ 171.085 Collision bulkhead.

(a) Paragraphs (b) through (g) of this section apply to each vessel of 100 gross tons or more and paragraphs (h) and (i) of this section apply to each vessel that is less than 100 gross tons.

(b) The portion of the collision bulkhead that is below the bulkhead deck must be watertight.

(c) Each portion of the collision bulkhead must be at least—

(1) 5 percent of the LBP from the forward perpendicular in a motor vessel; and

(2) 5 feet (1.52 meters) from the forward perpendicular in a steam vessel.

(d) The collision bulkhead must be no more than 10 feet (3 meters) plus 5 percent of the LBP from the forward perpendicular.

(e) The collision bulkhead must extend to the deck above the bulkhead deck if the vessel—

(1) Is in ocean service; and

(2) Has a superstructure that extends from a point forward of the collision bulkhead to a point at least 15 percent of the LBP aft of the collision bulkhead.

(f) The collision bulkhead required by paragraph (e) of this section must have the following characteristics:

(1) The portion of the collision bulkhead above the bulkhead deck must be weathertight.

(2) If the portion of the collision bulkhead above the bulkhead deck is not located directly above the collision bulkhead below the bulkhead deck, then the bulkhead deck between must be weathertight.

(g) Each opening in the collision bulkhead must—

(1) Be located above the bulkhead deck; and

(2) Have a watertight closure.

(h) Each collision bulkhead—

(1) Must extend to the weather deck;

(2) May not have watertight doors in it; and

(3) May have penetrations and openings that—

(i) Are located as high and as far inboard as practicable; and

(ii) Except as provided in paragraph (i) of this section, have means to make them watertight.

(i) Each vessel that is not required to comply with a one or two compartment standard of flooding may have an opening that connot be made watertight in the collision bulkhead below the bulkhead deck if—

(1) The lowest edge of the opening is not more than 12 inches (30.5 centimeters) below the bulkhead deck; and

(2) There are at least 36 inches (92 centimeters) of intact collision bulkhead below the lower edge of the opening.

(j) Each portion of the colision bulkhead must be—

(1) At least 5 percent of the LBP from the forward perpendicular; and

(2) No more than 15 percent of the LBP from the forward perpendicular.

§ 171.090 Aft peak bulkhead.

(a) Each of the following vessels must have an aft peak bulkhead:

(1) Each vessel 100 gross tons or more on an international voyage.

(2) Each other vessel of more than 150 gross tons.

(b) Except as specified in paragraph (c) of this section, each portion of the aft peak bulkhead below the bulkhead deck must be watertight.

(c) A vessel may have an aft peak bulkhead that does not intersect the bulkhead deck if approved by the Commander (mmt).

§ 171.095 Machinery space bulkhead.

(a) This section applies to each vessel of 100 gross tons or more.

(b) Except as provided in paragraph (c) of this section, a vessel required to have Type I or II subdivision must have enough main transverse watertight bulkheads to separate the machinery space from the remainder of the vessel. All portions of these bulkheads must be watertight below the bulkhead deck.

(c) Compliance with paragraph (b) of this section is not required if the vessel has sufficient air tanks or other internal buoyancy to maintain the vessel afloat while in the full load condition when all compartments and all other tanks are flooded. If foam is used to comply with this paragraph, it must be installed in accordance with the requirements in § 170.245 of this subchapter.

§ 171.100 Shaft tunnels and stern tubes.

(a) Stern tubes in each of the following vessels must be enclosed in watertight spaces:

(1) Each vessel of 100 gross tons or more on an international voyage.

(2) Each other vessel over 150 gross tons in ocean or Great Lakes service.

(3) Each vessel under 100 gross tons that carries more than 12 passengers on an international voyage.

(b) The watertight seal in the bulkhead between the stern tube space and the machinery space must be located in a watertight shaft tunnel. The vessel must be designed so that the margin line will not be submerged when the watertight shaft tunnel is flooded.

(c) If a vessel has two or more shaft tunnels, they must be connected by a watertight passageway.

(d) if a vessel has two or less shaft tunnels, only one door is permitted between them and the machinery space. If a vessel has more then two shaft tunnels, only two doors are permitted between them and the machinery space.

§ 171.105 Double bottoms.

(a) This section applies to each vessel that carries more than 12 passengers on an international voyage and all other vessels that are—

(1) 100 gross tons or more; and

(2) In ocean or Great Lakes service.

(b) Each vessel over 165 feet (50 meters) and under 200 feet (61 meters) in LBP must have a double bottom that extends from the forward end of the machinery space to the fore peak bulkhead.

(c) Each vessel over 200 feet (61 meters) and under 249 feet (76 meters) in LBP must have a double bottom that extends from the fore peak bulkhead to the forward end of the machinery space and a double bottom that extends from the aft peak bulkhead to the aft end of the machinery space.

(d) Each vessel 249 feet (76 meters) in LBP and upward must have a double bottom that extends from the fore to the aft peak bulkhead.

(e) Each double bottom required by this section must be at least the depth at the centerline given by the following equation:

$D = 18.0 + 0.05(L)$ inches

$D = 45.7 + 0.417(L)$ centimeters

where—

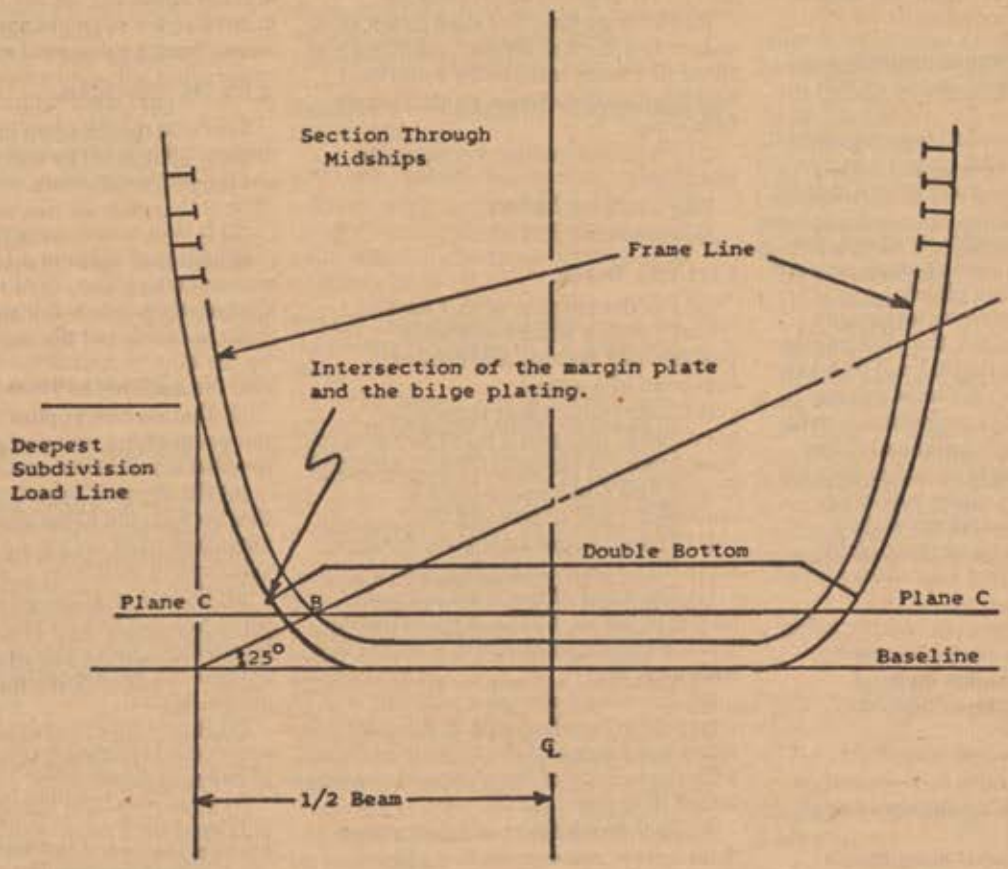
D = the depth at the centerline in inches (centimeters).

L = LBP in feet (meters).

(f) The line formed by the intersection of the margin plate and the bilge plating must be above the horizontal plane C, illustrated in Figure 171.105, at all points. The horizontal plane C is defined by point B, located, as shown in Figure 171.105, in the midships section.

Figure 171.105

Lower Limit of the Intersection of Margin Plate and Bilge Plating



(g) A double bottom is not required in a tank that is integral with the hull of a vessel if—

(1) The tank is used exclusively for the carriage of liquids; and

(2) It is approved by the Commander (mmt).

(h) A double bottom is not required in any part of a vessel where the separation of main transverse watertight bulkheads is governed by a factor of subdivision less than or equal to 0.50 if—

(1) The Commander (mmt) approves;

(2) The vessel makes short international voyages; and

(3) The vessel is permitted by § 75.10-10 of this chapter to carry a number of passengers in excess of the lifeboat capacity.

§ 171.106 Wells in double bottoms.

(a) This section applies to each vessel that has a well installed in a double bottom required by § 171.105.

(b) Except as provided in paragraph (c) of this section—

(1) The depth of a well must be at least 18 inches (45.7 cm) less than the depth of the double bottom at the centerline; and

(2) The well may not extend below the horizontal plane C illustrated in Figure 171.105.

(c) A well may extend to the outer bottom of a double bottom at the after end of a shaft tunnel.

§ 171.108 Manholes in double bottoms.

(a) The number of manholes in the inner bottom of a double bottom required by § 171.105 must be reduced to the minimum required for adequate access.

(b) Each manhole must have a cover that can be—

(1) Made watertight; and

(2) Protected from damage by cargo or coal.

§ 171.109 Watertight floors in double bottoms.

If a vessel is required to have a double bottom, a watertight transverse division must be located in the double bottom under each main transverse watertight bulkhead or as near as practicable to the main transverse watertight bulkhead. If a vessel also has duct keels, the transverse divisions need not extend across them.

Subpart E—Penetrations and Openings in Watertight Bulkheads

§ 171.110 Specific applicability.

(a) Sections 171.111, 171.112, and 171.113 apply to each vessel of 100 gross tons or more.

(b) Section 171.114 applies to each vessel under 100 gross tons.

§ 171.111 Penetrations and openings in watertight bulkheads in vessels of 100 gross tons or more.

(a) Except as provided in paragraph (f) of this section, each opening in a watertight bulkhead must have a means to close it watertight.

(b) Except in a machinery space, the means for closing each opening may not be by bolted portable plates.

(c) If a main transverse watertight bulkhead is penetrated, the penetration must be made watertight. Lead or other heat sensitive materials must not be used in a system that penetrates a main transverse watertight bulkhead if fire damage to this system would reduce the watertight integrity of the bulkhead.

(d) A main transverse watertight bulkhead must not be penetrated by valves or cocks unless they are a part of a piping system.

(e) If a pipe, scupper, or electric cable passes through a main transverse watertight bulkhead, the opening through which it passes must be watertight.

(f) A main transverse watertight bulkhead may not have non-watertight penetrations below the bulkhead deck unless—

(1) The margin line is more than 9 inches (23 centimeters) below the bulkhead deck at the intersection of the margin line and the line formed by the intersection of the plane of the main transverse watertight bulkhead and the shell; and

(2) Making all penetrations watertight is impracticable.

(g) Penetrations approved in accordance with paragraph (f) of this section must comply with the following:

(1) The bottom of the penetration must not be located—

(i) More than 24 inches (61 centimeters) below the bulkhead deck; nor

(ii) Less than 9 inches (23 centimeters) above the margin line.

(2) The penetration must not be located outboard from the centerline more than ¼ of the beam of the vessel measured—

(i) On the bulkhead deck; and

(ii) In the vertical plane of the penetration.

(h) No doors, manholes, or other access openings may be located in a watertight bulkhead that separates two cargo spaces or a cargo space and a permanent or reserve bunker.

§ 171.112 Watertight door openings.

(a) The opening for a watertight door must be located as high in the bulkhead and as far inboard as practicable.

(b) No more than one door, other than a door to a bunker or shaft alley, may be fitted in a main transverse watertight bulkhead within spaces containing the following:

(1) Main and auxiliary propulsion machinery.

(2) Propulsion boilers

(3) Permanent bunkers.

§ 171.113 Trunks.

(a) For the purpose of this section, "trunk" means a large enclosed passageway through any deck or bulkhead of a vessel.

(b) Each trunk, other than those specified in paragraph (c) of this section, must have a watertight door at each end except that a trunk may have a watertight door at one end if—

(1) The trunk does not pass through more than one main compartment;

(2) The sides of the trunk are not nearer to the shell than is permitted by § 171.067(c) for the sides of a recess in a bulkhead; and

(3) The vessel complies with the subdivision requirements in this part when the volume of the trunk is included with the volume of the compartment into which it opens.

(c) Each trunk that provides access from a crew accommodation space and that passes through a main transverse watertight bulkhead must comply with the following:

(1) The trunk must be watertight.

(2) The trunk, if used for passage at sea, must have at least one end above the margin line and access to the other end of the trunk must be through a watertight door.

(3) The trunk must not pass through the first main transverse watertight bulkhead aft of the collision bulkhead.

§ 171.114 Penetrations and openings in watertight bulkheads in a vessel less than 100 gross tons.

(a) Penetrations and openings in watertight bulkheads must—

(1) Be kept as high and as far inboard as practicable; and

(2) Have means to make them watertight.

(b) Watertight bulkheads must not have sluice valves.

(c) Each main transverse watertight bulkhead must extend to the bulkhead deck.

Subpart F—Openings in the Side of a Vessel Below the Bulkhead or Weather Deck

§ 171.115 Specific applicability.

(a) Sections 171.116, 171.117, and 171.118 apply to each vessel of 100 gross tons or more.

(b) Section 171.119 applies to each vessel under 100 gross tons.

§ 171.116 Port lights.

(a) A vessel may have port lights below the bulkhead deck if—

(1) It is greater than 150 gross tons; and

(2) It is in ocean service.

(b) All port lights in a space must be non-opening if the sill of any port light in that space is below a line that—

(1) Is drawn parallel to the line formed by the intersection of the bulkhead deck and the shell of the vessel; and

(2) Has its lowest point 2½ percent of the beam of the vessel above the deepest subdivision load line.

(c) For the purpose of paragraph (b) of this section, the beam of the vessel is measured at or below the deepest subdivision load line.

(d) Except as provided in paragraph (e) of this section, no port light may be located in a space that is used exclusively for the carriage of cargo, stores, or coal.

(e) A port light may be located in a space used alternately for the carriage of cargo or passengers.

(f) Each port light installed below the bulkhead deck must conform to the following requirements:

(1) The design of each port light must be approved by the Commander (mmt).

(2) Each non-opening port light must be watertight.

(3) Each opening port light must be constructed so that it can be secured watertight.

(4) Each opening port light must be installed with at least one bolt that is secured by a round slotted or recessed nut that requires a special wrench to remove. The nut must be protected by a sleeve or guard to prevent it from being removed with ordinary tools.

§ 171.117 Dead covers.

(a) Except as provided in paragraph (b) of this section, each port light with the sill located below the margin line must have a hinged, inside dead cover.

(b) The dead cover on a port light located in an accommodation space for passengers other than steerage passengers may be portable if—

(1) The apparatus for stowing the dead cover is adjacent to its respective port light;

(2) The port light is located above the deck that is immediately above the deepest subdivision load line;

(3) The port light is aft of a point one-eighth of the LBP of the vessel from the forward perpendicular; and

(4) The port light is above a line that—

(i) Is parallel to the line formed by the intersection of the bulkhead deck and the side of the vessel; and

(ii) Has its lowest point at a height of 12 feet (3.66 meters) plus 2½ percent of the beam of the vessel above the deepest subdivision load line.

(c) For the purpose of paragraph (b) of this section, the beam of the vessel is measured at or below the deepest subdivision load line.

(d) Each dead cover must be designed so that—

(1) It can be secured watertight; and

(2) It is not necessary to release any of the special nuts required in § 171.116(f)(4) in order to secure the dead cover.

§ 171.118 Automatic ventilators and side ports.

(a) An automatic ventilator must not be fitted in the side of a vessel below the bulkhead deck unless approved by the Commander (mmt).

(b) The design and construction of each gangway, cargo and coaling port, and similar opening in the side of a vessel must be approved by the Commander (mmt).

(c) In no case may the lowest point of any gangway, cargo and coaling port, or similar opening be below the deepest subdivision load line.

§ 171.119 Openings below the weather deck in the side of a vessel less than 100 gross tons.

(a) If a vessel operates on exposed or partially protected waters, an opening port light is not permitted below the weather deck unless—

(1) The sill is at least 30 inches (76.2 centimeters) above the deepest subdivision load line; and

(2) It has an inside, hinged dead cover.

(b) Except for engine exhausts, each inlet or discharge pipe that penetrates the hull below a line drawn parallel to and at least 6 inches (15.2 centimeters) above the deepest subdivision load line must have means to prevent water from entering the vessel if the pipe fractures or otherwise fails.

(c) A positive action valve or cock that is located as close as possible to the hull is an acceptable means for complying with paragraph (b) of this section.

(d) If an inlet or discharge pipe is inaccessible, the means for complying with paragraph (b) of this section must be a shut-off valve that is—

(1) Operable from the weather deck or any other accessible location above the bulkhead deck; and

(2) Labeled at the operating point for identity and direction of closing.

(e) Any connecting device or valve in a hull penetration must not be cast iron.

(f) Each plug cock in an inlet or discharge pipe must have a means, other than a cotter pin, to prevent its loosening or removal from the body.

Subpart G—Watertight Integrity Above the Margin Line

§ 171.120 Specific applicability.

Each vessel that is 100 gross tons or more must comply with § 171.122 and each vessel under 100 gross tons must comply with § 171.124.

171.122 Watertight integrity above the margin line in a vessel of 100 gross tons or more.

(a) For the purpose of this section, a partial watertight bulkhead is one in which all portions are not watertight.

(b) Except as provided in paragraph (d) of this section, the bulkhead deck or a deck above it must be weathertight.

(c) Partial watertight bulkheads or web frames must be located in the immediate vicinity of main transverse watertight bulkheads to minimize as much as practicable the entry and spread of water above the bulkhead deck.

(d) If a partial watertight bulkhead or web frame is located on the bulkhead deck in order to comply with paragraph (c) of this section, the joint between it and the shell and bulkhead deck must be watertight.

(e) If a partial watertight bulkhead does not line up with a main transverse watertight bulkhead below the bulkhead deck, the bulkhead deck between them must be watertight.

(f) Each opening in an exposed weather deck must—

(1) Have a coaming that complies with the height requirements in Table 171.124; and

(2) Have a means for closing it weathertight.

(g) Each port light located between the bulkhead deck and the next deck above the bulkhead deck must have an inside dead cover than can be secured watertight.

§ 171.124 Watertight integrity above the margin line in a vessel less than 100 gross tons.

(a) Each hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) Each hatch on a watertight trunk that extends at least 12 inches (30.5 cm) above the weather deck.

(2) Each hatch in a cabin top.

(3) Each hatch on a vessel that operates only on protected waters.

(b) Each hatch cover must—

(1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices to prevent its loss.

(c) Each hatch that provides access to crew or passenger accomodations must be operable from either side.

(d) Except as provided in paragraph (e) of this section, a weathertight door with permanent watertight coamings that comply with the height requirements in Table 171.124 must be provided for each opening located in a deck house or companionway that—

(1) Gives access into the hull; and

(2) Is located in—

(i) A cockpit;

(ii) A well; or

(iii) An exposed location on a flush deck vessel.

(e) If an opening in a location specified in paragraph (d) of this section is provided with a Class 1 watertight door, the height of the watertight coaming need only be sufficient to accommodate the door.

TABLE 171.124

Route	Height of coaming
Exposed or partially protected.	6 inches (15.2 centimeters).
Protected	3 inches (7.6 centimeters).

Subpart H—Drainage of Weather Decks

§ 171.130 Specific applicability.

(a) Section 171.135 applies to each vessel that is 100 gross tons or more.

(b) Sections 171.140, 171.145, 171.150, and 171.155 apply to each vessel under 100 gross tons.

§ 171.135 Weather deck drainage on a vessel of 100 gross tons or more.

The weather deck must have freeing ports, open rails, and scuppers, as necessary, to allow rapid clearing of water under all weather conditions.

§ 171.140 Drainage of a flush deck vessel.

(a) Except as provided in paragraph (b) of this section, the weather deck on a flush deck vessel must be watertight and have no obstruction to overboard drainage.

(b) Each vessel with a flush deck may have solid bulwarks in the foward one-third length of the vessel if—

(1) The bulwarks do not form a well enclosed on all sides; and

(2) The foredeck of the vessel has sufficient sheer to insure drainage aft.

§ 171.145 Drainage of a vessel with a cockpit.

(a) Except as follows, the cockpit must be watertight:

(1) A cockpit may have companionways if they comply with § 171.124(d).

(2) A cockpit may have ventilation openings along its inner periphery if—

(i) The vessel operates only on protected or partially protected waters;

(ii) The ventilation openings are located as high as possible in the side of the cockpit; and

(iii) The height of the ventilation opening does not exceed 2 inches (5 cm).

(b) The cockpit must be designed to be self-bailing.

(c) Scuppers installed in a cockpit must be located to allow rapid clearing of water in all probable conditions of list and trim.

(d) Scuppers must have a combined area of at least the area given by either of the following equations:

$A = 0.1(D)$ square inches

$A = 6.94(D)$ Square centimeters

Where—

A = the combined area of the scuppers in square inches (square Centimeters).

D = the area of the cockpit in square feet (square meters).

(e) The cockpit deck of a vessel that operates on exposed or partially protected waters must be at least 10 inches (25.4 cm) above the deepest subdivision load line unless the vessel complies with—

(1) The intact stability requirements of § 171.050;

(2) The Type II subdivision requirements in §§ 171.070, 171.072, and 171.073; and

(3) The damage stability requirements in § 171.080.

(f) The cockpit deck of all vessels that do not operate on exposed or partially protected waters must be located as high above the deepest subdivision load line as practicable.

§ 171.150 Drainage of a vessel with a well deck.

(a) Each well deck on a vessel must be watertight.

(b) Except as provided in paragraph (c) and (d) of this section, the area required for freeing ports in the bulwarks that form a well must be determined as follows:

(1) If a vessel operates on exposed or partially protected waters, it must have at least 100 percent of the freeing port area derived from Table 171.150.

(2) If a vessel operates only on protected or partially protected waters and complies with the requirements in the following sections for a vessel that operates on exposed waters, it must have at least 50 percent of the freeing port area derived from Table 171.150:

(i) The intact stability requirements of § 171.030 or § 171.050 and § 170.170 of this subchapter.

(ii) The subdivision requirements of §§ 171.040, 171.043, or 171.070.

(iii) The damage stability requirements of § 171.080.

(3) If a vessel operates only on protected waters, the freeing port area must be at least equal to the scupper area required by § 171.145(d) for a cockpit of the same size.

(c) The freeing ports must be located to allow rapid clearing of water in all probable conditions of list and trim.

(d) If a vessel that operates on exposed or partially protected waters does not have free drainage from the foredeck aft, then the freeing port area must be derived from Table 171.150 using the entire bulwark length rather than the bulwark length in the after ⅔ of the vessel as stated in the Table.

TABLE 171.150

Height of solid bulwark in inches (centimeters)	Freeing port area in square inches per foot (square centimeters per meter) of bulwark length in the after ⅔ of the vessel. (1)
6(15)	2(42.3)
12(30)	4(84.7)
18(46)	8(169.3)
24(61)	12(253.9)
30(76)	16(338.6)
36(91)	20(423.2)

(1) Intermediate values of freeing port area can be obtained by interpolation.

§ 171.155 Drainage of an open boat.

The deck within the hull of an open boat must drain to the bilge. Overboard drainage of the deck is not permitted.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

Subpart A—General

Sec.

Subpart B—Bulk Grain [Reserved]

Subpart C—Special Rules Pertaining to a Barge That Carries a Cargo Regulated Under Subchapter D of This Chapter

Subpart D—Special Rules Pertaining to a Vessel That Carries a Cargo Regulated Under 33 CFR Part 157

Subpart E—Special Rules Pertaining to a Barge That Carries a Hazardous Liquid Regulated Under Subchapter O of this Chapter

Sec.

Subpart F—Special Rules Pertaining to a Ship That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

Subpart G—Special Rules Pertaining to a Ship That Carries a Bulk Liquefied Gas Regulated Under Subchapter O of This Chapter

Authority: Sect. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); sec 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 3, 68 Stat. 675 (50 U.S.C. 198); sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

172.005 Applicability.

This Part applies to each vessel that carries one of the following cargoes in bulk:

(a) Grain.

(b) A cargo listed in Table 30.25–1 of this chapter.

(c) A cargo regulated under 33 CFR Part 157.

(d) A cargo listed in Table 151.01–10(b) of this chapter.

(e) A cargo listed in Table I of Part 153 of this chapter.

(f) A cargo listed in Table 4 of Part 154 of this chapter.

Subpart B—Bulk Grain [Reserved]

Subpart C—Special Rules Pertaining to a Barge That Carries a Cargo Regulated Under Subchapter D of This Chapter

§ 172.047 Specific applicability.

This section applies to each tank barge that carries, in independent tanks described in 151.15–1(b) of this chapter, a cargo listed in Table 30.25–1 of this chapter that is a—

(a) Liquefied flammable gas; or

(b) Flammable liquid that has a Reid vapor pressure in excess of 25 pounds per square inch (172.4 KPa).

§ 172.050 Damage stability.

(a) Each tank barge is assigned a hull type number by the Commandant in accordance with 32.63–5 of this chapter. The requirements in this section are specified according to the hull type number assigned.

(b) Except as provided in paragraph (c) of this section, each Type I and II barge hull must have a watertight weather deck.

(c) If a Type I or II barge hull has an open hopper, the fully loaded barge must be shown by design calculations to have at least 2 inches (50mm) of positive GM when the hopper space is flooded to the height of the weather deck.

(d) When demonstrating compliance with paragaph (c) of this section, credit may be given for the buoyancy of the immersed portion of cargo tanks if the tank securing devices are shown by design calculations to be strong enough to hold the tanks in place when they are subjected to the buoyant forces resulting from the water in the hopper.

(e) Each tank barge must be shown by design calculations to have at least 2 inches (50 mm) of positive GM in each condition of loading and operation after assuming the damage specified in paragraph (f) of this section is applied in the following locations:

(1) *Type I barge hull not in an integrated tow.* If a Type I hull is required and the barge is not a box barge designed for use in an integrated tow, design calculations must show that the barge hull can survive damage at any location including on the intersection of a transverse and longitudinal watertight bulkhead.

(2) *Type I barge hull in an integrated tow.* If a Type I hull is required and the barge is a box barge designed for operation in an integrated tow, design calculations must show that the barge can survive damage—

(i) To any location on the bottom of the tank barge except on a transverse watertight bulkhead; and

(ii) To any location on the side of the tank barge including on a transverse watertight bulkhead.

(3) *Type II hull.* If a Type II hull is required, design calculations must show that the barge can survive damage to any location except to a transverse watertight bulkhead.

(f) For the purpose of paragraph (e) of this section—

(1) Design calculations must include both side and bottom damage, applied separately; and

(2) Damage must consist of the most disabling penetration up to and including penetrations having the following dimensions:

(i) Side damage must be assumed to be as follows:

(A) Longitudinal extent—6 feet (183 centimeters).

(B) Transverse extent—30 inches (76 centimeters).

(C) Vertical extent—from the baseline upward without limit.

(ii) Bottom damage must be assumed to be 15 inches (38.1 centimeters) from the baseline upward.

Subpart D—Special Rules Pertaining to a Vessel That Carries a Cargo Regulated Under 33 CFR Part 157

§ 172.060 Specific Applicability.

This section applies to each U.S. tank vessel that must comply with 33 CFR Part 157, Subpart B.

§ 172.065 Damage stability.

(a) *Definitions.* As used in this section, "Length" or "L" means load line length (LLL).

(b) *Calculations.* Each tank vessel must be shown by design calculations to meet the survival conditions in paragraph (g) of this section in each condition of loading and operation except as specified in paragraph (c) of this section, assuming the damage specified in paragraph (d) of this section.

(c) *Conditions of loading and operation.* The design calculations required by paragraph (b) of this section need not be done for ballast conditions if the vessel is not carrying oil, other than oily residues, in cargo tanks.

(d) *Character of damage.* (1) If a tank vessel is longer than 738 feet (225 metes) in length, design calculations must show that it can survive damage at any location.

(2) If a tank vessel is longer than 492 feet (150 meters) in l ength, but not longer than 738 feet (225 meters), design calculations must show that it can survive damage at any location except the transverse bulkheads bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

(3) If a tank vessel is 492 feet (150 meters) or less in length, design calculations must show that it can survive damage—

(i) At any location between adjacent main transverse watertight bulkheads except to an aft machinery space;

(ii) To a main transverse watertight bulkhead spaced closer than the longitudinal extent of collision penetration specified in Table 172.065(a) from another main transverse watertight bulkhead; and

(iii) To a main transverse watertight bulkhead or a transverse watertight bulkhead bounding a side tank or double bottom tank if there is a step or a recess in the transverse bulkhead that is longer than 10 feet (3.05 meters) and that is located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this regulaton.

1(e) *Extent of damage.* For the purpose of paragraph (b) of this section—

(1) Design calculations must include both side and bottom damage, applied separately; and

(2) Damage must consist of the penetrations having the dimensions given in Table 172.065(a) except that, if the most disabling penetrations would be less than the penetrations described in this paragraph, the smaller penetration must be assumed.

(f) *Permeability of spaces.* When doing the calculations required in paragraph (b) of this section—

(1) The permeability of a floodable space, other than a machinery space, must be as listed in Table 172.065(b);

(2) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail; and

(3) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water, or fresh water if the vessel operates solely on the Great Lakes, up to the level of the tank vessel's final equilibrium waterline.

(g) *Survival conditions.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, or an opening

that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a—

(i) Watertight manhole cover;

(ii) Flush scuttle;

(iii) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(iv) Class 1 door in a watertight bulkhead within the superstructure;

(v) Remotely operated sliding watertight door; or

(vi) Side scuttle of the non-opening type.

(2) *Heel angle.* The maximum angle of heel must not exceed 25 degrees, except that this angle may be increased to 30 degrees if no deck edge immersion occurs.

(3) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tank vessel must meet the following conditions:

(i) The righting arm curve must be positive.

(ii) The maximum righting arm must be at least 3.94 inches (10 cm).

(iii) Each submerged opening must be weathertight.

(4) *Progressive flooding.* Pipes, ducts or tunnels within the assumed extent of damage must be either—

(i) Equipped with arrangements such as stop check valves to prevent progressive flooding to other spaces with which they connect; or

(ii) Assumed in the design calculations required in paragraph (b) of this section to permit progressive flooding to the spaces with which they connect.

(h) *Buoyancy of superstructure.* For the purpose of paragraph (b) of this section, the buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

TABLE 172.065(a).—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	0.495L$^{2/3}$ or 47.6 feet ((⅛)L$^{2/3}$ or 14.5m) whichever is shorter.
Transverse extent [1]	B/5 or 37.74 feet (11.5m) which is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration at the Forward End but Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	0.495L$^{2/3}$ or 47.6 feet ((⅛)L$^{2/3}$ or 14.5m) whichever is shorter.
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter but not less than 16.41 feet (5m).
Vertical extent from the baseline.	B/15 or 19.7 feet (6m) whichever is shorter.
Grounding Penetration at Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	16.41 feet (5m).
Vertical extent from the baseline.	B/15 or 19.7 feet (6m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.

TABLE 172.065(b).—Permeability

Spaces and tanks	Permeability (percent)
Storeroom spaces	60.
Accommodation spaces	95.
Voids	95.
Consumable liquid tanks	95 or 0.[1]
Other liquid tanks	95 or 0.[2]

[1] Whichever results in the more disabling condition.
[2] If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

Subpart E—Special Rules Pertaining to a Barge That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

§ 172.080 Specific applicability.

This subpart applies to each tank barge that carries a cargo listed in Table 151.01–10(b) of this chapter.

§ 172.085 Hull type.

If a cargo listed in Table 151.05 of Part 151 of this chapter is to be carried, the tank barge must be at least the hull type specified in Table 151.05 of this chapter for that cargo.

§ 172.087 Cargo loading assumptions.

(a) The calculations required in this subpart must must be done for cargo weights and densities up to and including the maximum that is to be endorsed on the Certificate of Inspection in accordance with § 151.04–1(c) of this chapter.

(b) For each condition of loading and operation, each cargo tank must be assumed to have its maximum free surface.

§ 172.090 Intact transverse stability.

(a) Except as provided in paragraph (b) of this section, each tank barge must be shown by design calculations to have a righting arm curve with the following characteristics:

(1) If the tank barge is in river service, the area under the righting arm curve must be at least 5 foot-degrees (1.52 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(2) If the tank barge is in lakes, bays and sounds or Great Lakes summer service, the area under the righting arm curve must be at least 10 foot-degrees (3.05 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(3) If the tank barge is in ocean or Great Lakes winter service, the area under the righting arm curve must be at least 15 foot-degrees (4.57 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(b) If the vertical center of gravity of the cargo is below the weather deck at the side of the tank barge amidships, it must be shown by design calculations that the barge has at least the following metacentric height (GM) in feet (meters) in each condition of loading and operation:

$$GM = \frac{(K)(B)}{fe}$$

where—
K = 0.3 for river service.
K = 0.4 for lakes, bays and sounds and Great Lakes summer service.
K = 0.5 for ocean and Great Lakes winter service.
B = beam in feet (meters).
fe = effective freeboard in feet (meters).

(c) the effective freeboard is given by—

fe = f + fa ; or

fe = d, whichever is less.

where—
f = the freeboard to the deck edge amidships in feet (meters).
fa = (1.25)(a/L)((2b/B)–1)(h); or
fa = h, whichever is less.
where—
a = trunk length in feet (meters).
L = LOA in feet (meters)
b = breadth of a watertight trunk in feet (meters).
B = beam of the barge in feet (meters).
h = height of a watertight trunk in feet (meters).
d = draft of the barge in feet (meters).

(d) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

§ 172.095 Intact longitudinal stability.

Each tank barge must be shown by design calculations to have a longitudinal metacentric height (GM) in feet (meters) in each condition of loading and operation, at least equal to the following:

$$GM = \frac{0.02(L)^2}{d}$$

where—
L=LOA in feet (meters).
d=draft in feet (meters).

§ 172.100 Watertight integrity.

(a) Except as provided in paragraph (b) of this section, each Type I or II hopper barge hull must have a weathertight weather deck.

(b) If a Type I or II barge hull has an open hopper, the fully loaded barge must be shown by design calculations to have at least 2 inches (50 mm) of positive GM when the hopper space is flooded to the height of the weather deck.

(c) When doing the calculations required by this section, credit may be given for the buoyancy of the immersed portion of cargo tanks if the tank securing devices are shown by design calculations to be strong enough to hold the tanks in place when they are subjected to the buoyant forces resulting from the water in the hopper.

§ 172.103 Damage stability.

Each tank barge must be shown by design calculations to meet the survival conditions in § 172.110 assuming the damage specified in § 172.104 to the hull type specified in Table 151.05 of Part 151 of this chapter.

§ 172.104 Character of damage.

(a) *Type I barge hull not in an integrated tow.* If a Type I hull is required and the barge is not a box barge designed for use in an integrated tow, design calculations must show that the barge can survive damage at any location including the intersection of a transverse and a longitudinal bulkhead.

(b) *Type I barge hull in an integrated tow.* If a Type I barge hull is required and the barge is a box barge designed for operation in an integrated tow, design calculations must show that the barge can survive damage—

(1) At any location on the bottom of the tank barge except on a transverse watertight bulkhead; and

(2) At any location on the side of the tank barge including on a transverse watertight bulkhead.

(c) *Type II barge hull.* If a Type II hull is required, design calculations must show that a barge can survive damage at any location except on a transverse watertight buklkhead.

§ 172.105 Extent of damage.

For the purpose of § 172.103, design calculations must include both side and bottom damage, applied separately. Damage must consist of the most disabling penetration up to and including penetrations having the following dimensions:

(a) Side damage must be assumed to be as follows:

(1) Longitudinal extent—6 feet (183 centimeters).

(2) Transverse extent—30 inches (76 centimeters).

(3) Vertical extent—from the baseline upward without limit.

(b) Bottom damage must be assumed to be 15 inches (38 centimeters) from the baseline upward.

§ 172.110 Survival conditions.

(a) Paragraphs (c) and (d) of this section apply to a hopper barge and paragraphs (e) through (i) apply to all other tank barges.

(b) A barge is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(c) A hopper barge must not heel or trim beyond the angle at which—

(1) the deck edge is first submerged; or

(2) If the barge has a coaming that is at least 36 inches (91.5 centimeters) in height, the intersection of the deck and the coaming is first submerged, except as provided in paragraph (d) of this section.

(d) A hopper barge must not heel beyond the angle at which the deck edge is first submerged by more than "fa" as defined in § 172.090(c).

(e) Except as provided in paragraphs (h) and (i) of this section, each tank barge must not heel beyond the angle at which—

(1) The deck edge is first submerged; or

(2) If the barge has one or more watertight trunks, the deck edge is first submerged by more than "fa" as defined in § 172.090(c).

(f) Except as provided in paragraphs (h) and (i) of this section, a tank barge must not trim beyond the angle at which—

(1) The deck edge is first submerged; or

(2) If the barge has one or more watertight trunks, the intersection of the deck and the trunk is first submerged.

(g) If a tank barge experiences simultaneous heel and trim, the trim requirements in paragraph (f) of this section apply only at the centerline.

(h) Except as provided in paragraph (i) of this section, in no case may any part of the actual cargo tank top be underwater in the final condition of equilibrium.

(i) If a barge has a "step-down" in hull depth on either or both ends and all cargo tank openings are located on the higher deck level, the deck edge and tank top in the stepped-down area may be submerged.

Subpart F—Special Rules Pertaining to a Ship That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

§ 172.125 Specific applicability.

This subpart applies to each tankship that carries a cargo listed in Table I of Part 153 of this chapter, except that it does not apply to a tankship whose cargo tanks are clean and gas free.

§ 172 Definitions.

"Length" or "L" means load line length (LLL).

§ 172.130 Calculations.

(a) Each tankship must be shown by design calculations to meet the survival conditions in § 172.150 in each condition of loading and opoeration assuming the damage specified in § 172.133 for the hull type prescribed in Part 153 of this chapter.

(b) If a cargo listed in Table I of Part 153 of this chapter is to be carried, the vessel must be at least the hull type specified in Part 153 of this chapter for that cargo.

§ 172.133 Character of damage.

(a) If a type I hull is required, design calculations must show that the vessel can survive damage at any location.

(b) If a type II hull is required, design calculations must show that a vessel—

(1) Longer than 492 feet (150 meters) in length can survive damage at any location; and

(2) Except as specified in paragraph (d) of this section, 492 feet (150 meters) or less in length can survive damage at any location.

(c) If a Type III hull is required, design calculations must show that a vessel—

(1) Except as specified in paragraph (d) of this section, 410 feet (125 meters) in length or longer can survive damage at any location; and

(2) Less than 410 feet (125 meters) in length can survive damage at any location except to an aft machinery space.

(d) A vessel described in paragraph (b)(2) or (c)(1) of this section need not be designed to survive damage to a main transverse watertight bulkhead

bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

§ 172.135 Extent of damage.

For the purpose of § 172.133—

(a) Design calculations must include both side and bottom damage, applied separately; and

(b) Damage must consist of the penetrations having the dimensions given in Table 172.135 except that, if the most disabling penetrations would be less than the penetrations given in Table 172.135, the smaller penetration must be assumed.

TABLE 172.135.—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	0.495L ⅝ or 47.6 feet ((⅛)L ⅝ or 14.5m) whichever is shorter.
Transverse extent[1]	B/5 or 37.74 feet (11.5m)[2] whichever is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration At the Forward End But Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	L/10
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter.
Vertical extent from the baseline upward.	B/15 or 19.7 feet (6m) whichever is shorter.
Grounding Penetration At Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	16.41 feet (5m)
Vertical extent from the baseline upward.	B/15 or 19.7 feet (6m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.
[2] B is measured amidships.

§ 172.140 Permeability of spaces.

(a) When doing the calculations required in § 172.130, the permeability of a floodable space other than a machinery space must be as listed in Table 172.060(b).

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 0.85, unless the use of an assumed permeability of less than 0.85 is justified in detail.

(c) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water up to the level of the tankship's final equilibrium waterline.

§ 172.150 Survival conditions.

A tankship is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of openings such as air pipes and openings closed by weathertight doors or hatch covers. The following types of openings may be submerged when the tankship is at the final waterline:

(1) Openings covered by watertight manhole covers or watertight flush scuttles.

(2) Small watertight cargo tank hatch covers.

(3) A Class 1 door in a watertight bulkhead within the superstructure.

(4) Remotely operated sliding watertight doors.

(5) Side scuttles of the non-opening type.

(b) *Heel angle.* (1) Except as described in paragraph (b)(2) of this section, the maximum angle of heel must not exceed 15 degrees (17 degrees if no part of the freeboard deck is immersed).

(2) The Commander (mmt) will consider on a case by case basis each vessel 492 feet (150 meters) or less in length having a final heel angle greater than 17 degrees but less than 25 degrees.

(c) *Range of Stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tankship must meet the following conditions:

(1) The righting arm curve must be positive.

(2) The maximum righting arm must be at least 3.95 inches (10 cm).

(3) Each submerged opening must be weathertight.

(d) *Progressive flooding.* Pipes, ducts or tunnels within the assumed extent of damage must be either—

(1) Equipped with arrangements such as stop check valves to prevent progressive flooding to other spaces with which they connect; or

(2) Assumed in the design calculations required by § 172.130 to flood the spaces with which they connect.

(e) *Buoyancy of superstructure.* The buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

(f) *Metacentric height.* After flooding, the tankship's metacentric height must be at least 2 inches (50mm) when the ship is in the upright position.

(g) *Equalization arrangements.* Flooding equalization arrangements requiring mechanical operation such as valves or cross-flooding lines may not be assumed to reduce the angle of heel. Spaces joined by ducts of large cross sectional area are treated as common spaces.

(h) *Intermediate stages of flooding.* If an intermediate stage of flooding is more critical than the final stage, the tankship must be shown by design calculations to meet the requirements in this section in the intermediate stage.

Subpart G—Special Rules Pertaining to a Ship That Carries a Bulk Liquefied Gas Regulated Under Subchapter O of This Chapter

§ 172.155 Specific applicability.

This subpart applies to each tankship that has on board a bulk liquefied gas listed in Table 4 of § 154 of this chapter as cargo, cargo residue, or vapor.

§ 172.160 Definitions.

As used in this subpart—

(a) "Length" or "L" means the load line length (LLL).

(b) "MARVS" means the Maximum Allowable Relief Valve Setting of a cargo tank.

§ 172.165 Intact stability calculations.

(a) Design calculations must show that 2 inches (50mm) of positive metacentric height can be maintained by each tankship when it is being loaded and unloaded.

(b) For the purpose of demonstrating compliance with the requirements of paragraph (a), of this section, the effects of the addition of water ballast may be considered.

§ 172.170 Damage stability calculations.

(a) Each tankship must be shown by design calculations to meet the survival conditions in § 172.195 in each condition of loading and operation assuming the damage specified in § 172.175 for the hull type specified in Table 4 of Part 154 of this chapter.

(b) If a cargo listed in Table 4 of Part 154 of this chapter is to be carried, the vessel must be at least the ship type specified in Table 4 of Part 154 of this chapter for the cargo.

§ 172.175 Character of damage.

(a) If a type IG hull is required, design calculations must show that the vessel can survive damage at any location.

(b) If a type IIG hull is required, design calculations must show that a vessel—

(1) Longer than 492 feet (150 meters) in length can survive damage at any location; and

(2) 492 feet (150 meters) or less in length can survive damage at any location except the transverse bulkheads bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

(c) If a vessel has independent tanks type C with a MARVS of 100 psi (689

kPa) gauge or greater, is 492 feet (150 meters) or less in length, and Table 4 of Part 154 of this chapter allows a type IIPG hull, design calculations must show that the vessel can survive damage at any location, except as prescribed in paragraph (e) of this section.

(d) If a type IIIG hull is required, except as specified in paragraph (e) of this section, design calculations must show that a vessel—

(1) 410 feet (125 meters) in length or longer can survive damage at any location; and

(2) Less than 410 feet (125 meters) in length can survive damage at any location, except in the main machinery space.

(e) The calculations in paragraphs (c) and (d) of this section need not assume damage to a transvers bulkhead unless it is spaced closer than the longitudinal extent of collision penetration specified in Table 172.180 from another transverse bulkhead.

(f) If a main transvers watertight bulkhead or transverse watertight bulkhead bounding a side tank or double bottom tank has a step or a recess that is longer than 10 feet (3.05 meters) located within the extent of penetration of assumed damage, the vessel must be shown by design calculations to survive damage to this bulkhead. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this regulation.

§ 172.180 Extent of damage.

For the purpose of § 172.170—

(a) Design calculations must include both side and bottom damage, applied separately; and

(b) Damage must consist of the penetrations having the dimensions given in Table 172.180 except that, if the most disabling penetrations would be less than the penetrations given in Table 172.180, the smaller penetration must be assumed.

TABLE 172.180.—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	$0.495L^{2/3}$ or 47.6 feet ($(1/3)L^{2/3}$ or 14.5m), whichever is shorter.
Transverse extent [1]	B/5 or 37.74 feet (11.5m) [2] whichever is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration at the Forward End But Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	$0.495L^{2/3}$ or 47.6 feet ($(1/3)L^{2/3}$ or 14.5m) whichever is shorter.
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter.
Vertical extent from the molded line of the shell at the centerline	B/15 or 6.6 feet (2m) whichever is shorter
Grounding Penetration At Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	B/6 or 16.41 feet (5m) whichever is shorter.
Vertical extent from the molded line of the shell at the centerline.	B/15 or 6.6 feet (2m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.
[2] B is measured amidships.

§ 172.185 Permeability of spaces.

(a) When doing the calculations required in § 172.170, the permeability of a floodable space other than a machinery space must be as listed in Table 172.060(b).

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail.

(c) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water up to the level of the tankship's final equilibrium waterline.

§ 172.195 Survival conditions.

A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, or an opening that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a—

(1) Watertight manhole cover;

(2) Flush scuttle;

(3) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(4) A Class 1 door in a watertight bulkhead within the superstructure;

(5) Remotely operated sliding watertight door; or

(6) A side scuttle of the non-opening type.

(b) *Heel angle.* The maximum angle of heel must not exceed 30 degrees.

(c) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tankship must meet the following conditions:

(1) The righting arm curve must be positive.

(2) The maximum righting arm must be at least 3.94 inches (10 cm).

(3) Each submerged opening must be weathertight.

(d) *Progressive flooding.* If pipes, ducts, or tunnels are within the assumed extent of damage, arrangements must be made to prevent progressive flooding to a space that is not assumed to be flooded in the damaged stability calculations.

(e) *Buoyancy of superstructure.* The buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

(f) *Metacentric height.* After flooding, the tank ship's metacentric height must be at least 2 inches (50 mm) when the vessel is in the upright position.

(g) *Equalization arrangements.* Equalization arrangements requiring mechanical aids such as valves or cross-flooding lines may not be considered for reducing the angle of heel. Spaces joined by ducts of large cross-sectional area are treated as common spaces.

(h) *Intermediate stages of flooding.* If an intermediate stage of flooding is more critical than the final stage, the tank vessel must be shown by design calculations to meet the requirements in this section in the intermediate stage.

§ 172.205 Local damage.

(a) Each tankship must be shown by design calculations to meet the survival conditions in paragraph (b) of this section in each condition of loading and operation assuming that local damage extending 30 inches (76 cm) normal to the hull shell is applied at any location in the cargo length:

(b) The vessel is presumed to survive assumed local damage if it does not heel beyond the smaller of the following angles in the final stage of flooding:

(1) 30 degrees.

(2) The angle at which restoration of propulsion and steering, and use of the ballast system is precluded.

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

Subpart A—General

Subpart B—Lifting

Authority: Section 2, 87 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95-474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85-739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96-453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 87 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 173.001 Applicability.

Each vessel that is engaged in one of the following activities must comply with the applicable provisions of this part:

(a) Lifting.
(b) Training (schoolship).
(c) Oceanographic research.
(d) Towing.

Subpart B—Lifting

§ 173.005 Specific applicability.

This subpart applies to each vessel that—

(a) Is equipped to lift cargo or other objects; and

(b) Has a maximum heeling moment due to hook load greater than or equal to—

(0.67)(W)(GM)(F/B) in foot-long tons
(0.21)(W)(GM)(F/B) in meter-metric tons

where—
W = displacement of the vessel with the hook load included in long tons (metric tons).
GM = metacentric height with hook load included in feet (meters).
F = freeboard to the deck edge amidships in feet (meters).
B = beam in feet (meters).

§ 173.007 Location of the hook load.

When doing the calculations required in this subpart, the hook load must be considered to be located at the head of the crane.

§ 173.010 Definitions.

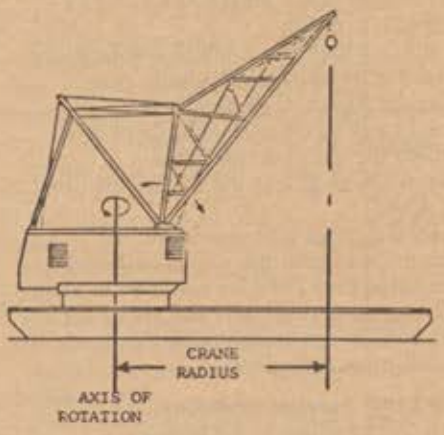
As used in this part—

(a) "Hook load" means the weight of the object lifted by the crane.

(b) "Crane radius" means the distance illustrated in Figure 173.010.

Figure 173.010

Crane Radius



§ 173.020 Intact stability standards: Counterballasted and non-counterballasted vessels.

(a) Except as provided in paragraph (c) of this section, each vessel that is not equipped to counter-ballast while lifting must be shown by design calculations to comply with this section in each condition of loading and operation and at each combination of hook load and crane radius.

(b) Each vessel must have a righting arm curve with the following characteristics:

(1) If the vessel operates in protected or partially protected waters, the area under the righting arm curve up to the smallest of the following angles must be at least 10 foot-degrees (3.05 meter-degrees):

(i) The angle corresponding to the maximum righting arm.

(ii) The downflooding angle.

(iii) 40 degrees.

(2) If the vessel operates in exposed waters, the area under the righting arm curve up to the smallest of the following angles must be at least 15 foot-degrees (4.57 meter-degrees):

(i) The angle corresponding to the maximum righting arm.

(ii) The downflooding angle.

(iii) 40 degrees.

(c) If the vessel's hull proportions fall within any one of the following limits, in lieu of complying with paragraph (b) of this section the vessel owner may demonstrate in the presence of the OCMI that the vessel will not heel beyond the limits specified in paragraph (d) of this section:

(1) Beam to depth—3.40 to 4.75.

(2) Length to beam—3.20 to 4.50.

(3) Draft to depth—0.60 to 0.85.

(d) For the purpose of paragraph (c) of this section, the following limits of heel apply with the vessel at its deepest operating draft:

(1) Protected and partially protected waters and Great Lakes in summer—heel to main deck immersion or bilge emergence, whichever occurs first.

(2) Exposed waters and Great Lakes in winter—heel permitted to one-half of the freeboard or one-half of the draft, whichever occurs first.

§ 173.025 Additional intact stability standards: Counterballasted vessels.

(a) Each vessel equipped to counterballast while lifting must be shown by design calculations to be able to withstand the sudden loss of the hook load, in each condition of loading and operation and at each combination of hook load and crane radius.

(b) When doing the calculations required by this section, the hook load and counterballast heeling moments and vessel righting moments, as plotted on graph 173.025, must define areas that satisfy the following equation:

Area II > Area I + K

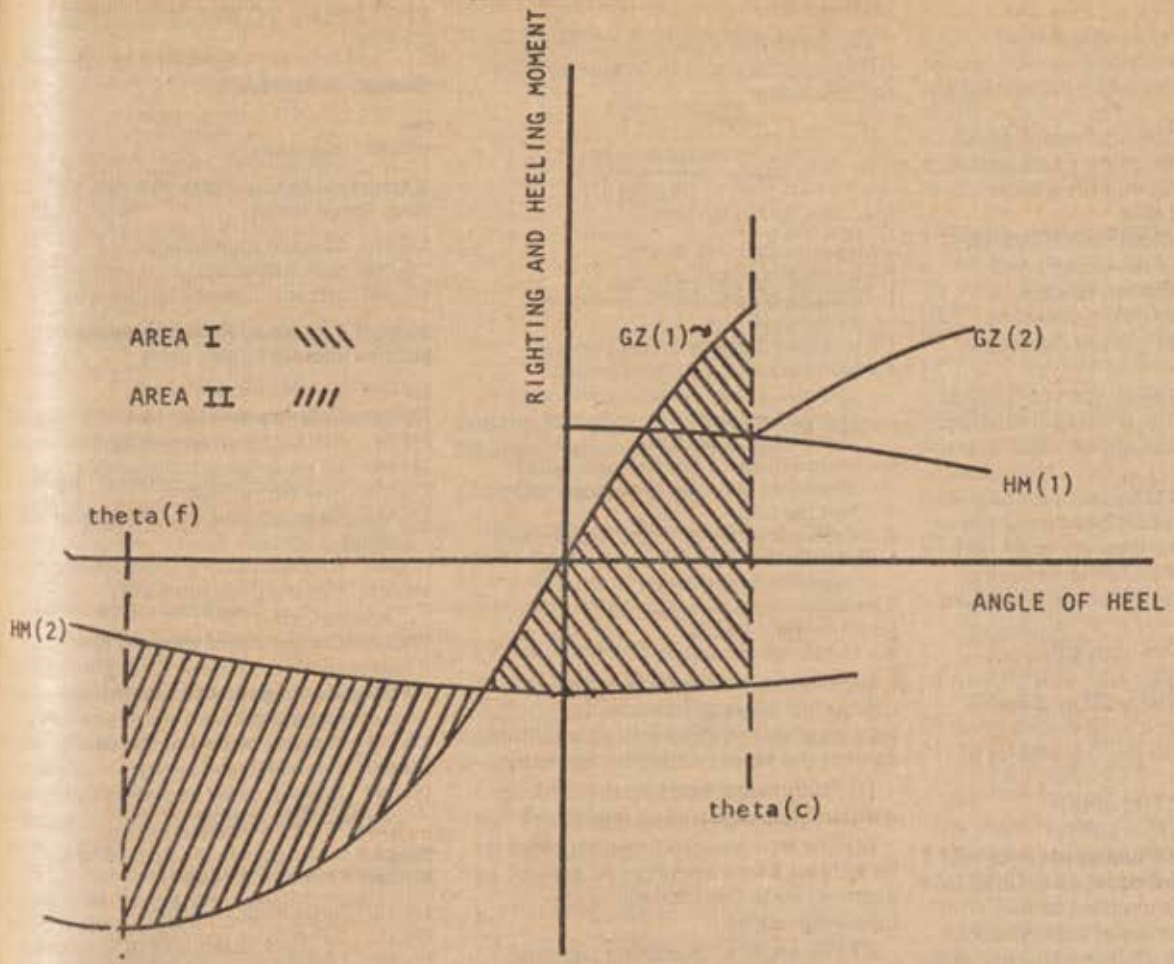
where—
(1) K = O for operation on protected waters and 7 foot-degrees (2.13 meter-degrees) for operation on partially protected and exposed waters.
(2) Areas I and II are shown on graph 173.025.

(c) Each heeling moment curve must be defined by —

HM = HMO cos (T)

where—
HM = heeling moment.
HMO = heeling moment at 0 degrees of heel.
T = angle of heel

GRAPH 173.025



where,

GZ(1) is the righting moment curve at the displacement corresponding to the vessel without hook load.

GZ(2) is the righting moment curve at the displacement corresponding to the vessel with hook load.

HM(1) is the heeling moment curve due to the combined heeling moments of the hook load and the counterballast at the displacement with hook load.

HM(2) is the heeling moment curve due to the counterballast at the displacement without hook load.

theta(c) is the angle of static equilibrium due to the combined hook load and counterballast heeling moments.

theta(f) is the downflooding angle on the counterballasted side of the vessel.

Subpart C—School Ships

§ 173.050 Specific applicability.

Each nautical school ship, inspected under Subchapter R of this chapter, must comply with this subpart.

§ 173.055 Public nautical school ships.

Each public nautical school ship must comply with—

(a) Section 171.070(a) of this subchapter as a passenger vessel carrying 400 or less passengers;

(b) Section 171.070(e) of this subchapter;

(c) Section 171.072 of this subchapter; and

(d) Section 171.073 of this subchapter.

§ 173.060 Civilian nautical school ships.

Each civilian nautical school ship must comply with Part 171 of this subchapter as though it were a passenger vessel. In addition to regular passengers, for the purpose of complying with Part 171, the following will also count as passengers:

(a) A student.

(b) A cadet.

(c) An instructor who is not also a member of the crew.

Subpart D—Oceanographic Research

§ 173.070 Specific applicability.

Each oceanographic vessel, inspected under Subchapter U of this chapter, except a barge that is less than 300 gross tons, must comply with this subpart.

§ 173.075 Subdivision requirements.

(a) Each oceanographic vessel must comply with the subdivision requirements in §§ 171.070, 171.072, and 171.073 of this subchapter as if it were a passenger vessel carrying 400 or less passengers.

(b) Each vessel must have a collision bulkhead.

§ 173.080 Damage stability requirements.

Each oceanographic vessel must comply with § 171.080 of this subchapter as a category Z vessel.

§ 173.085 General subdivision requirements.

Each oceanographic vessel must comply with the following:

(a) Section 171.085(c)(1), (d) and (g) of this subchapter.

(b) Section 171.105 (a) through (g) of this subchapter except that a reduction or elimination of the required inner bottom is allowed if—

(1) The inner bottom would interfere with the mission of the vessel; and

(2) As a result of other design features, the ability of the vessel to withstand side and bottom damage is not reduced.

(c) Section 171.106 of this subchapter.

(d) Section 171.108 of this subchapter.

(e) Section 171.109 of this subchapter.

(f) Section 171.111 of this subchapter.

(g) Section 171.113 of this subchapter.

(h) The collision bulkhead must not be penetrated by more than one pipe that carries liquid to or from the forepeak tank. This pipe must have a screwdown valve that is—

(1) Operative from above the bulkhead deck; and

(2) Attached to the bulkhead inside the forepeak tank.

(i) Section 171.116 (b), (c), and (e) of this subchapter.

(j) Section 171.117(c) of this subchapter.

(k) Each port light in a space located below the freeboard deck, as defined in § 42.13–15(i) of this chapter, or in a space within an enclosed superstructure must be fitted with a hinged inside dead cover.

(l) Section 171.118 (b) and (c) of this subchapter.

(m) Section 171.122 (a) through (d) and (f) of this subchapter.

(n) Section 171.135 of this subchapter.

(o) A ventilation duct or forced draft duct may not penetrate a main transverse watertight bulkhead unless—

(1) The penetration is watertight;

(2) The penetration is located as near the vessel's centerline as possible; and

(3) The bottom of the duct is not more than—

(i) 18 inches (45.7 cm) below the bulkhead deck; and

(ii) 4 feet (121.9 cm) above the final waterline after damage determined in § 173.080.

Subpart E—Towing

§ 173.090 General.

This subpart applies to each vessel that is equipped for towing.

§ 173.095 Towline pull criterion.

(a) In each towing condition, each vessel must be shown by design calculations to meet the requirements of either paragraph (b) or (c) of this section.

(b) the vessel's metacentric height (GM) must be equal to or greater than the following:

$$GM = \frac{[N][P \times D]^{2/3}[s][h]}{K\Delta[f/B]}$$

where—

N = number of propellers.

P = shaft power per shaft in horsepower (kilowatts).

D = propeller diameter in feet (meters).

s = that fraction of the propeller circle cylinder which would be intercepted by the rudder if turned to 45 degrees from the vessel's centerline.

h = vertical distance from propeller shaft centerline at rudder to towing bitts in feet (meters).

Δ = displacement in long tons (metric tons).

f = minimum freeboard along the length of the vessel in feet (meters).

B = molded beam in feet (meters).

K = 38 in English units.

K = 13.93 in metric units.

(c) When a heeling arm curve, calculated in accordance with paragraph (d) of this section, is plotted against the vessel's righting arm curve—

(1) Equilibrium must be reached before the downflooding angle; and

(2) The residual righting energy must be at least 2 foot-degrees (.61 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(iii) 40 degrees.

(d) The heeling arm curve specified in paragraph (c) of this section must be calculated by the following equation:

$$HA = \frac{2\,[N][P \times D]^{2/3}[s][h][\cos\,\theta]}{K\Delta}$$

where—

HA = heeling arm.

θ = angle of heel.

N, P, D, K, s, h, and Δ are as defined in paragraph (b) of this section.

(e) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

(f) For the purpose of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The vessel does not trim as it heels.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

Subpart A—General

Sec.

174.005 Applicability.

Subpart B—Special Rules Pertaining to Deck Cargo Barges

174.010 Specific applicability.

174.015 Intact stability.

174.020 Alternate intact stability criterion

Subpart C—Special Rules Pertaining to Mobile Offshore Drilling Units

174.030 Specific applicability.

174.035 Definitions.

174.040 Stability requirements: general.

174.045 Intact stability requirements.

174.050 Stability on bottom.

174.055 Calculation of wind heeling momen (Hm).

174.065 Damage stability requirements.

174.070 General damage stability assumptions.

174.075 Compartments assumed flooded: general.

174.080 Flooding on self-elevating and surface type units.

174.085 Flooding on column stabilized units

174.090 Permeability of spaces.

174.100 Appliances for watertight and weathertight integrity.

Subpart D—Special Rules Pertaining to Nuclear Powered Vessels

174.110 Specific applicability.

174.115 Subdivision requirements.

174.120 Damage stability requirements.

174.125 Additional subdivision requirements.

Subpart E—Special Rules Pertaining to Tugboats and Towboats

174.140 Specific applicability.

174.145 Intact stability requirements.

Subpart F—Special Rules Pertaining to Ocean Thermal Energy Conversion Plantships and Floating Facilities

174.150 Specific applicability.

174.155 Stability requirements.

174.160 Normal operating condition.

174.165 Tension tendon tethered facilities.

174.170 Stability test.

Authority: Section 2, 87 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; and 49 CFR 1.46, except as otherwise noted.

Subpart A—General

§ 174.005 Applicability.

Each of the following vessels must comply with the applicable provisions of this part:

(a) Deck cargo barge.

(b) Mobile offshore drilling unit (MODU) inspected under Subchapter IA of this chapter.

(c) Nuclear powered vessel.

(d) Tugboat and towboat inspected under Subchapter I of this chapter.

(e) Ocean Thermal Energy Conversion plantship and floating facility inspected under Subchapter I of this chapter.

Subpart B—Special Rules Pertaining to Deck Cargo Barges

§ 174.010 Specific applicability.

Each barge that carries cargo above the weather deck must comply with this subpart.

§ 174.015 Intact stability.

(a) Except as provided in § 174.020, in each condition of loading and operation, each barge must be shown by design calculations to have an area under the righting arm curve up to the angle of maximum righting arm, the downflooding angle, or 40 degrees, whichever angle is smallest, equal to or greater than—

(1) 15 foot-degrees (4.57 meter-degrees) for ocean and Great Lakes winter service; and

(2) 10 foot-degrees (3.05 meter-degrees) for lakes, bays, sounds, and Great Lakes summer service.

(b) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

§ 174.020 Alternate intact stability criterion.

A barge need not comply with § 174.015 and Subparts C and E of Part 170 of this chapter if it has the following characteristics:

(a) The weather deck is watertight.

(b) The barge's hull proportions fall within any one of the ratios in categories (A) through (D) in Table 174.020.

(c) The maximum cargo height is 30 feet (9.25 meters) or a value equal to the depth of the barge amidships, whichever is less.

TABLE 174.020

Category	Beam/depth ratio	Draft/depth ratio
A	3.00 to 3.74	Equal to or less than 0.70.
B	3.75 to 3.99	Equal to or less than 0.72.
C	4.00 to 4.49	Equal to or less than 0.76.
D	4.50 to 6.00	Equal to or less than 0.80.

Subpart C—Special Rules Pertaining to Mobile Offshore Drilling Units

§ 174.030 Specific applicability.

Each mobile offshore drilling unit (MODU) inspected under Subchapter IA of this chapter must comply with this subpart.

§ 174.035 Definitions.

(a) For the purpose of this subpart the following terms have the same definitions as given in Subchapter IA of this chapter:

(1) "Column stabilized unit".

(2) "Mobile offshore drilling unit".

(3) "Self-elevating unit".

(4) "Surface type unit".

(b) For the purpose of this subpart—

(1) "Downflooding" means the entry of seawater through any opening that cannot be rapidly closed watertight, into the hull, superstructure, or columns of an undamaged unit due to heel, trim, or submergence of the unit.

(2) "Downflooding angle" means the static angle from the intersection of the unit's centerline and waterline in calm water to the first opening through which downflooding can occur when subjected to a wind heeling moment (Hm) calculated in accordance with § 174.055.

(3) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit.

(4) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

§ 174.040 Stability requirements: general.

Each unit must be designed to have at least 2 inches (50mm) of positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 174.045 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on GRAPH 174.045, define areas that satisfy the equation:

Area (A) > (K) X (Area (B))

where—

(1) K = 1.4 except that if the unit is a column stabilized unit K = 1.3;

(2) Area (A) is the area on GRAPH 174.045 under the righting moment curve between 0 and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

(3) Area (B) is the area on GRAPH 174.045 under the wind heeling moment curve between 0 and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

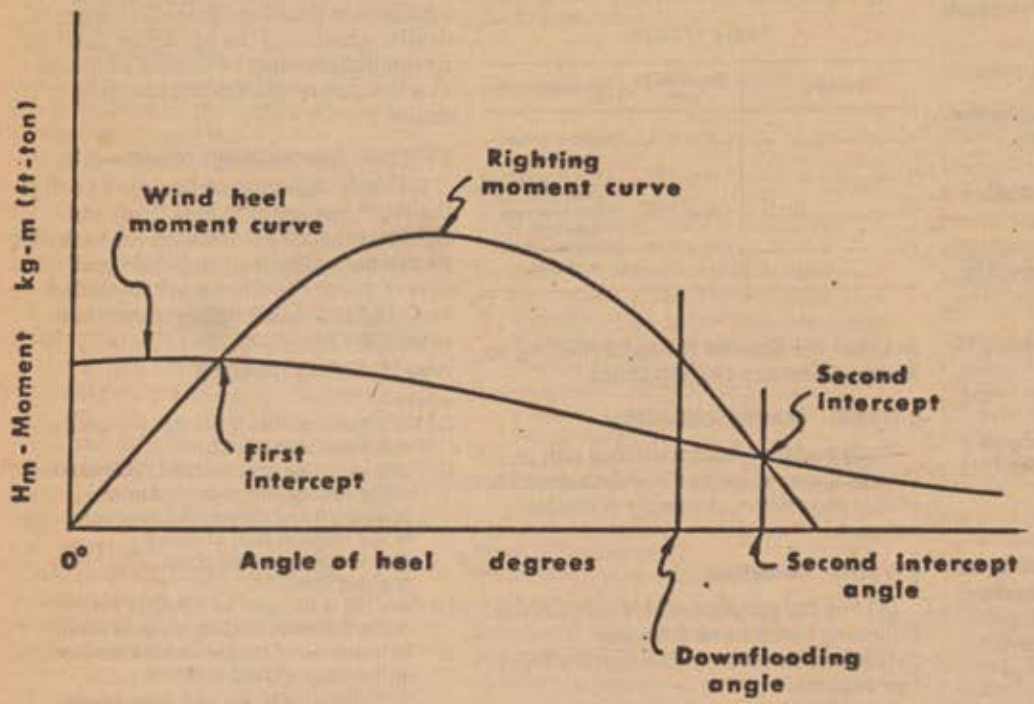
(b) Each righting moment on graph § 174.045 must be positive for all angles greater than 0 and less than the second intercept angle.

(c) For the purposes of this section, openings fitted with the weathertight closing appliances specified in § 174.100(b) are not considered as openings through which downflooding could occur if they can be rapidly closed and would not be submerged below the units' waterline prior to the first intercept angle, except that ventilation intakes and outlets for machinery spaces, crew spaces, and other spaces where ventilation is normally required are considered as openings through which downflooding could occur regardless of location.

(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with the operating manual required in § 170.130 of this subchapter.

GRAPH 174.045

Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



§ 174.050 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 174.055(b)(3).

§ 174.055 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e., $Hm = \Sigma H$.

(b) Each wind heeling moment (H) must be calculated using the equation:

$H = k(v)^2(Ch)(Cs)(A)(h)$

where—

(1) H = wind heeling moment for an exposed surface on the unit in foot-pounds (kilogram-meters);

(2) k = 0.00338 lb./(ft.^{2}-knots^2) (0.0623 (kg-sec^2)/m^4);

(3) v = wind velocity of—

(i) 70 knots (36 meters per second) for normal operating conditions.

(ii) 100 knots (51.5 meters per second) for severe storm conditions.

(iii) 50 knots (25.8 meters per second) for damage conditions.

(4) A = projected area in square feet (squrae meters) of an exposed surface on the unit;

(5) Ch = height coefficient for "A" from Table 174.055(a);

(6) Cs = shape coefficient for "A" from Table 174.055(b); and

(7) h = the vertical distance in feet (meters) from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg; if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) The projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 174.055(a).—CH VALUES

Feet		Meters		Ch.
Over	Not exceeding	Over	Not exceeding	
0	50	0.0	15.3	1.00
50	100	15.3	30.5	1.10
100	150	30.5	46.0	1.20
150	200	46.0	61.0	1.30
200	250	61.0	76.0	1.37
250	300	76.0	91.5	1.43
300	350	91.5	106.5	1.48
350	400	106.5	122.0	1.52
400	450	122.0	137.0	1.56
450	500	137.0	152.5	1.60
500	550	152.5	167.5	1.63
550	600	167.5	183.0	1.67
600	650	183.0	198.0	1.70
650	700	198.0	213.5	1.72
700	750	213.5	228.5	1.75
750	800	228.5	244.0	1.77
800	850	244.0	256.0	1.79
Above 850.		Above 256		1.80

NOTE: The "Ch" value in this table, used in the equation described in section § 174.055(b), corresponds to the value of the vertical distance in feet (meters) from the water surface at the design draft of the unit to the center of area of the "A" value used in the equation.

TABLE 174.055(b).—CS VALUES

Shape	Cs.
Cylindrical shapes	0.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face and open truss works)	1.25

NOTE: The "Cs" value in this table, used in the equation described in § 174.055(b), corresponds to the shape of the projected "A" in the equation.

§ 174.065 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal operating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest edge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 174.075 through 174.085; and

(2) A wind heeling moment calculated in accordance with § 174.055(b) using a wind velocity of 50 knots (25.8 meters per second).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 174.080 or § 174.085 if any portion of the pipe, ventilation system, or trunk is within 5 feet (1.5 meters) of the hull.

174.070 General damage stability assumptions.

For the purpose of determining compliance with § 174.065, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartment on the unit is ballasted or pumped out to compensate for the flooding described in §§ 174.075 through 174.085.

§ 174.075 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in §§ 174.080 and 174.085 must be assumed for the purpose of determining compliance with § 174.065 (a). Simultaneous flooding of more than one compartment must be assumed only when indicated in §§ 174.080 and 174.085.

§ 174.080 Flooding on self-elevating and surface type units.

(a) On a surface type unit or self-elevating unit, all compartments within 5 feet (1.5 meters) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost continuous deck or first superstructure deck where superstructures are fitted must be assumed to be subject to simultaneous flooding.

(b) On the mat of a self-elevating unit, all compartments of the mat must be assumed to be subject to individual flooding.

§ 174.085 Flooding on column stabilized units.

(a) Watertight compartments that are outboard of, or traversed by, a plane which connects the vertical centerlines of the columns on the periphery of the unit, and within 5 feet (1.5 meters) of an outer surface of a column or footing on the periphery of the unit, must be assumed to be subject to flooding as follows:

(1) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(2) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the distance between the vertical watertight bulkheads, measured at the column periphery, is equal to or less than one-eighth of the column perimeter at the draft under consideration.

(3) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, those compartments that are within the bounds described in paragraph (a)(2) of this section and within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(b) Each compartment in a footing must be assumed to be subject to individual flooding when any part of the compartment is within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding.

§ 174.090 Permeability of spaces.

When doing the calculations required in § 174.065—

(a) The permeability of a floodable space, other than a machinery space, must be as listed in Table 174.090; and

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail.

TABLE 174.090.—PERMEABILITY

Spaces and tanks	Permeability (percent)
Storeroom spaces	60
Accommodation spaces	95
Voids	95
Consumable liquid tanks	95 or 0.[1]
Other liquid tanks	95 or 0.[2]

[1] Whichever results in the more disabling condition.
[2] If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

§ 174.100 Appliances for watertight and weathertight integrity.

(a) Appliances to insure watertight integrity include watertight doors, hatches, scuttles, bolted manhole covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to insure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening equipped with appliances to insure watertight integrity that is used intermittently during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system that signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to insure weathertight integrity must be located so that it would not be submerged below the final equilibrium waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 174.075 through 174.085; and

(2) A wind heeling moment calculated in accordance with § 174.055 using a wind velocity of 50 knots (25.8 meters per second).

(e) If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

Subpart D—Special Rules Pertaining to Nuclear Powered Vessels

§ 174.110 Specific applicability.

(a) This part applies to nuclear vessels.

(b) Nuclear vessels are required to comply with Part 37, 79, or 99 of this chapter.

§ 174.115 Subdivision requirements.

Each vessel must comply with the subdivision requirements in §§ 171.070, 171.072, and 171.073 of this subchapter as if it were a passenger vessel carrying more than 1000 passengers.

§ 174.120 Damage stability requirements.

Each vessel must comply with § 171.080 of this subchapter as a category Y vessel.

§ 174.125 Additional subdivision requirements.

Each vessel must comply with the following:

(a) Sections 171.085, 171.090, 171.095, and 171.100 of this subchapter as if it were a passenger vessel of 100 gross tons or more with Type II subdivision.

(b) Sections 171.105, 171.106, 171.108, and 171.109 of this subchapter as if it were a passenger vessel that is—

(1) Greater than 250 feet (76 meters) in LBP;

(2) Greater than 100 gross tons; and

(3) In ocean service.

(c) Sections 171.111 through 171.113 of this subchapter.

(d) Sections 171.116 through 171.118 of this subchapter.

(e) Sections 171.122 and 171.135 of this subchapter.

Subpart E—Special Rules Pertaining to Tugboats and Towboats

§ 174.140 Specific applicability.

Each tugboat and towboat inspected under Subchapter I of this chapter must comply with this subpart.

§ 174.145 Intact stability requirements.

(a) In each condition of loading and operation, each vessel must be shown by design calculations to meet the requirements of paragraphs (b) through (e) of this section.

(b) The area under each righting arm curve must be at least 16.9 foot-degrees (5.15 meter-degrees) up to the smallest of the following angles:

(1) The angle of maximum righting arm.

(2) The downflooding angle.

(3) 40 degrees.

(c) The area under each righting arm curve must be at least 5.6 foot-degrees (1.72 meter-degrees) between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees.

(d) The maximum righting arm shall occur at a heel of at least 25 degrees.

(e) The righting arm curve must be positive to at least 60 degrees.

(f) For the purpose of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The vessel does not trim as it heels.

Subpart F—Special Rules Pertaining to Ocean Thermal Energy Conversion Plantships and Floating Facilities

Authority: Pub. L. 96-320, 94 Stat. 974 (42 U.S.C. 9118, 9119(c), 9153 (a), (b)); 49 CFR 1.46 (ee).

§ 174.150 Specific applicability.

This subpart applies to each Ocean Thermal Energy Conversion plantship and floating facility that must meet Part 106 of this chapter.

§ 174.155 Stability requirements.

(a) Except as modified in this subpart, each plantship and floating facility must meet the following requirements in this subchapter:

(1) Section 170.085.

(2) Section 170.090.

(3) Section 170.120.

(4) Sections 170.174 through 170.190.

(5) Sections 174.030 through 174.100.

(b) Compliance with the remaining provisions in this subchapter is not required.

§ 174.160 Normal operating condition.

For the purpose of this subpart, "Normal operating condition" means a condition of the plantship or floating facility when loaded and arranged for producing energy or when in ocean transit.

§ 174.165 Tension tendon tethered facilities.

Each floating facility of the tension tendon tethered configuration must be designed so that it continually maintains a tension on each tendon when subjected to the forces described in § 174.055 of this subchapter.

§ 174.170 Stability test.

The stability test provided for in Subpart F of Part 170 of this subchapter is not required for a floating facility or plantship if it is shown to the satisfaction of the Commandant that, because of its configuration, testing of the facility or plantship is not practicable and the facility or plantship has inherent adequate stability by design.

PART 177—CONSTRUCTION AND ARRANGEMENT

71. In § 177.05-3, by revising paragraphs (a) and (b) to read as follows:

§ 177.05-3 Plans required for "S" vessels carrying more than 150 passengers, all "L" vessels, and certain other vessels.

(a) *S and L.* The owner or builder must, prior to the start of construction if practicable, or in any case prior to the initial inspection of the vessel, submit for approval to the Officer in Charge, Marine Inspection, of the inspection zone where the vessel is to be inspected, at least two copies of each of the plans listed in § 177.05-1(a).

(b) *S and L.* Additional plans, calculations, and data must be submitted as required by Subchapter S of this chapter.

* * * * *

§ 177.05-3 [Amended]

72. In § 177.05-3, by removing paragraph, (c), (d), and (e).

73. By adding a new Subpart 177.13 to read as follows:

Subpart 177.13—Subdivision and Stability

§ 177.13-1 Requirements.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 178—WATERTIGHT INTEGRITY AND SUBDIVISION [REMOVED]

74. By removing Part 178.

PART 179—STABILITY [REMOVED]

75. By removing Part 179.

PART 185—OPERATIONS

76. By adding a new Subpart 185.12 to read as follows:

Subpart 185.12—Stability Letter

§ 185.12-1 Posting.

(a) If a stability letter is issued in accordance with the requirements in § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

(b) If posting is impacticable, the stability letter must be kept on board in the custody of the licensed operator.

PART 189—INSPECTION AND CERTIFICATION

77. In § 189.55-5, by revising paragraph (c) to read as follows:

§ 189.55-5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans required by Part 170 of this chapter.

* * * * *

PART 190—CONSTRUCTION AND ARRANGEMENT

78. By adding a new Subpart 190.03 to read as follows:

Subpart 190.03—Subdivision and Stability

§ 190.03-1 General.

Each vessel must comply with the applicable requirements in Subchapter S of this chapter.

PART 191—SUBDIVISION AND STABILITY [REMOVED]

79. By removing Part 191.

PART 196—OPERATIONS

80. By adding a new Subpart 196.12 to read as follows:

Subpart 196.12—Stability Letter

§ 196.12-1 Posting.

If a stability letter is issued in accordance with the requirements in § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

81. By adding a new Subpart 196.18 to read as follows.

Subpart 196.18—Prevention of Oil Pollution

§ 196.18-1 General.

Each vessel must be operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

Dated: August 29, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U. S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-29810 Filed 11-3-83; 8:45 am]

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Part IV

Federal Emergency Management Agency

Disaster Assistance; The Declaration Process; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. 205, Subpart C]

Disaster Assistance; The Declaration Process

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule establishes the Federal Emergency Management Agency regulations for the Declaration Process as 44 CFR 205, Subpart C. The material in this subpart pertains to Governors' requests for declarations of major disasters or emergencies, the processing of these requests, declarations by the President, activities of Federal Coordinating Officers, the designation of areas eligible for assistance and the types of assistance to be provided, FEMA–State Agreements, and other information. Subpart C is being published as a final rule at this time. The regulation is needed in order that Governors are informed as to how they can make requests for Presidential declarations of major disasters or emergencies and what actions are required to obtain assistance under the Disaster Relief Program. The effect of the regulation will be to establish a process by which Governors can obtain assistance in Disaster Relief Program.

DATES: This final rule is effective December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Office of Disaster Assistance Programs (SL–DA), Directorate of State and Local Programs and Support (SLPS), Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 287–0501.

SUPPLEMENTARY INFORMATION: The interim rule was published on pages 55756–55761 of the **Federal Register** of December 13, 1982 and invited comments until March 31, 1983. Comments were received from 9 State governments, and one Federal agency as well as offices within FEMA itself. All comments received careful consideration in making changes and revisions. The following explanatory remarks summarize significant comments, suggestions and actions taken. If proposed legislation, currently being considered by the Congress is enacted, Pub. L. 93–288 would be changed and therefore require additional changes to this subpart. Publication of this final rule also conforms with the FEMA response provided on February 11, 1982, to the Comptroller General of the United States with regard to his report entitled "Requests for Federal Disaster Assistance Need Better Evaluation."

Definitions

Commitment. Both the definition and the required certification by the Governor reflect the statutory requirement of Section 301(b) of Public Law 93–288. While broad in context, it does stipulate that a portion must be borne by the State. A listing of all eligible items for this commitment is not considered appropriate due to the wide diversity of resources which exist in the various States. Cost sharing of public assistance costs by both State and local governments usually will satisfy the commitment requirement insofar as Public Assistance is concerned.

Incident Period. A significant change is being made in the definition for the *incident period.* A notice of intent to modify this definition was published on page 11136 of the **Federal Register** of March 16, 1983. As now defined, damages which occurred during the defined incident period as well as those damages which occurred afterwards but as a result of the Disaster-causing incident would be eligible for assistance under Pub. L. 93–288. Since most Federal assistance which is provided under an emergency declaration cannot be made retroactively, the incident period for emergency declarations, unless otherwise stipulated, begins at 12:01 a.m. on the date of the declaration.

Policy: Federal disaster assistance is supplementary to the capabilities of State and local governments. Further, Federal disaster assistance under Public Law 93–288 is not considered necessary when the need for assistance can be addressed by other Federal agencies under their statutory authorities or by volunteer agencies.

Request for emergencies and major disaster declarations: It has been a long established practice that such requests are submitted to the President through the appropriate Regional Director. This assures prompt acknowledgment and processing. When this practice is not followed, a delay in processing almost always occurs. Information to be included in requests is either required by the statute or is necessary in the processing of the request. Suggested formats for requests were published on pages 34210–34215 of the **Federal Register** of July 27, 1983. While the use of the formats suggested by the Associate Director is not mandatory, information listed in § 205.33(c) and in § 205.34(c) is required. Although the implementation of the State emergency plan is not a statutory requirement prior to requesting an emergency declaration, such action would be considered prudent in almost all instances requiring emergency assistance. The need for supplemental Federal Disaster assistance usually is apparent within one or two weeks after the occurrence of an incident. For this reason the request for such assistance must be made within 30 days of the occurrence of the incident. Sections 205.33(b) and 205.34(b) reflect this change. Exceptions to the 30-day period for this and appeals are allowed under extraordinary circumstances. Section 205.44 explains how exceptions may be granted.

A significant change is being made in the form in which requests for Federal supplemental Disaster assistance can be made. Rather than accept verbal requests, the process now requires, at minimum, a telegram from the Governor stating the scope of the problem and the commitment by the State and local governments. Such a format ensures both full compliance with legal requirements and swift processing of the request.

FEMA-State Agreements

Transfer of Funds. This paragraph has been reworded for clarity.

Temporary Housing. Experience has shown that the requirement for temporary housing assistance tends to be met within 18 months. In those few instances where a State is unable or unwilling to accept temporary housing responsibility after 18 months, the paragraph may be reworded to indicate this. In any event, Federal financial and operational responsibility in temporary housing ends after 18 months, unless waived by the Associate Director.

Designees: The Governor's Authorized Representative is responsible for State compliance with the FEMA-State Agreement.

The adoption by the Federal Emergency Management Agency of Subpart C, The Declaration Process, is a procedural administrative action which supports normal day-to-day operations within the Federal Emergency Management Agency. Therefore, it has been determined pursuant to 44 CFR 10.8(c)(2)(viii) that implementation of Subpart C does not require an environmental impact statement or an environmental assessment.

Pursuant to the provisions of 5 U.S.C. 605(b) and to delegations of authority in Part 1 of this title, it is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. The regulations deal with procedures by which Governors of States apply for

declarations of emergency or major disaster by the President. Such declarations trigger the furnishing of certain supplemental Federal assistance. The regulations do not impose any requirements on small entities. Further, the regulation is not a major rule as defined in Executive Order 12291 in that it has no economic or competitive impact; hence no regulatory analysis has been prepared.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs—housing and community development.

Accordingly: (1) A new Subpart C is added to Subchapter D, Part 205, of Title 44; (2) the heading for Subpart D is changed to "Individual Assistance"; (3) Subpart D current §§ 205.45 through 205.47 and §§ 205.49 through 205.51 are redesignated as follows: (a) Current § 205.45 becomes § 205.52; (b) current § 205.46 becomes § 205.58; (c) current § 205.47 becomes § 205.53; (d) current § 205.49 becomes § 205.56; (e) current § 205.50 becomes § 205.57; and (f) current § 205.51 becomes § 205.59; (4) remove §§ 205.39 through 205.44 of the current regulations; (5) remove §§ 205.17 and 205.18 of the current regulations; (6) renumber § 205.28 of the current regulations as § 205.17; and (7) remove current Subpart B, entitled "Emergencies," reserve Subpart B, and modify the Table of Contents to reflect the foregoing.

* * * * *

Subpart C—The Declaration Process

Sec.

Authority: 42 U.S.C. 5201; Reorg. Plan No. 3 of 1978 (43 FR 41943); E.O. 12127, dated March 31, 1979 (44 FR 19367); E.O. 12148 dated July 20, 1979, unless otherwise noted.

Subpart C—The Declaration Process

§ 205.30 Purpose.

The purpose of this subpart is to describe the process leading to a Presidential declaration of a major disaster or an emergency and the actions triggered by such a declaration.

§ 205.31 Definitions.

All definitions listed in Pub. L. 93–288 and in § 205.2 apply. In addition, the following definitions apply:

(a) *Associate Director:* The Associate Director, State and Local Programs and Support, Federal Emergency Management Agency, or his/her designated representative.

(b) *Commitment:* Certification by the Governor in support of his request for a declaration of a major disaster or an emergency, pledging for the current major disaster or emergency, State and local government obligations and expenditures, which are disaster-related, extraordinary and unforeseen (of which the State's pledges must be a significant proportion), and stating that such obligations and expenditures, identified as nonreimbursable by Federal funds, are a reasonable amount of funds of such State and local governments for alleviating the damage, loss, hardship or suffering resulting from such major disaster or emergency.

(c) *Emergency Support Team:* Organized group of program and support personnel established by the Regional Director or the Associate Director to be deployed in an area affected by a major disaster or emergency to assist the Federal Coordinating Officer (FCO) in carrying out his/her responsibilities under the Act.

(d) *FEMA-State Agreement:* A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

(e) *Incident:* Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landside, mudslide, snowstorm, drought, fire, explosion, or other catastrophe which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency.

(f) *Incident Period:* As determined at the discretion of the Associate Director, the time interval stated in the FEMA-State Agreement during which the disaster-causing incident occurs. No Federal assistance under Pub. L. 93–288 shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period. The incident period for emergencies starts at 12:01 a.m., on the date of the declaration by the President unless otherwise specified in the declaration document. The termination date of an incident period may not be known at the time the FEMA-State Agreement is signed. However, at such time as the termination date is determined by FEMA, it will be added to the Agreement by amendment.

(g) *Individual Assistance:* Supplementary Federal assistance provided under Pub. L. 93–288 to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see Subpart D of these regulations.

(h) *Mission Assignment:* Work order or request for performance of work issued by the Regional Director, Associate Director or Director to a Federal agency directing completion by that agency of specified tasks and citing funding, other managerial controls or guidance.

(i) *Public Assistance:* Supplementary Federal assistance provided under Pub. L. 93–288 to State and local governments or certain private, nonprofit organizations other than assistance for the direct benefit of individuals and families. For further information, see Subpart E of these regulations.

§ 205.32 Policy.

(a) It is the policy of the Federal Emergency Management Agency (FEMA) to provide an orderly and continuing means of assistance by the Federal Goverment to supplement the efforts of the State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from declared major disasters and emergencies.

(b) The policies listed in § 205.3 apply. It is also the policy of FEMA in approving disaster assistance, to encourage States and local governments to seek permanent solutions to problems in areas which are disaster-prone from sources other than the President's Disaster Relief Fund. Failure to properly implement State hazard mitigation plans approved by FEMA as the result of a major disaster or emergency may contribute to losses, hardships or damages resulting from future catastrophes or emergencies. The resulting damages will be assessed and considered whenever applicable in processing any requests for a

declaration of a major disaster or emergency.

(c) It is the policy of FEMA to recommend a denial of a major disaster request when the requested assistance can be provided by other Federal agencies under their statutory authorities and from volunteer agencies or groups.

§ 205.33 Requests for major disaster declarations.

(a) When a catastrophe occurs in a State, the Governor may request that the President declare a major disaster for the State upon the Governor's finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments; and

(2) Federal assistance under the Act is necessary to supplement the efforts and available resources of the State, local governments, and disaster relief organizations.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request a major disaster declaration. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by the Associate Director for such requests will assure coverage of essential information and should avoid delays in processing. These suggested formats have been published by the Associate Director in the **Federal Register** and shall be updated as necessary. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The completed request shall include:

(1) Confirmation that the Governor has taken appropriate action under State law and has directed the execution of the State emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector;

(3) Information describing the extent and nature of State and local resources which have been or will be used to alleviate conditions of the disaster, stating specifically those activities for which no Federal funding will be requested;

(4) Preliminary estimates of the types and amount of supplementary Federal disaster assistance needed under the Act; and

(5) Certification by the Governor that State and local government obligations and expenditures for the disaster (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of funds for alleviating the damage, loss, hardship or suffering resulting from such disaster. The required certification of the State and local government commitments must be documented by filling out the "commitments" section of the formats referred to in paragraph (b) of this section.

(d) For those catastrophies of unusual severity and magnitude when field damage assessments are not necessary to determine the requirement for supplemental Federal assistance, the Governor or Acting Governor may send a telegram through the Regional director for a declaration of a major disaster. In the event the FEMA Regional Office is severely impacted by the catastrophe, the telegram may be addressed to the Director of FEMA. The telegram must indicate a finding in accordance with § 205.33(a), and must include as a minimum the information requested by § 305.33(c) (1), (3) and (5). Upon receipt of such a telegram, the Regional Directo shall expedite the processing of reports and recommendations to the President . Notification to the Governor of the Presidential declaration shall be in accordance with 44 CFR 205.37. The Associate Director shall assure that documentation of the declaration is later assembled to comply fully with these regulations.

(Approved by Office of Management and Budget under Control Number 3067–0113.)

§ 205.34 Requests for emergency declarations.

(a) When a catastrophe occurs or threatens to occur in a State, the Governor may request that the President declare an emergency upon the Governor's finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the capability of the State and the affected local government(s); and

(2) Requires supplementary Federal emergency assistance to save lives and protect property, health and safety, or to avert or lessen the threat of a disaster and which should be provided by the Federal Government because of the pressures of time or the unique capabilities of the Federal Government.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request that the President declare an emergency. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by FEMA for such requests will assure coverage of essential information and should avoid delays in processing. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The complete request shall include:

(1) Information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, including those for which no Federal funding will be requested;

(2) Identification of the particular type and specific extent of Federal aid required, and of any proposed cost sharing; and

(3) An assessment by the Governor that the capabilities and resources of the State and local government(s) have been or are being fully committed to cope with the catastrophe. Such capabilities and resources need not be exhausted, but State and local government efforts, as deemed appropriate by FEMA, are necessary before FEMA emergency assistance can be authorized.

(Approved by the Office of Management and Budget under Control Number 3067–0113.)

§ 205.35 Processing requests for declarations of a major disaster or emergency.

(a) The Regional Director shall provide written acknowledgment of the Governor's request. Based on a FEMA investigation, which may include damage assessments of the affected area(s) and consultations with appropriate State and Federal officials and other interested parties, the Regional Director shall promptly submit a report and a recommendation to the FEMA Director through the Associate Director.

(b) The Director shall forward the Governor's request together with a report and a recommendation to the President.

(1) *Major Disaster Request.* The recommendation will be based on a report which will indicate whether or not the situation is of such severity and magnitude so as to be beyond the capabilities of the State and its local governments and whether or not Federal assistance under Pub. L. 93–288 is necessary to supplement the efforts and available resources of the State and local governments, and other disaster relief organizations or activities.

(2) *Emergency Request.* The recommendation will be based on a report which will indicate whether or not Federal emergency assistance under Pub. L. 93–288 is necessary to supplement State and local efforts to

save lives and protect property, public health and safety or to avert or lessen the threat of a disaster, which because of the pressures of time or because of the unique capabilities of a Federal agency, should be provided by the Federal Government.

§ 205.36 Presidential determination.

(a) The Governor's request for a major disaster declaration may result in either a Presidential declaration of a major disaster or an emergency.

(b) The Governor's request for an emergency declaration may result in a Presidential declaration of an emergency.

§ 205.37 Notification.

(a) The Governor will be promptly notified by the Director or his/her designee of a declaration by the President that an emergency or a major disaster exists. FEMA also will notify other Federal agencies and other interested parties.

(b) The Governor will be promptly notified by the Director or his/her designee of a determination that the Governor's request does not justify the use of the authorities of Pub. L. 93–288.

§ 205.38 Appeal.

When a request for a major disaster declaration or for an emergency declaration is denied, the Governor may appeal the decision. An appeal must be made within 30 days after the date of the letter denying the request. (See also § 205.44). This one-time request for reconsideration, along with appropriate additional information, is submitted to the President through the appropriate Regional Director. The processing of this request is similar to the initial request.

§ 205.39 FEMA-State Agreements.

(a) *General.* The FEMA-State Agreement states the understandings, commitments, and conditions for assistance under which FEMA disaster assistance shall be provided. This Agreement imposes binding obligations on FEMA, States and their local governments in the form of conditions for assistance which are legally enforceable. However, such conditions may be modified by a properly executed amendment to the FEMA-State Agreement. No FEMA funding may be authorized or provided to any grantees or other recipients, and authorized by mission assignment until such time as this Agreement for the Presidential delcaration has been signed and is fully in effect.

(b) *Major Disasters.* Upon the declaration of a major disaster, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement describes the incident period for which assistance will be made available, the type and extent of the Federal assistance to be made available, and contains the commitment of the State and local government(s) with respect to the amount of funds to be expended in alleviating damage and suffering caused by the major disaster. The Agreement also contains such other terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent amendments to the Agreement for the same major disaster.

(c) *Emergencies.* Upon the declaration of an emergency, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement contains the necessary terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. This Agreement specifies the beginning and the end of the incident period, identities the type and extent of Federal assistance and includes any details unique to the current emergency. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent amendments to the Agreement for the same emergency. The Federal assistance specified in the Agreement or an amendment is the only assistance eligible for Federal funding or reimbursement under Pub. L. 93–288, as amended.

(d) *Transfer of Funds.* In the event that funds are to be transferred to a State for disaster relief purposes, the FEMA-State Agreement shall contain, and the State and its political subdivisions shall agree to, the following conditions for assistance:

If a State, local government, or eligible private, nonprofit organization violates any of the conditions of disaster relief assistance under the Act, this Agreement, or applicable Federal regulations, the Associate Director shall notify the State that additional financial assistance for the project in which the violation occurred will be withheld until such violation has been corrected to the satisfaction of the Associate Director. If the Associate Director is not satisfied with the corrective action taken in response to such notification, then the Associate Director will notify the State that further financial assistance for the project in which the violation occurred will be withheld until adequate corrective action is taken. In addition, the Associate Director may also withhold all or any portion of financial assistance which has been or is to be made available to the State, local governments, or eligible private, nonprofit organizations for other disaster relief projects under the Act, this or other Agreements, and applicable Federal regulations until adequate action is taken. The State further agrees that FEMA or State auditors, the Governor's Authorized Representative, the Regional Director, the Associate Director, and the Comptroller General of the United States or their duly authorized representatives shall for the purpose of audit and examination have access to any books, documents, papers and records of any recipients of Federal disaster assistance and of any persons or entities which perform any activity which is reimbursed to any extent with Federal disaster assistance funds distributed under the authority of the Act.

(e) *Other Conditions for Assistance.* All FEMA-State Agreements shall also contain the following:

(1) The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of Federal disaster assistance, to cooperate with the Federal government in seeking recovery of funds which are expended in alleviating the damages and suffering caused by any declared major disaster or emergency against any party or parties whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to a Presidential declaration of major disaster or emergency.

(2) The State will establish and maintain an active State program of nondiscrimination in disaster assistance, outlined in 44 CFR 205.16. This program will encompass all State and local government actions pursuant to this Agreement.

(3) The State will establish and maintain a program to assure that State and local government recipients of Federal disaster assistance comply with the Department of Housing and Urban Development (HUD) Consolidated List of Debarred, Suspended and Ineligible Contractors. This program also will encompass all State and local contracts pursuant to this Agreement.

(4) No members of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Agreement, or to any benefit to arise thereupon; provided, however, that this provision shall not be construed to extend to any contract made with a corporation for its general benefit.

(f) *Typical Conditions for Assistance.* As determined necessary by the Associate Director, certain typical conditions for assistance may be

included in the FEMA-State Agreement. However, some changes in wording may be made to fit the current major disaster or emergency. These conditions for assistance are:

(1) The State agrees that, as a condition for any Federal loan or grant, the State or that applicant shall evaluate the natural hazards in the areas in which the proceeds of the grants or loans are to be used and shall make appropriate recommendations to mitigate such hazards for Federally assisted projects. The State further agrees:

(i) To prepare and submit, not later than 180 days after the declaration, to the Regional Director for concurrence, a hazard mitigation plan or plans for the FEMA designated areas; and

(ii) To follow up with applicants, within State capabilities, to assure that, as a condition for any grant or loan under the Act, appropriate hazard mitigation actions are taken; and

(iii) To review and update as necessary disaster mitigation portions of the State emergency plan.

The Regional Director agrees to make Federal technical advice and assistance available to support the planning efforts and actions. The State understands that future Federal disaster assistance may be curtailed in situations where hazard mitigation plans have not been implemented properly.

(2) Within his/her authorities, the Governor shall ensure, through the State agency responsible for regulation of the insurance industry, that insurance companies make full payment of eligible insurance benefits to disaster victims. The State also shall take all reasonable steps to ensure that disaster victims are aware of procedures for filing insurance claims, are informed of any State procedures instituted for assisting insured disaster victims, and are aware of their responsibility to repay government assistance which is duplicated by insurance proceeds.

(3) The mandatory FEMA-State Agreement language at § 205.39(e)(1) shall, when determined necessary by the Regional Director, be amended to address any of the following issues which the Regional Director deems appropriate: The need for the State to pursue recoveries against responsible parties; reimbursement to the Federal government from any recoveries from responsible parties; review by the Federal government of proposed settlements between the State, its political subdivisions, or other recipients of Federal disaster assistance and any responsible parties; assignment to the Federal government of any rights of recovery which the State, its political subdivisions, or any other recipients of Federal disaster assistance might have against any responsible parties; intervention by the United States in any action instituted by the State, its political subdivisions, or any other recipients of Federal disaster assistance against any responsible parties; and other related issues.

(4) Since Federal operational and financial responsibility for temporary housing assistance shall not exceed eighteen (18) months from the date of the declaration by the President, the State agrees to accept such responsibility upon expiration of the Federal responsibility.

(5) For any program administered by the State involving FEMA funding, the State agrees to establish and maintain an active State program to avoid duplication of Federal benefits in disaster assistance. The State further agrees to take necessary action to recover any FEMA funding administered by the State in those situations where such duplication is reported or appears likely to have occurred.

§ 205.40 Designation of affected areas and eligible assistance.

(a) After a declaration by the President, the Associate Director shall designate the disaster-affected areas eligible for supplementary Federal assistance under Pub. L. 93-288 and shall publish these designations in the **Federal Register**. A disaster-affected area designated by the Associate Director includes all local government jurisdictions within its boundaries. Unless specifically limited in the declaration documents, the Associate Director shall also determine and designate the types of assistance to be made available in the designated areas. These designations shall be based on the Governor's request or supplemental requests for assistance, taking into consideration available information and FEMA assessments of requirements. In addition to the areas designated eligible for Individual Assistance, the Associate Director may designate adjacent areas eligible for Individual Assistance unless such adjacent areas are specifically excluded in the Governor's request. However, the designation of unrequested areas as adjacent areas for Individual Assistance will not be made until coordination has been made by FEMA with the Governor or the Governor's Authorized Representative. The Associate Director may, at his/her discretion, designate all or only portions of the areas requested by the Governor as eligible for supplementary Federal assistance. In addition, the Associate Director may, at his/her discretion, or as directed by the President in the declaration letter, authorize all or only portions of the types of supplementary Federal assistance requested by the Governor. Determinations by the Associate Director of the types and extent of FEMA disaster assistance to be provided and of the areas eligible to receive such assistance, are based upon findings whether, in any particular area, the damage involved and its effects are of such severity and magnitude as to be beyond the response capabilities of the State, the affected local governments, and other potential recipients of supplementary Federal assistance.

(b) The Regional Director will promptly notify the Governor of the Associate Director's designations. In those instances where the type of assistance or certain areas requested by the Governor are not designated or authorized by the Associate Director, the Governor, or the Governor's Authorized Representative, may appeal the decision. An appeal must be made within 30 days of the date of the written notification by submitting a formal written appeal. (See also § 205.44.) This one-time request for reconsideration, along with justification and/or additional information, is sent to the Associate Director through the appropriate Regional Director.

(c) After a declaration by the President, the Governor, or the Governor's Authorized Representative, may request that additional areas or types of supplementary Federal assistance be designated by the Associate Director. Such requests shall be accompanied by appropriate commitments by State and local governments and assessments to demonstrate that the requested designations are justified and that the unmet needs are beyond State and local capabilities without supplementary Federal assistance.

§ 205.41 Initiation of Federal assistance.

(a) *Federal Coordinating Officer.* Upon a declaration of a major disaster or of an emergency by the President, the Associate Director shall appoint a Federal Coordinating Officer (FCO) who shall initiate action immediately to assure that Federal assistance is provided in accordance with the declaration, applicable laws, regulations, and the FEMA-State Agreement.

(b) *Designees.* In the FEMA-State Agreement, the Governor shall appoint a State Coordinating Officer (SCO) and also shall designate the Governor's Authorized Representative (GAR), who

shall administer Federal disaster assistance programs on behalf of the State and local governments and other grant or loan recipients. The GAR is responsible for the State compliance with the FEMA–State Agreement.

§ 205.42 Responsibilities of the Coordinating Officer.

(a) Following a declaration of a major disaster or an emergency, the Federal Coordinating Officer (FCO) shall:

(1) Make an initial appraisal of the types of assistance most urgently needed;

(2) In coordination with the SCO, establish field offices and Disaster Assistance Centers as necessary to coordinate and monitor assistance programs, disseminate information, accept applications, and counsel individuals, families and businesses concerning available assistance;

(3) Coordinate the administration of relief, including activities of State and local governments, activities of Federal agencies as well as those of the American Red Cross, the Salvation Army, the Mennonite Disaster Service and other voluntary relief organizations which agree to operate under the FCO's advice and direction;

(4) Undertake appropriate action to make certain that all of the Federal agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies; and

(5) Take other action, consistent with the provisions of the Act, as necessary to assist citizens and public officials in promptly obtaining assistance to which they are entitled.

(b) The State Coordinating Officer (SCO) coordinates State and local disaster assistance efforts with those of the Federal Government working closely with the FCO. The SCO is the principal point of contact regarding coordination of State and local disaster relief activities, and implementation of the State emergency plan. The functions, responsibilities, and authorities of the SCO are set forth in the State emergency plan.

§ 205.43 Emergency support teams.

The Associate Director or Regional Director shall form emergency support teams of Federal personnel to send into an area affected by a major disaster or emergency. The Federal Coordinating Officer may request that the Regional Director activate appropriate emergency support teams. These emergency support teams assist the Regional Director or the Federal Coordinating Officer in carrying out his/her responsibilities under the Act and these regulations. Any Federal agency is authorized by the Act to detail personnel within the agency's administrative jurisdiction to temporary duty with the emergency support teams. The Regional Director or the Associate Director determines whether the detail is on a reimbursable or nonreimbursable basis. Each detail shall be without loss of seniority, pay, or other employee status. Except under unusual circumstances, as determined by the Regional Director, such emergency support teams shall be organized and trained by each Regional Director to meet the needs for emergency assistance applicable to his/her Region When requested by the Regional Director, State, local, or volunteer agencies may, as necessary, provide personnel to be deployed with the emergency support teams.

§ 205.44 Time limitations.

The 30-day period referred to in §§ 205.33(b), 205.34(b), 205.38 and 205.40(b) may be extended by the Associate Director provided that a request with proper justification for such an extension is made by the Governor during this 30-day period. In general, proper justification would include the inability to gather new and/or additional information required to support the action being requested in the cited sections.

§ 205.45–205.49 [Reserved]

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: October 27, 1983.

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 83-29645 Filed 11-3-83; 8:45 am]

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federal register

Friday
November 4, 1983

Part V

Environmental Protection Agency

National Emission Standards for Hazardous Air Pollutants: Determination of Mercury in Wastewater Treatment Plants Sewage Sludges; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL 2445-7]

National Emission Standards for Hazardous Air Pollutants; Determination of Mercury in Wastewater Treatment Plants Sewage Sludges

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action revises "Method 105, Determination of Mercury in Wastewater Treatment Plant Sewage Sludges." Changes in the sampling and analytical procedure, which will improve the precision and accuracy of the method, are being made as a result of field and laboratory evaluations of the method.

DATES: *Comments.* Comments must be received on or before January 8, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by November 25, 1983, a public hearing will be held on December 8, 1983 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by December 1, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-83-31, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Environmental Research Center Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Pat Finch Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket Number A-83-31, containing materials relevant to this rulemaking, 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, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: On October 14, 1975 (40 FR 48292), the Administrator promulgated amendments to the national emission standards for the hazardous air pollutants—asbestos and mercury. At the same time, the Administrator also promulgated amendments to Appendix B of this part to add "Method 105, Determination of Mercury in Wastewater Treatment Plant Sewage Sludges." Since the promulgation of Method 105, several improvements in the method have been developed.

The revised Method 105 differs from the present method as follows: (1) A sludge-blending procedure has been added; (2) the sludge sample size has been increased from 3.0 liters to 15 liters; and (3) Twenty-ml portions of wet sludge are taken for mercury analysis rather than the 0.2-g portions of dried sludge now required.

Miscellaneous

This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply revise an existing test method associated with emission measurement requirements that would apply irrespective to this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA must consider the economic effect of this standard on small entities. Most, if not all, of the facilities covered by this regulation would be considered small entities, but this regulation would not significantly increase the cost of emission testing for these facilities.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

This proposed rulemaking is issued under the authority of Sections 112, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7412 7414, and 7601(a)).

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator

PART 61—[AMENDED]

40 CFR Part 61 is amended as follows:

1. In § 61.54, paragraphs (c)(1), (c)(3), and (d) are revised as follows:

§ 61.54 Sludge sampling.

* * * * *

(c) * * *

(1) The sludge shall be sampled according to Method 105—Determination of Mercury in Wastewater Treatment Plant Sewage Sludges. A total of three composite samples shall be obtained within an operating period of 24 hours. When the 24-hour operating period is not continuous, the total sampling period shall not exceed 72 hours after the first grab sample is obtained. Samples shall not be exposed to any condition that may result in mercury contamination or loss.

* * * * *

(3) The sampling, handling, preparation, and analysis of sludge samples shall be accomplished according to Method 105 in Appendix B of this part.

(d) The mercury emissions shall be determined by use of the following equation.

$$E_{Hg} = 1 \times 10^{-3} MQ$$

Where:

E_{Hg} = Mercury emissions, g/day.

M = Mercury concentration of sludge on a dry solids basis, μg/g (ppm).

Q = Sludge charging rate, kg/day.

* * * * *

2. Test Method 105 of Appendix B is revised as follows:

Appendix B—Test Methods

* * * * *

Method 105—Determination of Mercury in Wastewater Treatment Plant Sewage Sludge

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of total organic and inorganic mercury (Hg) content in sewage sludges. The range of this method is 0.2 to 5

μg/g; it may be extended by increasing or decreasing sample size.

1.2 Principle. Time-composite sludge samples are withdrawn from the conveyor belt after dewatering and before incineration or drying. A weighed portion of the sludge is digested in aqua regia and oxidized by potassium permanganate ($KMnO_4$). Hg in the digested sample is then measured by the conventional spectrophotometric cold-vapor technique.

1. Apparatus

2.1 Sampling.

2.1.1 Container. Plastic, 50-liter.

2.1.2 Scoop. To remove 950-ml (1-qt) sludge sample.

2.2 Sludge Sample Preparation.

2.2.1. Mixer. Mortor mixer, wheelbarrow-type, 57-liter (or equivalent) with electrically driven motor.

2.2.2 Blender. Waring-type, 2-liter. (**Note:** Mention of specific trade names does not constitute endorsement by the Environmental Protection Agency.)

2.2.3 Scoop. To remove 100-ml and 20-ml samples of blended sludge.

2.3 Analysis. Same as Method 101, Sections 5.3 and 5.4, except for the following:

2.3.1 Balance. The balance of Method 101, Section 5.3.17, is not needed.

2.3.2 Filter Paper. S and S No. 588 (or equivalent).

3. Reagents

3.1 Water. Same as Method 101A, Section 6.1.1.

3.2 Aqua Regia. Prepare immediately before use. Carefully add one volume of concentrated nitric acid (HNO_3) to three volumes of concentrated hydrochloric acid (HCl).

3.3 Antifoam B Silicon Emulsion. J.T. Baker Company (or Equivalent).

3.4 Mercury(II) Stock Solution, 1 mg Hg/ml. Completely dissolve 135.4 mg of ACS reagent-grade $HgCl_2$ in 75 ml of water, add 10 ml of concentrated HNO_3, and adjust the volume to 100.0 ml with water. Mix thoroughly. (This solution is stable for at least 1 month.)

3.5 Intermediate Mercury Standard Solution, 10 μg Hg/ml. Prepare fresh weekly. Pipet 5.0 ml of the Hg stock solution into a 500-ml volumetric flask, and add 20 ml of the 15-percent HNO_3 solution. Adjust the volume to 500 ml with water. Thoroughly mix the solution.

3.6 Working Mercury Standard Solution, 200 ng Hg/ml. Prepare fresh daily. Pipet 5.0 ml of the "Intermediate Mercury Standard Solution" into a 250-ml volumetric flask. Add 20 ml of 15-percent HNO_3 and adjust the volume to 250 ml with water. Mix thoroughly.

3.7 Tin(II) Solution, Sodium Chloride-Hydroxylamine Solution, 15-Percent Nitric Acid, and Potassium Permanganate Solution. Same as Method 101A, Section 6.2.

4. Procedure

4.1 Sludge Sampling. Withdraw equal-volume increments of sludge [For a total of at least 15 liters (16 qt.)] at intervals of 30 min over an 8-hr period, and place in a rigid plastic container.

4.2 Sludge Mixing. Transfer the entire 15-liter sample to a 57-liter capacity (2-ft^3) mortar mixer. Mix the sample for a minimum of 30 min at 30 rpm. Using a 200-ml-beaker, take six, 100-ml portions of sludge, and combine in a 2-liter blender. Blend sludge for 5 min; add water as necessary to give a fluid consistency. Immediately after stopping the blender, use a 50-ml beaker to withdraw four, 20-ml portions of blended sludge, and place them in separate, tared 125-ml Erlenmeyer flasks. Reweigh each flask to determine the exact amount of sludge added. (Use three of the samples to determine the mercury content in the sludge, and use the fourth to measure the solids content of the blended sludge.)

4.3 Solids Content of Blended Sludge. Dry one of the 20-ml blended samples from Section 4.2 in an oven at 105°C to constant weight. Cool in a desiccator, and weigh and record the dry weight of the sample.

4.4 Aqua Regia Digestion of Blended Samples. To each of the three remaining 20-ml samples from Section 4.2, add 25 ml of aqua regia, and digest the samples on a hot plate at low heat (do not boil) for 30 min, or until samples are a pale yellow-brown color and are void of the dark brown color characteristic of organic matter. Remove from the hot plate, and allow to cool.

Filter each digested sample separately through an S and S No. 588 filter, or equivalent, and rinse the filter contents with 50 ml of water. Transfer the filtrate and filter washing to a 100-ml volumetric flask, and carefully dilute to volume with water.

4.5 Solids Content of Sludge Before Blending. Using a 200-ml beaker, remove two 100-ml portions of mixed sludge from the mortar mixer, and place in separate, tared 400-ml beakers. Reweigh each beaker to determine the exact amount of sludge added. Dry in an oven at 105°C, and cool in a desiccator to constant weight.

4.6 Analysis for Mercury. The same as Method 101A, Sections 7.4 and 8, except for the following variation.

4.6.1 Spectrophotometer and Recorder Calibration. The mercury response may be measured by either peak height or peak area. Note: The temperature of the solution affects the rate at which elemental Hg is released from solution and, consequently, it affects the shape of the absorption curve (area) and the point of maximum absorbance (peak height). Therefore, to obtain reproducible results, bring all solutions to room temperature before use.

Set the spectrophotometer wavelength to 253.7 nm. Make certain the optical cell is at the minimum temperature that will prevent water condensation from occurring. Then set the recorder scale as follows:

Using a 25-ml graduated cylinder, add 25 ml of water to the aeration-cell bottle. Add three drops of Antifoam B to the bottle, and then pipet 5.0 ml of the working Hg standard solution into the aeration cell. (**Note:** Always add the Hg containing solution to the aeration cell after the 25 ml of water.) Place a Teflon-coated stirring bar in the bottle. Add 5 ml of 15-percent HNO_3 and 5 ml of 5-percent $KMnO_4$ to the aeration bottle, and mix well. Next, attach the bottle section to the bubbler section of the aeration cell, and make certain that:

(1) The exit arm stopcock of the aeration cell (Figure 105–3) is closed (so that Hg will not prematurely enter the optical cell when the reducing agent is being added) and (2) there is no flow through the bubbler. Add 5 ml of sodium chloride-hydroxylamine solution to the aeration bottle through the side arm, and mix. If the solution does not become colorless, add additional sodium chloride-hydroxylamine solution in 1-ml increments until the solution is colorles. Now add 5 ml of tin (II) solution to the aeration bottle through the side arm, and immediately stopper the sidearm. Stir the solution for 15 sec, turn on the recorder, open the aeration cell exit arm stopcock, and then immediately initiate aeration with continued stirring. Determine the maximum absorbance of the standard, and set this value to read 90 percent of the recorder full scale.

5. Calculations

5.1 Nomenclature.

C_m = Concentration of Hg in the digested sample, μg/g.
F_{sb} = Weight fraction of solids in the blended sludge.
F_{sm} = Weight fraction of solids in the collected sludge after mixing.
M = Hg content of the sewage sludge on a dry basis, μg/g.
m = Mass of Hg in the digested sample, μg.
V_a = Volume of digested sample analyzed, ml.
V_s = Volume of digested sample, ml.
W_f = Weight of empty sample flask, g.
W_{fs} = Weight of sample flask and sample, g.
W_{fd} = Weight of sample flask and sample after drying, g.
W_b = Weight of empty sample beaker, g.
kW_{bs} = Weight of sample beaker and sample, g.
W_{bd} = Weight of sample beaker and sample after drying, g.

5.2 Mercury Content of Digested Sample (Wet Basis). For each sample, correct the average maximum absorbance of the two consecutive samples whose peak heights agree within ±3 percent of their average for the contribution of the blank. Use the calibration curve and these corrected averages to determine the final Hg concentration in the solution cell for each sludge sample.

Calculate the total Hg content in each gram of digested sample correcting for any dilutions made to bring the sample into the working range of the spectrophotometer and for the weight of the sludge portion digested.

$$C_m = \frac{m\ V_s}{V_a(W_{fs} - W_f)} \qquad \text{Eq. 105-1}$$

5.3 Solids Content of Blended Sludge. Determine the solids content of the 29-ml aliquot dried in the oven at 105°C (Section 4.3).

$$F_{sb} = 1 - \frac{W_{fs} - W_{fd}}{W_{fs} - W_f} \qquad \text{Eq. 105-2}$$

5.4 Solids Content of Bulk Sample (after mixing in mortar mixer). Determine the solids content of each 100-ml aliquot (Section 4.5), and average the results.

$$F_{ss} = 1 - \frac{W_{ss} - W_{sd}}{W_{ss} - W_s} \qquad \text{Eq. 105-3}$$

5.5 Mercury Content of Bulk Sample (Dry Basis). Average the results from the three sample from each 8-hr composite sample, and calculate the Hg concentration of the composite sample on a dry basis.

$$M = \frac{C_m(avg)}{F_{ss}F_{ss}(avg)} \qquad \text{Eq. 105-4}$$

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November 4, 1983

Part VI

Department of Energy

Office of Conservation and Renewable Energy

Weatherization Assistance for Low-Income Persons; Notice of Proposed Rulemaking and Public Hearing

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CAS-RM-80-508]

Weatherization Assistance for Low-Income Persons

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy proposes to amend the program for weatherization assistance for low-income persons. The principal changes proposed in this action are: incorporating new weatherization measures to the authorized list; updating the standards for the materials for the authorized measures; simplifying the guidance for preparing State applications; changing the energy audit procedure; and adjusting the eligibility criteria for weatherizing many multifamily and renter-occupied dwellings. No change has been proposed to those provisions of the regulation relating to the maximum allowable expenditure per dwelling unit, or the priority in providing weatherization assistance.

The purposes of the changes are to give the States additional flexibility to develop and implement their weatherization programs and to increase their ability to conserve energy and assist low-income persons.

DATES: Written comments must be received on or before December 5, 1983. Public hearing will be held in Washington, D.C. on November 29, 1983, from 9:00 a.m. to 5:00 p.m.; in Phoenix, Arizona on November 17, 1983, from 9:00 a.m. to 5:00 p.m.; and in Chicago, Illinois on November 21, 1983, from 9:00 a.m. to 5:00 p.m. *See Section III, Opportunity for Public Comment, for further information.*

ADDRESSES: Public hearing locations:

Washington, D.C.: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, D.C.

Chicago, Illinois: Everett McKinley Dirksen Building, Room 1220, 219 South Dearborn, Chicago, Illinois.

Phoenix, Arizona: Equal Employment Opportunity Commission, 135 North Second Avenue, Room 519, Phoenix, Arizona.

All written comments and requests to speak at the hearing should be addressed to Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9319 (five copies).

FOR FURTHER INFORMATION CONTACT:

Greg Reamy, Office of Weatherization, Assistance Programs, Conservation and Renewable Energy, Department of Energy, Mail Stop 5G-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2207.

Ted Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction and Description of the Program

The Department of Energy (DOE) is proposing to amend the regulation for the program for weatherization assistance for low-income persons (program, Weatherization Assistance Program, or WAP), 10 CFR Part 440, issued under the Energy Conservation in Existing Buildings Act of 1976, as amended (Act or program statute) (42 U.S.C 6861, *et seq.*)

The purpose of today's action is to improve the operation of the Weatherization Assistance Program. The Department is taking these action based in part on the response to a Notice of Inquiry (NOI) published by DOE in the **Federal Register** on July 14, 1983 (48 FR 32273). The NOI solicited public comments about the general direction and scope of the program and its regulation, together with specific suggestions about modifying the program.

Description of the Program

The Act authorizes DOE to establish a program to weatherize the homes of low-income persons, particularly those who are elderly and/or handicapped. The program is intended to reduce national energy consumption, particularly of imported oil, and to reduce the impact of higher fuel costs on low-income families. Funds are provided to install insulation, storm windows, caulking, weatherstripping, and other improvements to conserve energy.

DOE currently makes grants to States, the District of Columbia, and, under certain circumstances, Indian tribal organizations. The Governor, or his appointed designee, applies for, receives, and administers the grant funds. The funds are distributed by the States and the District of Columbia to local governments and nonprofit organizations to weatherize homes. Certain Indian tribal organizations are also eligible to administer Federal funds and perform weatherization activities under this program.

Funds are allocated by DOE on a formula basis, determined by the relative need for weatherization assistance among the States. The formula takes into account the number of low-income households, the percentage of total residential energy used for space heating and cooling, and the number of heating and cooling degree days in each State.

The Act permits grant funds to be spent for weatherization materials, program support, labor, administration, and training and technical assistance. Program support includes salaries of on-site supervisors, laborers, purchase or lease of equipment, and other operating costs such as transportation, rental of warehouse space, and insurance of vehicles.

Overall administrative costs are limited to not more than ten percent of a grant. A State may use not more than five percent of a grant for its administrative expenses. The remainder may be passed on to the subgrantee(s) for their administrative expenses.

The legislation also mandates the use, to the maximum extent practicable, of volunteers and labor funded in accordance with the Comprehensive Employment and Training Act of 1973 ("CETA"). However, the CETA program has now been repealed by Section 194 of the Job Training Partnership Act (JTPA), Pub. L. 97-300, 96 Stat. 1357. Section 183 of the JTPA provided that referenced in other statutes, such as the program statute, to CETA shall be deemed to refer to the JTPA. As mentioned later in the preamble, changes to the regulations have been made to comply with this statute.

II. Proposed Rule Changes

In this document DOE is proposing several changes to the regulation which will give the States more flexibility in operating the program and will better enable the program to achieve its purposes of conserving energy and benefiting low-income persons. The principal changes proposed are: Incorporating new weatherization

measures into the authorized list, updating the standards for materials for the authorized measures, simplifying the guidance for preparing State applications, changing the energy audit procedures, and adjusting the eligibility criteria for weatherizing certain multifamily and renter-occupied dwellings. Some technical changes are also proposed; however, no change has been proposed to the provisions of the regulation relating to the maximum allowable expenditure per dwelling unit or the priority in providing weatherization assistance. The changes are a response to experience obtained in administering the program, and to comments submitted in response to the NOI.

In the NOI, DOE invited comments regarding both certain specific areas and any other aspects of the program which members ofthe public believed needed to be addressed. DOE received 98 comment letters in response to the NOI. Over three-fourths of the comments in the letters suggested changes or improvements in the rules regarding weatherization of rental units, the application process, standards for weatherization materials, additional weatherization measures and materials, data collection requirements, and energy audits—Project Retro-Tech. Other comments addressed reweatherizing homes under the program, consumer education, collecting data on energy savings resulting from the program, energy efficiency measures for cooling, cost ceilings, income eligibility guidelines, the repair expense limit, and the formula for allocating funds to the States.

The following discussion indicates the changes DOE is proposing and the reasons for the changes. DOE invites comments regarding these changes and other aspects of the program.

Section 440.1—Purpose and Scope: DOE proposes to amend this section to include reference to the Energy Security Act, which was passed after the last major revision of these rules.

Section 440.2—Administration of Grants: DOE proposes to amend this section to delete reference to the circulars pertaining to this program which are published by the Office of Management and Budget and other branches of the Executive Department and which are covered by the DOE Financial Assistance Rules, 10 CFR Part 600. If there is a conflict between this Part and the DOE Financial Assistance Rules, this part will apply.

Section 440.3—Definitions: DOE proposes deleting the definition of "CETA" and adding a new definition for "JTPA." The Comprehensive Employment and Training Act (CETA) has been repealed by the Job Training Partnership Act (JTPA), Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 *et seq.*). Section 183 of JTPA directed that all references to CETA in statutes, such as the program statute, be deemed to refer to JTPA. In compliance with this directive, DOE proposes this change to the definition sections, and proposes that "JTPA" be substituted for "CETA" throughout the regulations.

DOE proposes adding and defining a new term, "Incidental Repairs." The addition of this new term, in conjunction with a change to § 440.18(a)(1)(iii), is proposed in order to clarify the types of repairs to which the $150 limitation in § 440.18 applies. The definition of the term "Repair Materials" has been eliminated.

DOE proposes adding a new definition, "Operations Office Manager" and deleting the definition of "Regional Representative" in order to more accurately reflect the current DOE field structure. "Operations Office Manager" has been substituted for "Regional Representative" throughout the regulation.

DOE proposes amending the definition of "Low-Income" and eliminating the definition of "Director" to reflect the transfer of the authorities of the Director of the Community Services Administration to the Secretary of Health and Human Services by Subtitle B, Title VI, of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 511 (42 U.S.C. 9901 *et seq.*). In addition, several of the comments received in response to the NOI advocated amending the definition of "Low-Income" to raise the eligibility limits for participation in the program from 125 percent of the poverty level to 150 percent. This change was suggested by the comments in order to make the eligibility level of the program the same as that of the Low-Income Home Energy Assistance Program. However, there are still over thirteen million dwelling units eligible for weatherization benefits at the current eligibility levels. DOE believes that the current eligibility limits will enable the program to weatherize the most needy units. However, the subject is open for further comments.

The definition of "Subgrantee" has been amended to define the term in terms of an entity, as it is used throughout the regulation, rather than in terms of a project.

DOE also proposes to amend the definition of "Weatherization Materials" to incorporate several new materials as eligible weatherization measures. This change would give States and subgrantees considerably more flexibility in operating the program. The new materials are as follows:

- Materials used for heating and cooling system repairs and tune-ups which will result in improved energy efficiency;
- Materials used for boiler repair and modifications which will result in improved energy efficiency;
- Waste heat recovery devices;
- Pipe and boiler insulation;
- Heat exchangers;
- Hot water heat pumps;
- Materials used for water heater modifications which will result in improved energy efficiency;
- Thermostat control systems;
- Materials to construct vestibules;
- Movable insulation systems for windows; and
- Replacement windows and doors.

DOE's experience with the weatherization program over the past six years has led us to the conclusion that it would be wise to pursue a more balanced approach, using a mixture of architectural measures to address infiltration through the building envelope, and mechanical options to increase the efficiency of the primary heating source. Further, there have been many "state-of-the-art" advances over the past few years in such areas as furnace efficiency modifications. For these reasons and those indicated below, DOE is proposing today to add these materials to the definition of "Weatherization Materials" under § 440.3, Definitions, and invites comments concerning these additions and other items which might be added.

The purchase of materials for heating and cooling system repairs and tune-ups for improved energy efficiency are currently allowable under the regulation, but only under the $150 repair limit. Recent studies of those materials and procedures have indicated that the energy savings potential of such devices and procedures as electric and thermally activated vent dampers and burner adjustments are more significant than previously thought. Today's action proposes redefining such items as eligible weatherization materials.

Materials for boiler repair and modification are being proposed to deal primarily with the heating systems of multifamily buildings. The National Bureau of Standards (NBS) reports that such boiler adjustments as derating, burner replacements, balancing the distribution systems (hot air, hot water), and flue dampers, can yield an annual energy savings of more than 30 percent. In addition, waste heat recovery devices from industrial/commercial equipment which are now available for apartment

buildings have provided 12 percent to 14 percent recovery and are also proposed to be added to the list of eligible materials. Pipe and boiler insulation are also being added because they provide the same kinds of benefits as duct and hot water heater insulation. Heat exchangers, devices which capture heat that would normally be exhausted out of the flue, have been reported by NBS to produce energy savings of 6.6 percent for gas-fueled heating systems and 10 percent for oil-fueled furnaces. DOE proposes to add them also to the list of eligible materials.

Hot water heat pumps are estimated by Oak Ridge National Laboratory to save 47 percent of the electricity used to heat water and are proposed to be added to the list. Materials which can be used for water heater modifications to improve efficiency under the new proposal include: Water heater insulation (already an allowable option) for which 9 percent savings have been reported by NBS; vent dampers, which have an estimated 4.5 percent savings if both the water heater and the furnace are located in a heated space; and thermostat set-back for which energy savings of up to 12 percent have been reported by NBS. DOE also proposes adding thermostat control systems including setback thermostats and automatic boiler temperature reset controls. Such systems have been reported by NBS to yield energy savings of 9 percent and 10 percent respectively.

Replacement windows and doors are also proposed to be added to the list of eligible weatherization measures because warped, poorly fitted or damaged windows and doors for which excessive air infiltration cannot be overcome by weatherstripping, the installation of storm windows and doors, or other measures, should be replaced. Vestibules are being proposed because they frequently are the most energy efficient measure that can be applied to mobile homes and other unusual constructions where more standard measures cannot be applied. Vestibules serve the same basic function as skirting and they are basically an extension of that weatherization technique. Movable insulation systems for windows, including rigid thermal panels, heavily quilted fabrics, multi-layered shades and reflective barriers, are being specified as an extension of the already allowable heat-absorbing and heat-reflective window and door materials. DOE also proposes a definition for the new term "Vestibules."

Several of the comments submitted in response to the NOI suggested that such items as storm doors, storm windows, and heat reflective materials be added to the list of eligible weatherization materials. The regulations currently allow these materials to be eligible. Window screens were also suggested as an additional material. Some storm windows included screens, and for that reason, screens are not listed as a separate item.

Several comments suggested that the choice of measures be prioritized according to their relative cost-effectiveness or their pay-back schedules. This prioritization is provided for under the regulations as part of the energy audit procedures in § 440.19(b). This section is also proposed for change.

DOE recognizes that in some cases replacement of the primary heating source may be both logical and desirable. However, such replacement is costly, and given the program's per-home expenditure limits, it does not appear to be a viable option. DOE is open, however, to further comment on this topic.

A definition for "weatherization project" has been added to this section since the term is used throughout the regulation.

Section 440.10—Allocation of Funds: This section is proposed to be amended by adding the word "tentatively" to paragraph (b)(2) in order to make it clear that the initial allocation under the formula is tentative. The actual amount a State will receive depends on the determinations DOE makes under other paragraphs of the section, which remain unchanged. A slight change is also made to paragraph (b)(2)(iv) to clarify a reference within the section.

Several comments suggested that the allocation formula be changed in a variety of ways: eliminating the use of squaring degree days, giving more priority to cold regions, giving renters equal weight with owners, providing a factor for vacant units, considering the number of low-income people, considering the number of substandard units or units older than 50 years in the State, and including utility costs. DOE considers the present allocation formula to be fair and equitable, but DOE is open to further comments on this topic.

Section 440.11—Native Americans: DOE proposes to amend paragraph (c) of this section to clarify the meaning of that paragraph. The time limit within which a State must apply before DOE need make a determination under this section is also proposed to be changed from 90 to 60 days. That change is discussed further under § 440.12.

Section 440.12—State Application: DOE proposes to revise and restructure this section to reduce paperwork requirements and allow a more straightforward approach to preparation of the application and the final State plan. As a result, some of the current requirements are proposed to be deleted and some will be required as part of the State plan rather than as part of the application.

Accordingly, paragraph (b)(3), which requires a detailed explanation of the manner in which certain minimum requirements will be met, is proposed for deletion. Section 440.15 (to be renumbered as § 440.16) already requires that procedures to meet minimum program requirements be developed, published, and implemented prior to expenditure of grant funds. The Operations Office Manager can review the published procedures for regulatory compliance at any time, which allows DOE to eliminate the redundant requirement that a detailed explanation of them be included in the application.

DOE proposes to amend paragraph (b)(4) to eliminate the requirement to justify and explain all expenditures. It is proposed that a grantee explain only how it intends to use administrative funds to carry out its responsibilities under the Act, but no longer be required to provide a blanket justification for how it will use all grant funds. DOE believes this requirement concerning all expenditure was redundant, since other information requirements in the application and the State final plan addressed DOE's need for budgetary information and justification in a more specific and appropriate manner.

Paragraphs (b) (6), (7), (8), (9), and part of (10), which require estimates of the number of different classes of buildings expected to be weatherized, have been restructured and moved to § 440.14(b). DOE believes these elements are more appropriately addressed as part of the final State plan, which is subject to a public hearing, because overall State production goals should be addressed as part of the hearing process.

Paragraph (10) has been re-numbered (5). New paragraphs (6) and (7) have been added to require a monitoring plan and a training and technical assistance plan, respectively. Since DOE began allowing grantees to use a portion of their grants for training and technical assistance and monitoring purposes, these plans have been required by program directive as part of the annual application, when a grantee chose to utilize such funds, but have not been required by the regulations. Experience has shown that such funds have been used very effectively. Since DOE expects to continue allowing such use,

DOE is proposing to add this requirement to the regulation.

DOE proposes to drop paragraph (b)(11), which required submission of a management plan. The proposed paragraph (b)(4) will provide the essential information needed to ensure that adequate management thought will be given to the need for having adequate resources in place at the subgrantee level to meet production goals.

DOE proposes to drop paragraph (12) since it references a provision that was previously eliminated from the regulations.

In order to expedite the annual process and smooth the transition from one grant cycle to the next, DOE is also proposing a change to § 440.12 which would give a State a 60 day period after receipt of notice to apply to submit an application, rather than 90 days. This change is reflected in changes to §§ 440.11 and 440.13.

DOE received a number of comments in response to the NOI requesting that the application procedures and format be simplified. A task force composed of DOE headquarters and field staff has recently been assigned the task of reviewing existing application procedures and formats in light of § 440.12 requirements. The object of the task force is to develop a streamlined and standardized package prior to the Fiscal Year 1984 grant cycle.

Comments are invited regarding these and other possible changes to this section.

DOE received a number of comments in response to the NOI addressing the subjects of standardized subgrantee agreements and changes in individual State requirements for forms and procedures pertaining to subgrantee grant applications. DOE believes that States should be free to develop their own subgrantee agreements and application forms and procedures so long as they comply with the program requirements. For this reason no regulation changes are proposed regarding these points.

Section 440.13—Local Applications: DOE proposes to change this section to comply with the earlier change of the application period for States from 90 to 60 days.

Section 440.14—State Plans: DOE proposes to amend § 440.14 by separating the provisions of the section relating to subgrantees into a new § 440.15 entitled "Subgrantees", and renaming § 440.14 "State Plans". This reorganization eliminates the indefinite heading "Administrative Requirements" and places in its place two headings which give a more precise indication of the subject discussed in the sections they concern.

DOE also proposes to restructure this section in order to include some requirements which were previously included in the application section and to require some information on a statewide rather than subgrantee basis. Some requirements are also proposed for deletion as redundant or otherwise unnecessary. A few requirements are proposed for addition to this section to conform to changes proposed elsewhere in the regulations and to place in the regulations information previously requested by program directives. These proposed changes are discussed in detail below. Comments are invited concerning these changes and other possible changes to this section.

The section is proposed to be amended by adding new paragraphs (b)(1) and (2), which require certain information regarding production goals and which are currently required by § 440.12(b)(6), (7), (8), (9), and (10) to be in the application. DOE believes that the restructuring will group detailed information about the State's operation of the program in one place and make it easier for the applicant to supply the necessary information. The restructuring will also make the production goals subject to a public hearing.

Current paragraphs (b)(1)(ii), (iii), (v), (vii), and (viii), which require detailed information on a subgrantee-by-subgrantee basis, are proposed to be moved to the new (b)(3), (4), (5), (6), and (7), respectively, which would require that information only need be supplied at the State level. This change would significantly reduce the paperwork requirements since the applicant would not have to provide this information for each subgrantee, but only for the State as a whole. Paragraph (b)(1)(iv) has been eliminated altogether.

Proposed new paragraph (b)(8) would require only four items of information to be supplied for the subgrantee level, two of which are required under the current regulation. A third, the tentative budget, is currently required as part of the application process. The requirement to provide rental information is new. The rental information requirement is proposed on both a Statewide and subgrantee basis because DOE is concerned about the low number of rental units which have been weatherized by the program. Through the comments submitted in response to the NOI and through other communications, DOE is aware that service to low-income renters needs to be increased. Some 55 percent of the low-income population is composed of renters, yet only 10 percent of the homes now weatherized under the program are occupied by renters. DOE also realizes that weatherizing owner-occupied dwellings is easier than tackling the problems of abandoned buildings, absentee landlords, and public perceptions that the program will unjustly benefit landlords. However, a dwelling unit qualifies for assistance based on the eligibility of the occupant or occupants, whether or not they are also the owners. For these reasons, DOE is proposing to require in § 440.14(b)(8)(iii) that a State supply an estimate of the minimum number of rental units to be served, and is attempting to eliminate potential regulatory barriers in this and other sections to the weatherization of rental units, while adhering to the statutory requirements. In addition to these changes, DOE will, in the future, amplify and reaffirm the program's commitment to weatherizing a higher proportion of renter-occupied dwellings.

DOE is proposing to renumber the present paragraph (b)(2) as (b)(9) to insert the word "State" in the first clause of the new (b)(9) for consistency with the terminology used in § 440.12(b)(2). DOE also proposes to revise paragraph (b)(2)(iii) (renumbered as (b)(9)(iii)) to make it consistent with legislative language with respect to dwelling unit weatherization priority, and to delete paragraph (b)(2)(viii) because it is now covered elsewhere in the regulations.

A new paragraph (b)(9)(ix) has been proposed to make explicit in the regulations that States must provide the information concerning the amount of funds to be spent per dwelling for program support and labor. Such a change will enable DOE to review this information prior to approval of the amount as required by the old § 440.16(a)(1)(ii), now renumbered as § 440.18(a)(1)(ii).

A new paragraph (b)(9)(viii) has also been proposed. Both this paragraph and paragraph (b)(9)(ix) serve to indicate conditions which may warrant DOE's consideration of a waiver of the $1,000 limit under §§ 440.18(d)(1) or 440.19(b). Such a waiver must still be requested and justified by a State as indicated under those sections. DOE expects to approve any reasonable request without the need for extensive justification. However, weatherization projects will be monitored to determine the reasonableness of the costs requested and approved. Additional justification will be required if monitoring results indicate that grantees do not exercise sufficient financial accountability or

that the original justification is insufficient.

A new paragraph (b)(9)(x) has been proposed to require a description of the audit procedures to be used in weatherizing dwelling units. A proposed change to § 440.19(b) (to be renumbered as 440.21(b)) allows audit procedures other than Project Retro-Tech to be adopted if approved by DOE. This paragraph would require that the new audit procedures be submitted as part of the State plan.

The current paragraph (b)(3) has been eliminated because it is now covered elsewhere in the regulations.

Section 440.15—Subgrantees: This is a proposed new, separate section, composed of paragraphs (c), (d), (e), and (f) of the old § 440.14. This change is proposed in order to group the provisions dealing with subgrantees into a separate section. The paragraphs are unchanged except to change references to previous paragraphs which are now renumbered, and to emphasize the grantee's responsibility to ensure certain actions.

Section 440.16—Minimum Program Requirements: DOE proposes to renumber this section in accordance with changes to previous sections. DOE also proposes to simplify this section by eliminating certain requirements which are already imposed in other sections of the regulation and by transferring paragraphs relating to eligibility requirements for rental dwelling units to § 440.22 where they fit more appropriately. Paragraph (c), which concerns the Policy Advisory Council, is proposed to be made into a separate section.

For the past two years, program monitoring has continued to uncover poor workmanship that could have been detected by a simple, visual, post-installation inspection.

Therefore, to improve the overall quality of work done under the program, DOE proposes to amend this section by adding a new paragraph (7) requiring a State to publish procedures for ensuring that no dwelling unit may be reported to DOE as completed until the subgrantee or its authorized representative has performed a final inspection on the dwelling unit and certified that the applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by Section 440.21(b).

Section 440.17—Policy Advisory Council: This is a proposed new section composed of paragraph (c) of the previous section. That paragraph is unchanged, except to substitute "Operations Office Manager" for "Regional Representative."

Section 440.18—Allowable Expenditures: This section is proposed to be renumbered in accordance with changes to previous sections.

DOE proposes to add to paragraph (a)(1) a refernce to § 440.15(b)(in order to make clear that there are two exceptions to the $1,000 limit per dwelling. DOE also proposes to add storage of weatherization tools and equipment as an allowable expenditure under paragraph (a)(1)(ii)(G). Storage of tools and equipment has been allowable expense in the past, as well as storage of weatherization materials, when computing storage costs. This proposed change to the regulation will clarify this area.

In conjunction with the definition of the new term "Incidental Repairs" in a proposed amendment to § 440.3, DOE also proposes to amend paragraph (a)(1)(iii) to clarify the repairs eligible under the $150 limit.

Several comments received in response to the NOI suggested raising the $150 repair limit. This figure is set by statute, 42 U.S.C. 6865(c)(1)(b), so that DOE cannot change this limit by regulation.

DOE proposes amending paragraph (c)(1) to clarify that houses which have previously been weatherized before the maximum expenditure per dwelling unit was increased to $1,000, can have additional weatherization work done on them under the low-cost/no-cost provisions of § 440.20. Several comments received in response to the NOI requested that the regulation be changed to allow additional weatherization to be done on homes which had been weatherized under lower maximum limits. DOE believes that such change would be inappropriate because less assistance would then be available to low-income persons who have need of and have never received any weatherization assistance, but is open to further comments on this subject.

Several comments suggested raising the maximum expenditure per home from $1,000 to a $1,600 or $2,000 or to permit the $1,000 limit to be an average cost per home. However, the program statute, and a provision in the Department of Interior and Related Agencies Appropriation Act, 1983, Pub. L. 97-257, place constraints on DOE's authority to adopt these suggestions. In addition, where there is a need to raise the limit above $1,000 per dwelling unit, the present regulations, in paragraph (d)(1) of this section and in § 440.19(b), permit DOE to take such action upon request. However, DOE is open to further comments on this topic.

Several comments suggested that the regulations be changed to allow DOE to be more flexible in determining the amount it permits grantees to spend on program support and labor. However, § 440.16(a)(1)(ii) of the present rule does not set any specific amount for program support and labor but permits DOE to have a great amount of flexibility in making this determination. DOE has been and will continue to be flexible in approving amounts for these purposes. In addition, even after DOE has approved an amount for a grantee, DOE has allowed the grantee to vary the amount of program support and labor the grantee assigned to different subgrantees within a State, as long as the overall average per home did not exceed the amount approved by DOE. Additional comments in this subject are invited.

Section 440.19—Labor: This section was renumbered because of previous renumbering changes to other sections.

Section 440.20—Low-Cost/No-Cost Weatherization Activities: DOE proposes to amend this section to include furnace or cooling unit filters as eligible low-cost/no-cost items. Furnace or cooling unit filters are inexpensive and easily installed. The regulation has been interpreted to allow them as a permissible expense in the past, and including them now makes this interpretation explicit. This section has been renumbered.

Section 440.21—Standards and Techniques for Weatherization: This section has been renumbered.

DOE proposes to amend paragraph (b) of this section by establishing a new and more flexible set of audit procedures for use in determining the most cost effective weatherization materials to be applied to a dwelling unit. DOE proposes to add, as an alternative to the very detailed Project Retro-Tech, a more general formula. Instead of being required to use Project Retro-Tech, grantees would be allowed to develop their own audit procedures which follow this formula. The grantee would be allowed to use these new audit procedures once the State has submitted them as part of the State plan (as provided in § 440.14) and they have been approved by DOE. Those grantees who want to use the results obtained by audits conducted under the Residential Conservation Service (RCS) program and to rank this information using the formula may do so with DOE approval. Those grantees which choose to use Project Retro-Tech do not need to get approval from DOE before using i' but

need only inform DOE in their State plan that they are using Project Retro-Tech.

This proposed set of new procedures will give a State the flexibility to take into account relevant individual variables in determining the most cost effective measures for a dwelling in the State and still preserve a general uniformity of overall program results wherever there is no good reason for variation in these results. Many of the comments received in response to the NOI requested such flexibility. These new procedures would also allow those States which want to continue to use Project Retro-Tech to do so. Moreover, they also allow those States which want to take advantage of audits of some eligible dwelling units already performed under the RCS program to do so. Allowing the use of RCS audits will prevent the same dwelling from being audited twice by two Federally sponsored programs to obtain the same information.

Section 440.22—Eligible Dwelling Units: This section has been renumbered.

The paragraph concerning the eligibility of rental dwelling units has been transferred from the old Section 440.15 to this section because it pertains to the eligibility of dwelling units, the subject of this section. Some amendments have been made to this section to bring it into conformance with the addition of this paragraph.

The paragraph concerning rental units currently requires that 66 percent of the units of a multifamily building be occupied by income-eligible persons or families in order for the entire building to be qualified for weatherization assistance. DOE proposes to amend this paragraph to reduce the proportion of duplexes and four-unit buildings which have to be occupied by income-eligible persons or families to 50 percent. As noted earlier in this preamble, there is a great need to increase the number of rental units which are weatherized. The use of the 66 percent requirement in the case of duplexes and four-unit buildings has made it very difficult for these units to be eligible. This change is expected to ease that difficulty so that more of these units may receive weatherization assistance.

Section 440.23—Oversight, Training, and Technical Assistance: This section has been renumbered because of the renumbering of previous sections. The Secretary of Health and Human Services has been substituted for the Director of the Community Services Administration in order to accurately reflect the transfer of authority between those two entities.

DOE proposes to amend this section by allowing training and technical assistance (T&TA) funds to be used for providing information concerning conservation practices to occupants of dwelling units which have been weatherized under the program. Once weatherization materials have been installed, the occupants of the unit need information on how to use and maintain the materials to achieve maximum energy savings. A number of comments received in response to the NOI indicated a need for such information to be provided to the occupants of weatherized dwellings.

Section 440.24—Recordkeeping: This section has been renumbered because of the renumbering of previous sections. A reference to Federal Management Circular 74-7 has been changed to the DOE Financial Assistance Rules, 10 CFR Part 600, because those rules set the DOE policy concerning recordkeeping taking into consideration the applicable OMB and other Federal documents.

Section 440.25—Reports: This section has been renumbered because of the renumbering of previous sections.

DOE does not believe that any additional change to this section is necessary now; however, DOE did receive a number of comments addressing reports and the data collection process in response to the NOI. A considerable number of these comments dealt with reviewing, standardizing, and updating DOE's reporting forms and systems. Others dealt with improving communications among grantees and among subgrantees in different States through monthly reports, newsletters, and procedures for submitting and responding to secific questions. These comments would not require a change in the regulations if adopted and are under consideration by DOE for future action. The data system comments will be considered as part of DOE's overall review of the DOE Uniform Reporting System.

Several comments suggested a need to collect, each year, data from the grantees and/or subgrantees on fuel savings and energy savings per dollar spent. DOE does not believe that collection of such data should be mandatory. DOE has recently undertaken a national sample of fuel use, before and after weatherization, as part of the national program evaluation effort. States are encouraged to undertake similar efforts.

Several comments favored coordinating data-gathering and standardizing report formats for the program and the Low-Income Home Energy Assistance Program. Each program is separate and distinct by law, each has different requirements, and the funds for these programs must be accounted for and program activities must be monitored separately. DOE believes it would be impractical to combine reports for these programs. In particular, the Department of Health and Human Services (which administers the Low-Income Home Energy Assistance Program) requires grantees under that program to report annually on the number and income levels of households assisted with its funds (45 CFR 96.81), to conduct an annual audit (42 U.S.C. 8624(b)(9)), and to provide fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Low-Income Home Energy Assistance Program funds (42 U.S.C. 8624(b)(10)). DOE requires more items of information and different procedures to satisfy the weatherization program statute.

One comment reflected a misconception about current reporting requirements. It suggested that form EIA-29A be eliminated. DOE has not required the use of this form since 1980.

DOE intends that if there is a conflict between this section or any reports required under this section and the provision of the DOE Financial Assistance Rules, this section and the reports required under it will apply for this program.

Although DOE has not proposed many regulatory changes in this section, DOE is open to further comments in this area.

Section 440.30—Administrative Review: This section has been proposed to be changed to allow the Secretary to designate some other entity to perform his functions under paragraph (h) of this section. DOE also proposes to amend paragraph (j) to allow the Operations Office Manager greater flexibility in choosing remedies when he determines that there has been a failure to comply with the regulations. DOE intends that this appeal procedure rather than the one specified in 10 CFR Part 600 apply to this grant program.

Appendix A—Standards for Weatherization Materials: Based on criteria set by the National Bureau of Standards, DOE proposes to revise Appendix A to update the standards for weatherization materials extensively and to include new standards for the additional measures proposed in this document. DOE intends to periodically update the standards as new standards become available. Until such an update is accomplished, DOE proposes to adhere to the standards in Appendix A.

Response to Additional Comments: DOE received comments in response to the NOI which it was not able to

incorporate in this rulemaking, including (1) holding State and/or regional training seminars; (2) developing self-help programs to train people to do their own weatherization work; (3) arranging for long-term, low-interest loans for major repairs beyond the program's limits; (4) offering private contractors a tax incentive to hire CETA workers as trainees; (5) allowing the installation of solar devices as a weatherization measure; and (6) removing funding from a grantee during a budget period, when warranted, and directly funding subgrantees when this occurs. These ideas will be considered further, become the subject of discussions with other agencies, and may be addressed in subsequent proposed rulemakings. Further comments in these areas are welcome.

III. Opportunity for Public Comment

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B–025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Comment should be identified on the outside of the envelope, and on the document themselves, with the designation: "Weatherization Assistance for Low-Income Persons, Notice of Proposed Rulemaking, Docket Number CAS–RM–80–508". Five copies should be submitted.

All comments received on or before December 5, 1983, and all other relevant information, will be considered by DOE before taking action on this final rule.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except federal holidays.

Any person submitting information which that person believes to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as five copies from which the information claimed to be confidential has been deleted. DOE shall make a determination of any such claim. This procedure is set forth in 10 CFR 1004.11 (44 FR 1960, January 8, 1979).

DOE will hold several public hearings on this proposed rule. The hearings will be held: in Washington, D.C. Phoenix, Arizona, and Chicago, Illinois on the dates and at the addresses stated in the Dates and Addresses section of the preamble.

Any person who has an interest in the proposed regulation, or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request to speak at a hearing should be addressed to Hearings and Dockets, Conservation and Renewable Energy, Mail Stop 6B–025, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9319, and must be received by 4:30 p.m., local time, on November 14, 1983 for Phoenix; November 17, 1983 for Chicago; and November 23, 1983 for Washington, D.C. A request may also be hand delivered between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. Requests should be marked the same as for written comments, with the additional notation, "With Request to Speak".

The person making the request should described briefly his or her interest in the proceeding and, if appropriate, state why that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation, and should provide a phone number where the person may be reached. Each person selected to be heard at a public hearing will be notified. Those persons selected to be heard should bring five copies of their statement to the hearing. If a person cannot provide five copies, alternate arrangements can be made in advance of the hearing. This should be done in the letter requesting to speak.

DOE reserves the right to select persons to speak at the hearings, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, based on the number of persons requesting to speak.

A DOE official will preside at each hearing. These will not be judicial or evidentiary-type hearings. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearings will be based on all of the information available to DOE.

Any participant who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday, except federal holidays. Any person may purchase a copy of the transcript from the reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be cancelled in the event no public testimony has been scheduled in advance.

IV. Environmental, Regulatory Impact, Small Entity Impact, Paperwork Reduction, and Coordinating Agency Reviews

A. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*), DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA–0085) of the Grants Program for Weatherization Assistance for Low-Income Persons on April 10, 1979, in the **Federal Register**, 44 FR 21323. At the same time, DOE published notice of its determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore, no Environmental Impact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment issued today. It is DOE's judgment that no new or additional environmental impacts from the program will result from the proposed amendment. It is, accordingly, DOE's determination that the environmental impacts of the program as modified by today's proposed amendment have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, the previous negative determination is still applicable, and no additional EA or EIS is required.

B. Review under Executive Order 12291

Today's issuance was reviewed under Executive Order 12291, 46 FR 13193, February 27, 1981. DOE had concluded that the rule is not a "major rule" under the Executive Order, because it will not result in: (1) An annual effect in the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) 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. Pursuant to Section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register.** The changes proposed in this action primarily add flexibility to the existing program. The only additional regulatory requirements placed on small entities are placed only on those non-profit organizations which are subgrantees. Thus, these changes have a minimal increase in the types of products used in the program. Accordingly, pursuant to Section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Recently, the information collection requirements contained in this rule were approved by the Office of Management and Budget (OMB) under Control Number 1904-0027. However, any substantial changes in the information collection requirements proposed in this Notice will submitted to OMB, prior to imposing them on the affected public, in accordance with Section 3504(h) of the Paperwork Reduction Act, Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*), and procedures implementing that Act, 5 CFR 1320.1 *et seq.*

E. Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the Weatherization Assistance Program is 81.042.

F. Consultation

In developing these final regulations, DOE has consulted with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Secretary of Agriculture, pursuant to Section 413(b) of the Act.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy Conservation, Grant programs—energy, Grant programs—housing and community development, Handicapped, Housing standards, Indians, Reporting and recordkeeping requirements.

In consideration of the foregoing, DOE hereby proposes to revise Chapter II of Title 10, Part 440, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., November 1, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Sec.

Authority: Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 1701 *et seq.*

§ 440.1 Purpose and scope.

This part contains the regulation adopted by the Department of Energy to carry out a program of weatherization assistance for low-income persons established by Part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.*, enacted as Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 *et seq.*, and amended by Title II, Part 2 of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, and by the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 *et seq.*

§ 440.2 Administration of grants.

Grant awards under this part shall comply with applicable law including, without limitation, the requirements of:

(a) Executive Order 12372 entitled "Intergovernmental Review of Federal Programs", 48 FR 3130, and the DOE Regulation implementing this Executive Order entitled "Intergovernmental Review of Department of Energy Programs and Activities" (10 CFR Part 1005);

(b) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Inter-Governmental Coordination Act of 1968;"

(c) Unless in conflict with provisions of this part, the DOE Assistance Rule (10 CFR Part 600); and

(d) Such other procedures applicable to this part as DOE may from time to time prescribe for the administration of financial assistance.

§ 440.3 Definitions.

As used in this part:

"Act" means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

"CAA" means a Community Action Agency.

"Community Action Agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

"Cooling Degree Days" means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

"DOE" means the Department of Energy.

"Dwelling Unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Elderly Person" means a person who is 60 years of age or older.

"Family Unit" means all persons living together in a dwelling unit.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grantee" means the State or other entity named in the Notification of Grant Award as the recipient.

"Handicapped Person" means any individual (1) who is a handicapped individuals as defined in Section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in Section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under Chapter 11 or 15 of Title 38, U.S.C.

"Heating Degree Days" means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

"Incidential Repairs" means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to framing or repairing windows and doors which could not otherwise be caulked or weather-stripped and providing protective materials, such as paint, used to seal materials installed under this program.

"Indian Tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Public Law 92-203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

"JTPA" means the Job Training Partnership Act, 29 U.S.C. 1501 *et seq.*

"Local Applicant" means a CAA or unit of general purpose local government.

"Low Income" means that income in relation to family size which:

(1) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964; or

(2) Is the basis on which cash assistance payments have been paid during the preceding 12-month period under Titles IV and XVI of the Social Security Act of applicable State or local law.

"Native American" means a person who is a member of an Indian tribe.

"Number of Low-Income, Owner-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Number of Low-Income, Renter-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Operations Office Manager" means the manager of a DOE Operations Office or his or her designee.

"Percentage of Total Residential Energy Used for Space Cooling" means the natinal percentage of total energy used for space cooling, as determined by DOE.

"Percentage of Total Residential Energy Used for Space Heating" means the national percentage of total energy used for space heating, as determined by DOE.

"Rental Dwelling Unit" means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Secretary" means the Secretary of the Department of Energy.

"Separate Living Quarters" means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either (1) direct access from the outside of the building or through a common hall, or (2) complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

"Single-Family Dwelling Unit" means a structure containing no more than one dwelling unit.

"Skirting" means material used to border the bottom of a dwelling unit to prevent infiltration.

"State" means each of the States and the District of Columbia.

"Subgrantee" means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

"Tribal Organization" means the recognized governing body of any Indian tribe or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

"Unit of General Purpose Local Government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"Vestibule" means an enclosure built around a primary entry to a dwelling unit.

"Weatherization Materials" mean:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications, limited to:

(i) Replacement burners designed to substantially increase the energy efficiency of the heating system;

(ii) Devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Clock thermostats;

(4) Ceiling, attic, wall, floor, and duct insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

(7) The following insulating or energy conserving devices or technologies:

(i) Skirting;

(ii) Items to improve attic ventilation;

(iii) Vapor barriers;

(iv) Materials used as a patch to reduce infiltration through the building envelope;

(v) Water flow controllers;

(vi) Movable insulation systems for windows;

(vii) Materials to construct vestibules;

(viii) Pipe and boiler insulation;

(ix) Heat exchangers;

(x) Thermostat control systems;

(xi) Replacement windows and doors;

(xii) Materials used for water heater modifications which will result in improved energy efficiency;

(xiii) Hot water heat pumps;

(xiv) Waste heat recovery devices;

(xv) Materials used for heating and cooling system repairs and modifications which will result in improved energy efficiency; and

(xvi) Materials used for boiler repair and modifications which will result in improved energy efficiency.

"Weatherization Project" means a project conducted in a single geographical area which undertakes to

weatherize dwelling units that are thermally inefficient.

§ 440.10 Allocation of funds.

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, only upon annual application.

(b) DOE shall determine the tentative allocation for each State from available funds as follows:

(1) The first $5,100,000 appropriated shall be divided equally among the States; an additional $100,000 shall be allocated to Alaska.

(2) The percentage of the remaining available funds tentatively allocated to each State shall be determined by the following formula:

(i) The square of the number of heating degree days in a State multiplied by the percentage of total residential energy used for space heating;

(ii) Plus the square of the number of cooling degree days in the State multiplied by the percentage of total residential energy used for space cooling;

(iii) Multiplied by the sum of the number of low-income, owner-occupied dwelling units in the State and one-half of the number of low-income, renter-occupied dwelling units in the State;

(iv) Divided by the sum of the result produced for all States by the computation outlined in subparagraphs (i), (ii) and (iii) of this paragraph; and

(v) Multiplied by 100.

(c) DOE may reduce the tentative allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remain to be weatherized with the unexpended financial assistance.

(d) DOE may increase the tentative allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(e) The Operations Office Manager shall notify each State of the tentative allocation for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Operations Office Manager may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that:

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part; and

(2) The low-income members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Operations Office Manager shall have made the determination referred to in paragraph (a) of this section, the Operations Office Manager shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, or more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Operations Office Manager shall make the determination prescribed in paragraph (a) of this section in the event a State:

(1) Does not apply within the 60-day time period prescribed in § 440.12(a);

(2) Recommends that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(5);

(3) Files an application which DOE determines, in accordance with the procedures in § 440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State; or

(4) Has received grant funds and DOE determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by Section 440.16 (6).

(d) Any sums reserved by the Operations Office Manager pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Operations Office Manager determines is able to provide adequate weatherization assistance pursuant to this part. Where the Operations Office Manager intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Operations Office Manager has reserved funds pursuant to paragraph (b) of this section, the Operations Office Manager shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of § 440.13.

§ 440.12 State application.

(a) To be eligible for financial assistance under this part, a State shall submit an application to DOE in conformity with the requirements of this part not later than 60 days after the date of notice to apply is received from the Operations Office Manager. The Operations Office Manager shall review each timely State application and, if the submission otherwise complies with the applicable provisions of this part, approve a budget and issue a notice of financial assistance award.

(b) Each application shall include:

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with § 440.14(a), except that an application by a local applicant need not include a copy of the final State plan;

(3) The budget for total funds applied for under the Act, which shall include a justification and explanation of any amounts requested for expenditure pursuant to § 440.18(b) for State administration;

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded, (i) with financial assistance previously obligated under this part, and (ii) with the tentative allocation to the State;

(5) A recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to § 440.13(b), if such a recommendation is to be made;

(6) A monitoring plan which shall indicate the method used by the State to insure the quality of work and adequate financial management control at the subgrantee level;

(7) A training and technical assistance plan which shall indicate how funds for training and technical assistance will be used; and

(8) Any further information which the Secretary finds necessary to determine whether an application meets the requirements of this part.

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§ 440.13 Local application.

(a) The Operations Office Manager shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event:

(1) A State, within which a local applicant is situated, fails to submit an application with 60 days after notice in accordance with § 440.12(a); or

(2) The Operations Office Manager finally disapproves the application of a State pursuant to § 440.30 of this part.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Operations Office Manager within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submit a timely application, the Operations Office Manager shall combine the hearing on the proposed plan pursuant to § 440.14(a) with a hearing on the intention to deny the timely application of one or more local applicants, as provided in § 440.30, to the maximum extent practicable. Based upon the final plan developed by the Operations Office Manager, the hearing, and information submitted by a local applicant and other interested persons, the Operations Office Manager shall determine whether or not to award a grant to a local applicant, and the amount thereof. The Operations Office Manager may provide financial assistance to a local applicant to carry out one or more weatherization projects.

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§ 440.14 State plan.

(a) Before submitting an application, a State shall give not less than 10 days notice of hearing, reasonably calculated to inform prospective subgrantees, and shall conduct one or more public hearings for the purpose of receiving comments on a proposed State plan. The proposed State plan, which shall identify and describe proposed weatherization projects, including a statement of proposed subgrantees and the amount each will receive, shall be published and made available throughout the State prior to the hearing. The notice for the hearing shall specify that copies of the plan are available and how they may be obtained. A transcript of the hearings shall be prepared and written submission of views and data shall be accepted for the record.

(b) Subsequent to the hearing, the State shall prepare a final State plan which shall identify and describe:

(1) The production schedule for the State which shall indicate projected expenditures and the number of dwelling units which are expected to be weatherized each month during the program year;

(2) An estimate of the number of dwelling units expected to be weatherized during the program year by category to include:

(i) Single family and multi-family residences;

(ii) Elderly persons residences;

(iii) Handicapped persons residences;

(iv) Renters residences; and

(v) If Native Americans do not receive direct grants under § 440.11, Native American residences.

(3) The climatic conditions within the State;

(4) The type of weatherization work to be done;

(5) An estimate of the amount of energy to be conserved;

(6) An estimate of the number of eligible dwelling units in which the elderly reside;

(7) An estimate of the number of eligible dwelling units in which the handicapped reside;

(8) Each area to be served by a weatherization project within the State, and shall include for each area:

(i) The tentative budget for allowable costs in accordance with § 440.18;

(ii) The number of dwelling units expected to be weatherized during the program year;

(iii) The estimated number of rental dwelling units to be weatherized; and

(iv) Sources of labor.

(9) The manner in which the State plan is to be implemented, and shall include:

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a subgrantee;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to the weatherization of single-family or other high energy consuming dwelling units;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds tentatively allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into acount the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program;

(viii) The maximum amount to be applied to any dwelling unit from DOE funds;

(ix) The amount to be spent per dwelling unit for program support and labor in accordance with § 440.18(a)(1)(ii); and

(x) Procedures for determining the most cost effective measures in a dwelling unit, or a statement that Project Retro-Tech will be used.

§ 440.15 Subgrantees.

(a) The grantee shall ensure that:

(1) Each subgrantee is a CAA or other public or nonprofit entity;

(2) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to § 440.14(a) and other appropriate findings regarding:

(i) The subgrantee's experience and performance in weatherization or housing renovation activities;

(ii) The subgrantee's experience in assisting low-income persons in the area to be served;

(iii) The subgrantee's capacity to undertake a timely and effective weatherization program; and

(3) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the subgrantee;

(iii) The number, qualifications, and experience of the staff members of the subgrantee; and

(iv) The ability of the subgrantee to secure volunteers, training participants, and public service employment workers pursuant to JTPA.

(b) The grantee shall ensure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If DOE finds that a subgrantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated

as a finding under § 440.30(d) for purposes of § 440.30.

(d) Any new or additional subgrantee shall be selected at a hearing in accordance with § 440.14 (a) and upon the basis of the criteria in paragraph (a) of this section.

§ 440.16 Minimum program requirements.

Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures to ensure that:

(a) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in § 440.22;

(b) Priority is given to identifying and providing weatherization assistance to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate is given to single-family or other high-energy-consuming dwelling units;

(c) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the maximum extent practicable as determined by DOE, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(d) To the maximum extent practicable, the grantee will secure the services of volunteers, training participants and public service employment workers, pursuant to JTPA, to work under the supervision of qualified supervisors and foremen;

(e) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local, or privately funded programs in order to improve thermal efficiency and to conserve energy;

(f) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(5); and

(g) No dwelling unit may be reported to DOE as completed until the subgrantee, or its authorized representative, has performed a final inspection and certified that applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by § 440.21(b).

§ 440.17 Policy Advisory Council.

(a) Prior to the expenditure of any grant funds, a State policy advisory council shall be established by a State or by the Operations Office Manager if a State does not participate in the program which:

(1) Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

(2) Is broadly representative of organizations and agencies, including consumer groups that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

(3) Has responsibility for advising the appropriate official or agency administerng the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

§ 440.18 Allowable expenditures.

(a) To the maximum extent practicable, the grant funds provided under this part shall be used for the purchase of weatherization materials and related matter described in paragraph (a)(1) of this section. Allowable expenditures under this part include only:

(1) A maximum of $1,000 for any dwelling unit, except as provided in paragraph (d) of this section and § 440.19(b), for:

(i) The cost of purchase and delivery of weatherization materials;

(ii) The amount per dwelling unit, determined by a grantee and approved by the Operations Office Manager for the cost of program support and labor consisting of:

(A) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(B) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(C) Maintenance of tools and equipment;

(D) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance;

(E) Employment of on-site supervisory personnel;

(F) Labor costs, in accordance with § 440.19; and

(G) Storage of weatherization materials, tools and equipment.

(iii) The cost, not to exceed $150 per dwelling unit, of incidental repairs.

(2) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(3) Allowable administration expenses under paragraph (b) of this section; and

(4) The cost of carrying out low cost/no cost weatherization activities in accordance with § 440.20.

(b) Not more than 10 percent of any grant made to a State may be used by the grantee and subgrantees for administrative purposes in carrying out duties under this part, except that not more than 5 percent may be used by the State for such purposes.

(c) No grant funds awarded under this part shall be used for any of the following purposes:

(1) To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under paragraph (a)(1) of this section, except as provided under § 440.20, unless such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or

(2) To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within twelve months from the date weatherization of the dwelling unit would be scheduled to be completed.

(d) The limitation of $1,000 described in paragraph (a) of this section:

(1) Shall not apply if the State policy advisory council requests a greater amount be provided for specific categories of units or materials in the State and the Operations Office Manager approves the request; and

(2) Shall be deemed to have been requested and approved under section 415(c)(2) of the Act, unless the State policy advisory council notifies the Operations Office Manager to the contrary in writing within 30 days of submission of the annual State application.

§ 440.19 Labor.

(a) Payments for labor costs under § 440.18(a)(1)(ii)(F) shall consist of:

(1) Payments permitted by the Department of Labor to supplement wages paid to training participants and public service employment workers pursuant to JTPA; and

(2) Payments to employ labor (particularly persons eligible for training under JTPA) or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), provided a grantee has determined an adequate number of volunteer and training participants and public service employment workers, assisted pursuant

to JTPA, are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

(b) The Operations Office Manager may increase the limitation of $1,000 per dwelling unit described in § 440.18(a) to not more than $1,600 per dwelling unit to cover costs referred to in paragraph (a) of this section in an area where the Operations Office Manager, based upon satisfactory documentation, determines that there are an insufficient number of voluteers and training participants and public service employment workers, assisted pursuant to JTPA, available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

§ 440.20 Low cost/no cost weatherization activities.

(a) An eligible dwelling unit may be weatherized without regard to the limitations contained in § 440.18(c)(1) or § 440.21(b) from funds designated by the grantee for carrying out low cost/no cost weatherization activities, provided:

(1) Inexpensive weatherization materials are used, such as water flow controllers, furnace or cooling filters, or items which are primarily directed towards reducing infiltration including weatherstripping, caulking, glass patching, and insulation for plugging; and

(2) No labor paid with funds provided under this part is used to install weatherization materials referred to in paragraph (a)(1) of this section.

(b) A maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, may be expended to carry out low cost/no cost weatherization activities, unless the Operations Office Manager approves a higher expenditure per dwelling unit.

§ 440.21 Standards and Techniques for Weatherization.

(a) Only weatherization materials which meet or exceed standards prescribed in Appendix A shall be purchased with funds provided under this part.

(b) The most cost effective weatherization materials for each dwelling unit shall be determined by audit procedures using the following formula:

(1) The cost of fuel saved per year by installing a weatherization material in a dwelling unit;

(2) Multiplied by the appropriate lifetime of the weatherization material; and

(3) Divided by the cost of the weatherization material and the cost of the installation of the weatherization material.

(c) The computation of the cost of fuel saved per year must take into account the number of heating or cooling degree days in the area for which the computation is being made and must otherwise use reasonable methods and assumptions.

(d) The figures used for the lifetime of the materials and for the costs of materials and cost of the installation of the materials must be figures generally accepted in the relevant trade.

(e) The weatherization materials which shall be installed first are those:

(1) Which are determined using the formula in paragraph (b) of this section to be the most cost effective; and

(2) Whose costs are within the allowable cost limits prescribed in § 440.18 or approved by the Operations Office Manager under § 440.18(d)(1) or § 440.19(b).

(f) The audit procedures used in Project Retro-Tech to determine the most cost effective weatherization materials comply with this section. The grantee or subgrantee may use other audit procedures to determine the most cost effective weatherization materials, provided that these procedures comply with this section and are approved by the Operations Office Manager prior to their use. A grantee or subgrantee may use results obtained from audits conducted under the Residential Conversation Service Program as part of the audit procedures which have been approved by the Operations Office Manager.

§ 440.22 Eligible dwelling units.

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the 12-month period preceding the determination of eligibility for weatherization assistance.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four units buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days, under a Federal, State or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures approved by the Operations Office Manager, to insure that:

(i) Rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under this part; and

(ii) No undue or excessive enhancement shall occur to the value of the dwelling units.

§440.23 Oversight, training, and technical assistance.

(a) The Secretary and the appropriate Operations Office Manager, in coordination with the Secretary of Health and Human Services, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to ensure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) DOE shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA and that are receiving financial assistance under this part.

(c) The Secretary and the appropriate Operations Office Manager, the Comptroller General of the United States, and for a weatherization project carried out by a CAA, the Secretary of Health and Human Services or any of their duly authorized representatives, shall have access to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act for the purpose of audit and examination.

(d) Each grantee shall ensure that audits by or on behalf of subgrantees are conducted with reasonable frequency, on a continuing basis, or at scheduled intervals, usually annually, but not less frequently than every two years, in accordance with OMB Circular A-102, Attachment P, and OMB Circular 110, Attachment F, as applicable.

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount not to exceed 10 percent to provide, directly or indirectly, training and technical assistance to any grantee or subgrantee. Such training and

technical assistance may include providing information concerning conservation practices to occupants of dwelling units which have been weatherized under this part.

§ 440.24 Recordkeeping.

Each grantee or subgrantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and subgrantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which assistance was given or used, the source and amount of funds for such project or program not supplied by DOE, and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with the DOE Financial Assistance Rule, 10 CFR Part 600 and any further requirements of this regulation.

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§ 440.25 Reports.

DOE may require any recipient of financial assistance under this part to provide, in such form as may be prescribed, such reports or answers in writing to specific questions, surveys, or questionnaires as DOE determines to be necessary to carry out its responsibilities or the responsibilities of the Secretary of Health and Human Services under this part.

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§ 440.30 Administrative review.

(a) If a timely application submitted by a State fails to meet the requirements of this part and the Operations Office Manager intends to deny the application, the Operations Office Manager shall return the application to the State together with a written statement of reasons therefor.

(b) The State will have a reasonable period, as determined by the Operations Office Manager, to amend its application and to resubmit it by a specified date for reconsideration.

(c) The Operations Office Manager shall give notice to the applicant in the event that the Operations Office Manager determines that:

(1) Any application resubmitted by a State in accordance with paragraph (b) of this section fails to comply with this regulation;

(2) Any application returned to a State pursuant to paragraph (a) of this section is not resubmitted in a timely manner as provided in paragraph (b); or

(3) The Operations Office Manager intends to deny the application of a local applicant.

(d) The Operations Office Manager shall give notice to a grantee in the event that the Operations Office Manager finds there is a failure by the grantee to comply substantially with the provisions of the Act or this part.

(e) The Operations Office Manager shall issue such notice in the form of written notice mailed by registered mail, return receipt requested, to the State, local applicant grantee, and other interested parties, including:

(1) A statement of reasons for a determination referred to in paragraph (c) or (d) of this section which the Operations Office Manager intends to make, including an explanation whether any amendments or other actions would result in compliance with the regulation;

(2) The date, place, and time of public hearing to be held by the Operations Office Manager, one subject of which shall be the proposed determination, which hearing shall in no event be later than 15 working days after the receipt of such notice; and

(3) The manner in which views may be presented.

(f) A party which has received notice under paragraph (e) of this section:

(1) May make a written submission of its views with supporting data and arguments to the Operations Office Manager on or prior to the date of the public hearing; and

(2) Shall be afforded an opportunity to make an oral presentation at the public hearing.

(g) The Operations Office Manager shall consider all relevant views and data, including arguments and other submissions made at the public hearing. The Operations Office Manager shall make, not later than five working days after the public hearing, a final determination in writing, stating the reasons for the determination.

(h) A State or local applicant or grantee may appeal in writing from an adverse final determination made by the Operations Office Manager under paragraph (g) of this section to the Secretary not later than 10 working days after receipt of the Operations Office Manager determination. The Secretary shall have 21 working days to consider the appeal and take any action with respect thereto which he deems appropriate. Any action taken by the Secretary shall be the final determination of DOE. If no action has been taken by the Secretary after the expiration of the 21 working-day period, the Secretary shall be deemed to have approved the determination of the Operations Office Manager. The Secretary may delegate his authority under this section.

(i) Anything herein to the contrary notwithstanding, the public hearing referred to in paragraph (e)(2) of this section may be combined, at the discretion of the Operations Office Manager, with any other public hearing in the State conducted pursuant to this part.

(j) Upon issuance of the notice provided in paragraph (d) of this section, the Operations Office Manager may take any or all of the actions specified in 10 CFR 600.121(b). If the Operations Office Manager makes a final determination of failure to comply, the grantee will be ineligible to participate in the program under this part unless and until the Operations Office Manager is satisfied that there is no longer a failure to comply.

Appendix A to Part 440—Standards for Weatherization Materials

THERMAL INSULATING MATERIALS FOR BUILDING ELEMENTS INCLUDING WALLS, FLOORS, CEILINGS, ATTICS, AND ROOFS

	Standards
Insulation—mineral fiber:	
Blanket	Conformance to ASTM [1] C665–78.
Roof insulation	Conformance to ASTM C726–81.
Loose-fill	Conformance to ASTM C764–73 (1979).
Insulation—mineral cellular:	
Vermiculite loose-fill	Conformance to ASTM C516–80.
Perlite loose-fill	Conformance to ASTM C549–81.
Cellular glass block	Conformance to ASTM C552–79.
Perlite board	Conformance to ASTM C728–82.
Insulation—organic fiber:	
Cellulosic fiber board	Conformance to ASTM C208–82.
Cellulose loose-fill	Conformance to Interim Safety Standard 16 CFR [2] Part 1209.
Insulation—organic cellular:	
Preformed block-type polystyrene.	Conformance to ASTM C578–83.
Rigid preformed urethane board.	Conformance to ASTM C591–69.
Polyurethane or polyisocyanurate board faced with aluminum foil.	Conformance to F.S. [3] HH-I-1972/1.
Polyurethane or polyisocyanurate board faced with felts.	Conformance to F.S. HH-I-1972/2.
Insulation—composite boards:	
Mineral fiber and rigid cellular polyurethane composite board.	Conformance to ASTM C726–81.
Perlite and rigid cellular polyurethane composite board.	Conformance to ASTM C984–83.
Gypsum board and polyurethane or polyisocyanurate composite board.	Conformance to F.S. HH-I-1972/4.

[1] ASTM indicates American Society for Testing and Materials.
[2] CFR indicates Code of Federal Regulations
[3] F.S. indicates Federal Specification.

Thermal Insulating Materials for Pipes, Ducts, and Equipment Such as Boilers and Furnaces

	Standards
Insulation—mineral fiber:	
Preformed pipe	Conformance to ASTM[1] C547-77.
Blanket and felt (industrial type).	Conformance to ASTM C553-70 (1977).
Blanket insulation and blanked-type pipe insulation (metal-mesh covered) (industrial type).	Conformance to ASTM C592-80.
Block and board	Conformance to ASTM C612-77.
Spray-applied fibrous for elevated temperature.	Conformance to ASTM C720-72 (1979).
High temperature fiber blanket.	Conformance to ASTM C892-78.
Duct work	Conformance to ASTM C971-82.
Insulation—mineral cellular:	
Diatomaceous earth block and pipe.	Conformance to ASTM C517-71 (1979).
Calcium silicate block and pipe.	Conformance to ASTM C533-80.
Cellular glass block and pipe.	Conformance to ASTM C552-79.
Expanded perlite block and pipe.	Conformance to ASTM C610-67 (1974).
Insulation—organic cellular:	
Preformed flexible elastomeric cellular in sheet and tubular form.	Conformance to ASTM C534-77.
Rigid preformed cellular urethane.	Conformance to ASTM C591-69.

[1] ASTM indicates American Society for Testing and Materials.

Fire Safety Requirements For Thermal Insulating Materials According to Insulation Use

	Standards
Attic floor	Insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR[1] Part 1209.
Enclosed spaces	Insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR Part 1209.
Exposed interior walls and ceilings.	Insulation materials including those with combustible facings, which remain exposed and serve as wall or ceiling interior finish shall have a flame spread classification not to exceed 150 (per ASTM[2] E84).
Exterior envelope walls and roofs.	Exterior envelope walls and roofs containing thermal insulations shall meet applicable building code requirements for the complete wall or roof assembly.
Pipes, ducts, and equipment.	Insulation materials intended for use on pipes, ducts, and equipment shall be capable of meeting a flame spread classification not to exceed 150 (per ASTM E84).

[1] CFR indicates Code of Federal Regulations.
[2] ASTM indicates American Society for Testing and Materials.

Storm Windows

	Standards
Storm Windows:	
Aluminum frame	Conformance to ANSI/AAMA[1] 1002.9-77.
Wood frame	Conformance to Section 3 of ANSI/NWMA[2] I.S. 2-80.
Rigid vinyl frame	Conformance to Section 6.1 through 6.7 of ASTM[3] D 4099-82.
Frameless plastic glazing	Required minimum thickness, 6 mil (0.006 in.).

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Storm Doors

	Standards
Storm Doors:	
Aluminum	Conformance to ANSI/AAMA[1] 1102.7-1977.
Wood	
—Pine	Conformance to Section 3 of ANSI/NWMA[2] I.S. 5-73.
—Fir, hemlock, spruce	Conformance to Section 3 of FHDA[3] /7-79.
Rigid vinyl	Conformance to ASTM[4] D 3678-81.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Associations.
[4] ASTM indicates American Society for Testing and Materials.

Replacement Windows

	Standards
Replacement Windows:	
Aluminum frame	Conformance to ANSI/AAMA[1] 302.9-1977.
Steel frame	Conformance to Steel Window Institute Recommended Specifications for steel windows 1977.
Wood frame	Conformance to ANSI/NWMA[2] I.S. 2-80.
Rigid vinyl frame	Conformance to ASTM[3] D 4099-82.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Replacement Doors

	Standards
Replacement Doors:	
Hinged Doors:	
Steel	Conformance to SDI[1] 100-83.
Wood:	
Flush	Conformance to exterior door provisions of ANSI/NWMA[2] 1-80.
Pine	Conformance to ANSI/NWMA I.S. 5-73.
Fir, hemlock, spruce	Conformance to FHDA[3]/7-79.
Sliding Patio Doors:	
Aluminum	Conformance to ANSI/AAMA 402.9-1977.
Wood	Conformance to ANSI/NWMA I.S. 3-70.

[1] SDI indicates Steel Door Institute.
[2] ANSI/NWMA indicates American National Standards Institute/Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Association.

Caulks and Sealants

	Standards
Caulks and Sealants:	
Putty	Conformance to F.S.[1] TT-P-00791B.
Glazing Compound	Conformance to ASTM[2] C669-75 (1981).
Oil and Resin Base	Conformance to ASTM C570-72 (1978).
Acrylic (Solvent Type)	Conformance to F.S. TT-S-00230C.
Butyl Rubber	Conformance to F.S. TT-S-001657.
Chlorosulfonated Polyethylene.	Conformance to F.S. TT-S-00230C.
Latex Sealing Compounds	Conformance to ASTM C834-76 (1981).
Elastomeric Joint Sealants (normally considered to include polysulfide, polyurethane, and silicone).	Conformance to ASTM C920-79.
Preformed Gasket and Sealing Materials.	Conformance to ASTM C509-79.

[1] F.S. indicates Federal Specification.
[2] ASTM indicates American Society for Testing and Materials.

Weatherstripping

	Standards
Weatherstripping	Commercial availability.

Vapor Barriers

	Standards
Vapor Barrier	Selected according to the provisions cited in ASTM[1] C755-73 (1979); permeance not greater than 1 perm when determined according to the desiccant method described in ASTM E96-80.

[1] ASTM indicates American Society for Testing and Materials.

Clock Thermostats

	Standards
Clock Thermostats	Conformance to NEMA[1] DC 3-1978 or NEMA DC 15-1979 and performance test requirements.[2]

[1] NEMA indicates National Electrical Manufacturers Association.
[2] The performance tests requirements are: (1) the operating differential should not exceed 2°F, and (2) the effective operating droops should not exceed 4°F when determined according the applicable procedures in DC 3-1978 or DC 15-1979.

Heat Exchangers

	Standards
Heat Exchangers	ASME Pressure Code provisions, as applicable to pressure levels. Standards of Tubular Exchanger Manufacturers Association (last edition with 1983 Addenda, TEMA).
With Gas Fired Appliances*	AGA Requirement 70-1 for Gas Fueled Equipment. ANSI Z-21. AGA Laboratories Certification Seal.

*The heat reclaimer is for installation in a section of the vent connector from applicances equipped with draft hoods or applicances equipped with powered burners or induced draft and not equipped with a draft hood.

HOT WATER HEAT PUMPS

	Standards
Heat Pump Water Heaters	Listed by Underwriters Laboratories (UL) Standard for Electric Water Heaters Under Development. Efficiency Certification per Gas Appliance Manufacturers Association (GAMA) or Air Conditioning and Refrigeration Institute (ARI).

THERMOSTAT CONTROL SYSTEM

	Standards
Automatic Set Back Thermostats	Listed by Underwriters Laboratories (U.L.). Conformance to NEMA DC 15-1979.
Line Voltage or Low Voltage Room Thermostats.	NEMA DC 3-1978.
Automatic Gas Ignition Systems.	Conformance to ANSI Z21.21. AGA Laboratories Certification Seal.
Energy Management Systems.	Listed by Underwriters Laboratories (U.L.).
Hydronic Boiler Control	Commercial Availability.
Microcomputer Burner Control.	Commercial Availability.

WATER HEATER MODIFICATIONS

	Standards
Insulate Tank and Distributing Piping.	(See Insulation Standards.)
Install Heat Traps on Inlet and Outlet Piping.	Applicable local plumbing code.
Hot Water Pipe Heater Strips	Listed by Underwriters Laboratories (U.L.).
Reduce Thermostat Settings	State or Local Recommendations.
Insteil Stack, Damper, Gas Fueled.	ANSI Z21.68. ANSI Z21.67, including Addendas A and B.
Install Stack Damper, Oil Fueled.	ANSI Z223.1—1980. UL-17. NFPA 31-1983.

WASTE HEAT RECOVERY DEVICES

	Standards
Desuperheater/Water Heaters.	Conformance to ARI 470-80. Conformance to ARI 1060-80.
Condensing Heat Exchangers.	Commercially available components and in new heating furnace systems to manufacturers specifications.
Condensing Heat Exchangers (Commercial, Multi-Story Building Institutional).	Commercially available with teflon lined tubes to manufacturer specifications.
Energy Recovery Equipment	Energy recovery equipment and systems Air-to-Air (1978) Sheet Metal and Air Conditioning Contractor's National Association (SMACNA).

BOILER REPAIR AND MODIFICATIONS/ EFFICIENCY IMPROVEMENTS

	Standards
Installation of Gas Conversing Power Burners (for Gas or Oil Fired Systems)	In conformance with, or latest, ANSI Z21.8a, ANSI Z21.17 and Installation ANSI Z223.1—1980 or latest National Fuel Gas Code. AGA Laboratories Certification Seal.
Replacement Oil Burner	ANSI Z96.2 (UL 296). ANSI Z91.2. NFPA 31—1983.
Power Burners (Oil/Gas)	Conformance to ANSI Z223.1, National Fuel Gas Code; ANSI Z83.1 Gas Installations; NFPA 31 Oil Equipment.
Furnaces, Oil	Installation of oil burning equipment, NFPA 31—1976.
Furnaces, Gas	Gas fired central furnaces, ANSI Z21.47—1976.
Re-Adjustment Boiler Water Temperature or Installation of Automatic Boiler Temperature Reset Control.	ANSI/ASME CSD.1—1982, applicable section of ANSI Z223.1—1980 and NFPA 31—1983
Boilers	Boiler and pressure vessel code (eleven sections) ASME 1980 or latest Testing and Ratings Hydronics Institute (HYDI).
Clean Heat Exchangers, Adjust Burner Air Shutter(s), Check Smoke No. on Oil Fueled Equipment, Check Operation of Pump(s) and Filters.	Per manufacturer's instructions.
Combustion Chambers	Refractory linings may be required for conversions.
Heat Exchangers, Tubes	Protection from flame contact with conversion burners by refractory shield.
Thermostatic Radiator Valves	Commercially available. One pipe steam systems require steam air vents on each radiator, see manufacturer requirements.
Boiler Duty Cycle Control System.	Commercially available. National Electrical Code (NEC) and local electrical codes provisions for wiring.

HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS

	Standards
Duct Insulation	Conformance to FS HH-I-558B (See Insulation Sections).
Reduced Input of Burner, De-rating Gas Fueled*.	In conformance with Local Utility Company Procedures if applicable for gas fueled furnaces and Appendix H of NFPA 54 ANSI Z223.1.
Oil-Fired	EPA 600/2-75-069-9 "Guidelines for Residential Oil Burner Adjustments". Conformance to NFPA 31-1983, Standard for the Installation of Oil Burning Equipment.

HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS—Continued

	Standards
Replacement Combustion Chamber, in Oil-Fired Furnace, Boiler	In accordance with NFPA 31-1983.
Clean Heat Exchanger and Adjust Burner: Adjust air shutter and check CO^2 stack temperature—clean or replace air filter on forced air furnace.	See ANSI Z223.1, Appendix H.
Gas Fueled Heating Systems, Vent Dampers.	Conformance with applicable sections, National Fuel Gas Code including Appendices H, I, J, and K. ANSI Z21.66—1977 and addenda A and B for Electrically Operated Dampers. ANSI Z21.66—1978 and Appendices A and B for Thermally Activated Vent Dampers. ANSI Z21.67—1978 and Appendices A and B for mechanically actuated vent dampers.
Oil Fueled Systems, Vent Dampers.	Conformance with applicable sections of NFPA 31-1983 for installation and in conformance with UL 17.
Reduce Excess Diultuion Air: (a) Reduction of Vent Connector Size of Gas Fueled Appliances. (b) Adjustments of Barometric Draft Regulator for Oil Fuels.	See Part 9 of ANSI Z223.1—1980 and Appendix G and H. NFPA 31-1980 for Air Fueled and per manufacturers' (furnace or burner) instructions.
Replacement of constant burning pilot with electric ignition device on gas fueled furnaces or boilers.	ANSI Z21.71-1981.
Readjustment of Fan Switch on Forced Air Gas or Oil Fueled Furnaces.	In conformance with applicable sections: ANSI Z223.1—1980. Appendix H for Gas Furnaces and NFPA 31-1983 for Oil Furnaces.
Burners—See power burners, gas, oil:	
Duct Furnaces (Gas)	ANSI Z223.1—1980, National Fuel Gas Code.
Heat Pumps	Listed by Underwriters Laboratories (U.L.), ANSI/UL 559-1976.
Air Diffusing Equipment	Air diffusing equipment certification, rating, air diffusion council, A-DC 1062R4—1977.
Outlets, Inlets, Air Flow	Methods of testing for rating the air flow performance of outlets and inlets, ASHRAE 70-72.
Warm Air Heating Ducts	Installation of warm air heating and air conditioning systems, NFPA 90B.
Air Ducts and Connectors	Factory made air ducts and connectors (1961), UL 181.
Thermoplastic Ducts	Thermoplastic Duct (DVC) Construction Manual (1971), SMACNA.

*This may be prohibited by local jurisdiction—it may also void the manufacturers warranty. The National Fuel Gas Code does not specifically endorse this.

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Friday
November 4, 1983

Part VII

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Asbestos; Emergency Temporary Standard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-0330]

Occupational Exposure to Asbestos

AGENCY: Occupation Safety and Health Administration (OSHA), Labor.

ACTION: Emergency temporary standard.

SUMMARY: OSHA is issuing an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for asbestos from 2 fibers (longer than 5 micrometers) per cubic centimeter (2 f/cc) as an eight-hour time-weighted average, to 0.5 f/cc. During the period of the emergency standard, employers may use all practicable control methods, such as engineering controls, work practices and personal protective equipment to meet the new limit of 0.5 fibers per cubic centimeter (0.5 f/cc). Training programs are also required to be instituted within 30 days.

The basis for this ETS is OSHA's determination that continued employee exposure to asbestos under current conditions that exceed 0.5 f/cc presents a grave danger of developing asbestos-induced cancer and asbestosis to exposed employees, and that an emergency standard is necessary to protect them. The ETS serves also as a proposal to revise the current asbestos standard pursuant to section 6(b) and 6(c) of the Act.

This notice also requests comments on the appropriateness of including the provisions of the ETS as permanent revisions to the asbestos standard. In addition, OSHA will soon publish a separate notice of proposed rulemaking that further explains the issues under consideration for the permanent standard and which raises some additional issues regarding the application of certain provisions of the asbestos standard to the construction industry. That notice will invite public comments and will schedule a rulemaking hearing pursuant to Section 6(b) of the Act concerning the proposed permanent revision to the asbestos standard.

DATES: The effective date for this ETS is November 4, 1983. Comments and evidence concerning the proposed revisions to the permanent standard made by the ETS must be received on or before January 3, 1984. As noted, OSHA will publish a notice of proposed rulemaking shortly that will set due dates for submissions to the asbestos docket for the issues raised therein.

ADDRESSES: Written comments should be submitted to the Docket Officer, Docket No. H-033C, Room S-6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

This is an emergency temporary standard (ETS) issued pursuant to section 6(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596; 29 U.S.C. 655), the Construction Safety Act (Pub. L. 91-54; 40 U.S.C. 333), the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 941), the Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911. This emergency standard consists of revisions to the existing standard covering occupational exposure to asbestos, 29 CFR 1910.1001, in order to protect employees from a grave danger from continued exposure to asbestos at current exposure levels.

OSHA has determined that workers exposed to asbestos under exposure conditions existing under the current standard face a grave danger of developing incurable cancer and asbestosis. Further, OSHA has found that an immediate reduction in exposure levels to 0.5 f/cc or below is necessary to protect such employees from this grave danger. Therefore OSHA is issuing this ETS to compel reduced exposures to respond to this emergency situation.

OSHA's determination that a grave danger currently exists is predicated upon quantitative risk estimates in this record which point to a large number of excess deaths from cancer (and asbestosis) among currently exposed workers which are attributable to continued exposures under present working conditions. OSHA estimated the number of cancer deaths avoided through lowering of the exposure to 0.5 f/cc, based on 6 months, 1-year, 20-year and 45-year periods of exposures at current levels.* The predicted cancer deaths avoided that result from these periods of exposure are respectively 210, 426, 5725 and 7815. A more detailed discussion of these estimates is found in the sections, Quantitative Risk Analysis (Section V), Grave Danger (Section III A), and Need for an ETS (Section III B). Risks of this magnitude at permitted and actual exposure levels defined a situation which demanded immediate regulatory action. Evaluation of the relevant scientific data, policy considerations and exposure patterns of workers has convinced OSHA that continued exposure at the current PEL and under actual workplace conditions constitutes a "grave danger" to employees, and that an ETS is needed to protect them.

The ETS requires that employees may not be exposed to concentrations of asbestos exceeding 0.5 f/cc on an 8-hour time-weighed average basis, and permits the employer to choose among engineering controls, work practices and respirators to reduce exposures to the new PEL. However, the requirement in § 1910.1001(c) to utilize feasible engineering controls and work practices to reduce exposure levels to 2 f/cc remains in effect under this temporary standard. The ETS also requires employers to institute a training program within thirty days of the effective date of this emergency standard. The training progam will include instruction on respirator fitting and use, handling of asbestos, medical information, the relationship between smoking and lung cancer, and a review of the asbestos standard. The ETS applies to all industries covered by the Act, including "general industry", construction and maritime industries.

* OSHA is aware, of course, that Section 6(c) of the Act limits the effective time of an ETS to 6 months and OSHA concludes that a grave danger exists and an ETS is necessary even if OSHA focuses exclusively on this six month period. However, the Agency believes it is appropriate to calculate benefits deriving from an ETS using lifetime risks from 20 and 45 years of exposure to the PEL of 0.5 f/cc established by the ETS. Although the ETS expires within 6 months, Section 6(c) requires that rulemaking on a permanent standard also be completed within 6 months, so that there will be no gap in protection for exposed employees. In OSHA's experience and judgment, complying with this statutory directive and completing rulemaking for a permanent standard within 6 months of an ETS has and can be done.

As provided in 29 CFR 1953.22, the 24 States with their own OSHA-approved occupational safety and health plans are expected to adopt a comparable standard within 30 days of this publication date. These States are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

Also, in response to the emergency conditions faced by exposed workers, OSHA is stepping up its enforcement activities in targeting workplaces where asbestos is handled.

The temporary provisions that are being added to the existing asbestos standard prescribes the major components of an occupational safety and health standard. In general, most of the current requirements remain unaffected by the emergency temporary standard. However, compliance with some requirements will be triggered by the new exposure limit of 0.5 f/cc instead of the former PEL of 2 f/cc. For example, requirements such as change rooms remain unaffected by the ETS and the trigger level for change rooms remains the former PEL of 2 f/cc (§ 1910.1001(d)(4)). However, the ETS requires that where concentrations may exceed the new PEL, the employer must post signs indicating such locations (§ 1910.1001(k)(6)).

OSHA based its decisions concerning appropriate provisions for the ETS on its determinations of the kind and degree of protective action needed to protect against a grave danger and the feasibility of instituting these provisions during the period of the ETS.

Under section 6(b) of the Act, OSHA will shortly schedule an informal rulemaking hearing on the proposed permanent changes to the standard. OSHA will also propose other revisions to the asbestos standard that will be explained in the separate notice of proposed rulemaking. Application of certain provisions of the asbestos standard to the construction industry will be raised at that time. OSHA anticipates that this notice will be published shortly. OSHA is now accepting written comments on those issues raised in the ETS which are relevant to revising the permanent rule. The Secretary must promulgate a section 6(b) standard no later than six months after publication of the emergency standard.

II. Legal Authority and Background

A. Legal Authority

Section 6(c) of the Act provides for immediately effective emergency temporary standards in certain circumstances. The Secretary has the authority to issue such a standard, without rulemaking, "if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger." 29 U.S.C. 655(c)(1). Thus, the danger must be "from" worker exposure and it must be "grave," not merely significant and the regulation must be "necessary" to address "such danger," not merely reasonably necessary or appropriate to provide safe employment. In addition, as in section 6(b) permanent standards, OSHA may impose requirements in the emergency standard only to the extent that they are "feasible" within the meaning of section 6(b)(5) of the Act.

The Fifth Circuit has emphasized the importance of the severity of health effects in OSHA's consideration of whether an ETS is appropriate:

> "* * * the danger of incurable, permanent, or fatal consequences to workers, as opposed to easily curable and fleeting effects on their health, becomes important in the consideration of the necessity for emergency measures to meet a grave danger." *Florida Peach Growers Association, Inc.* v. *United States Department of Labor*, 4898 F.2d. 132 (CAS).

OSHA also has interpreted relevant judicial decisions to require that its evaluation of the gravity of the danger and the necessity for emergency action must be made in the context of actual workplace conditions.

B. Background

1. *Events Leading to the ETS.* In June, 1983, OSHA received a petition for an ETS from the International Association of Machinists and Aerospace Workers (Exs. 84–244). Subsequently letters supporting this petition were received from 16 other unions (Ex. 84–284 to 84–294, 84–387 to 84–391). The petition requested an ETS to reduce the PEL to 0.1 f/cc, to modify some existing work practice requirements, and to require other protective provisions regardless of exposure level. The main reasons set forth in the petition and supporting letters are that continued exposure under current workplace conditions constitutes a grave danger and that delaying remedial action until a permanent standard is promulgated would cost large numbers of currently-exposed workers their lives. OSHA shares the genuine concern expressed by the petition and letters from unions representing thousands of employees who are directly faced with the threat of asbestos-related disease from continued exposure. And OSHA concludes that failure to issue this ETS may cost a number of exposed workers their lives.

In August 1983, OSHA completed a comprehensive risk assessment based on numerous human studies which estimated the number of excess deaths from the three major asbestos-related cancers, i.e., lung cancer, mesothelioma and gastrointestinal cancer, at the current permissible exposure level of 2 f/cc and at various reduced exposure levels. OSHA placed this document, "Quantitative Risk Assessment for Asbestos-Related Cancers", in the Asbestos docket in August 1983 (Ex. 84–349). OSHA subsequently revised this document (See Ex. 84–392).

2. *History of the Asbestos Standard.* OSHA has regulated asbestos since 1971. A 12 f/cc limit for asbestos was included in the initial promulgation of OSHA standards pursuant to section 6(a) of the Act, on May 29, 1971 (36 FR 10466). In response to a petition by the Industrial Union Department of the AFL–CIO, OSHA issued an ETS on asbestos on December 7, 1971, which established a PEL of 5 f/cc on a time-weighted average basis and peak exposures of 10 f/cc.

The current standard, promulgated in June 1972, first established an 8-hour time-weighted average PEL of 5 f/cc and a ceiling limit of 10 f/cc. The limits were intended primarily to protect employees against asbestosis, and it was hoped that they would provide some incidental degree of protection against cancer. Effective July 1976, the TWA limit was reduced by the standard to 2 f/cc. This limit has remained in effect since that time. The standard also includes provisions covering methods of compliance, monitoring, medical surveillance and housekeeping.

Court review of this standard upheld all major provisions, but remanded two issues for OSHA's reconsideration. *IUD* v. *Hodgson*, 499 F. 2d 467 (CADC 1974). These issues were whether the July 1976 date for the 2 f/cc standard should be accelerated for some industries and the adequacy of the 3 year retention period for exposure monitoring records. Subsequently, OSHA increased this retention period to 20 years (41 FR 11504) and the acceleration issue became moot.

After reviewing the then available scientific data, in October 1975 OSHA published a notice of proposed

rulemaking to revise the asbestos standard because OSHA believed that "sufficient medical and scientific evidence had been accumulated to warrant the designation of asbestos as a human carcinogen" and that advances in monitoring and protective technology made reexamination of the standard "desirable." This proposal would have reduced the time-weighted average to 0.5 f/cc and imposed a ceiling limit of 5 f/cc for 15 minutes (40 FR 47652).

The basis for the 1975 proposal's reduced permissible level of 0.5 f/cc was OSHA's then current policy for carcinogens that no safe threshold level was demonstrable and, therefore, the Act required OSHA to set the PEL as low as technologically and economically feasible. This policy was rejected by the Supreme Court in the benzene decision (*IUD* vs. *API*, 448 U.S. 601 (1980)). OSHA limited the proposed revisions in the 1975 notice to all industries except construction. No hearing was scheduled on the 1975 proposal. Also, although OSHA announced its intention to develop a separate proposed revision applicable to the construction industry, no such proposal has been published to date.

OSHA is basing its present decision to issue an ETS, and to propose revisions to the permanent standard covering all employees, on information and analyses which postdate the 1975 proposal. Therefore, this ETS marks a new regulatory initiative, related to, but not part of the 1975 proceeding. On May 24, 1983, OSHA consulted the Construction Advisory Committee for Occupational Safety and Health (CACOSH) concerning applicability of a new asbestos standard for the construction industry. CACOSH endorsed OSHA's position that changes in the PEL made for general industry should also apply to the construction industry. OSHA is also including the comments and data received in response to the 1975 notice in the record of this proceeding, with the understanding that some commenters may have changed their positions based on intervening scientific developments and policy shifts.

In the decision to issue an ETS, the Agency has reviewed this regulatory history of asbestos. However, the Agency bases the decision to issue an ETS on the actual emergency conditions which now confront exposed workers, on epidemiologic studies that provide data to make numerical estimates of risks and on interpretations of these studies using quantitative risk analysis.

3. *The Rulemaking to Revise the Permanent Standard.* The 6(b) rulemaking initiated by this proposal is intended to be limited to the revisions made by the ETS and the additional proposed amendments raised in the notice of proposed rulemaking to be published soon. The major subjects of the 6(b) rulemaking will be: reducing the permissible exposure limit, revising the definitions of asbestos and asbestos fibers, reassessing the methods of compliance to achieve such limits, revising the provisions regarding respirator selection, revising the sampling and analytical method to improve reliability, and adding a training requirement. OSHA will also raise issues regarding the application of the permanent standard to the construction industry. As previously stated, OSHA will soon publish a separate notice of proposed rulemaking to further explain these issues.

III. OSHA's Rationale for the ETS

OSHA has determined that prevailing conditions involving worker exposure to airborne asbestos dust justify the promulgation of an emergency temporary standard. OSHA estimates that approximately 375,000 workers are exposed to asbestos at various levels (Table 1), ranging from a high value of 20 f/cc to below 0.5 f/cc. OSHA has estimated that under current exposure conditions asbestos-exposed workers face an extraordinarily high risk of contracting asbestos-related cancer whether the risk is computed over a working lifetime of exposure or for exposure periods as short as 6 months. The average excess cancer risks for all workers exposed above 0.5 f/cc using available exposure data and relying on the risk assessment are estimated as approximately 196 excess cancer deaths per 1000 workers for 45 years of exposure, 139 deaths per 1000 workers for 20 years, 10 per 1000 workers for 1 year, and 6 per 1000 workers for 6 months of exposure.

OSHA believes that risks of these magnitudes, taking into account all relevant considerations such as total numbers of workers at risk and quality of supporting data, constitute an emergency situation which requires immediate response by the agency.

The Act states that when certain statutory criteria are met, OSHA is authorized to respond to an emergency situation by issuing an ETS. The two-pronged statutory test for an ETS is that (1) employees must be exposed to a grave danger from exposure to substances or agents determined to be toxic or physicially harmful, and that (2) an emergency standard is necessary to protect employees from such dangers.

After evaluating all the evidence available to the agency concerning the severity and magnitude of the risk of asbestos-related disease to the current asbestos-exposed working population, comparing these risks to other occupational risks, applying relevant policy considerations, and reviewing all relevant judicial decisions for guidance, the agency has determined that both prongs of the statutory test are met and that an ETS should be promulgated.

For purposes of clarity, the discussion is divided into two parts, "Grave Danger" and "The Need for an ETS." OSHA believes, however, that the factors which indicate that a substance constitutes a grave danger are related to and overlap those which determine that an ETS is necessary.

A. Grave Danger

OSHA has determined that the risk to workers from exposures to asbestos at conditions that exist in the workplace pose a grave danger of death from cancer and of severe disability from the lung disease, asbestosis. In making a "grave danger" determination, the severity of the disease produced by exposure to the regulated substance and the magnitude of the predicted risks of disease must be considered. In addition, the Supreme Court has suggested that a determination of "grave danger" indicates a situation where the risk is more than "significant" (*IUD* v. *API*, *supra* n. 45).

OSHA has applied that analytic approach endorsed by the Supreme Court for "significant risk" determinations in evaluating the gravity of the danger faced by asbestos-exposed workers. The Supreme Court gave some general guidance as to the process to be followed. It recognized that while the Agency must support its finding that a certain level of risk exists with substantial evidence it also recognized that its determination that a particular level of risk is "significant" will be based largely on policy considerations (*IUD* v. *API*, 448 U.S. 655, 656, n. 62).

OSHA believes, therefore, that its determinations regarding the magnitude of the risk faced by employees should, to the extent possible, rely on quantitative expressions of that risk, utilizing the best available data.

The Court stated that the significant risk determination required by the OSH Act is "not a mathematical straitjacket," and "OSHA is not required to support its finding that a significant risk exists with anything approaching scientific certainty. * * * A reviewing court [is] to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge [and that] * * * the Agency is free to use conservative assumptions in interpreting the data

with respect to carcinogens, risking error on the side of overprotection rather than underprotection" [488 US at 655, 656].

In the case of asbestos, the data available are of unusual breadth and high quality. However, because risk assessment itself involves many uncertainties, OSHA made certain assumptions in its analysis and evaluation of these data. In assessing the risk for asbestos-exposed workers, OSHA has attempted to use realistic assumptions, although the court stated that the Agency was free to use "conservative assumptions" in interpreting data. OSHA, in many cases, has indicated where different assumptions may produce different results. In addition OSHA cautions that because the risk figures finally derived are the products of a process which, as the Supreme Court acknowledged, is "on the frontiers of science," they should be viewed as approximations of the degree of risk faced by asbestos-exposed workers and not as precise fixed predictions of the number of workers who will actually develop disease.

OSHA has evaluated the kinds of dangers presented by asbestos exposure, the quantification of those dangers under present asbestos exposure conditions, the quality of the data on which risk estimates are based, a comparison of asbestos risks to other occupational risks, and relevant policy and legal considerations in concluding that workers are exposed to a grave danger from asbestos.

1. *Nature of the Diseases.* As stated above, the nature of the disease associated with exposure to a toxic substance is one of the most important elements OSHA evaluates in determining whether a grave danger exists. This factor was discussed in *Florida Peach Growers Association, Inc. v United States Department of Labor, supra.* The court, in overruling OSHA's organophosphate pesticide ETS, observed:

> We reject any suggestion that deaths must occur before health and safety standards may be adopted. Nevertheless, *the danger of incurable, permanent, or fatal consequences to workers, as opposed to easily curable and fleeting effects on their health, becomes important in the consideration of the necessity for emergency measures to meet a grave danger.* 489 F 2nd at 132 (emphasis added)

OSHA is aware of no instances in which exposure to a toxic substance has more clearly demonstrated detrimental health effects on humans than has asbestos exposure. The diseases caused by asbestos exposures are in large part life-threatening or disabling. Among these diseases are lung cancer, cancer of the mesothelial lining of the pleura and peritoneum, and asbestosis. In addition, workers exposed to asbestos are at increased risk of gastrointestinal cancer, as shown by epidemiologic studies. Although colo-rectal cancer may be curable if detected in an early stage, other gastrointestinal cancers are usually fatal. OSHA also believes that asbestos might induce cancers at other sites, which are also often fatal.

Of these, lung cancer constitutes the greatest health risk for American asbestos workers and has accounted for more than half of excess mortality in some occupational cohorts. About 90% of lung cancer patients die within 5 years of diagnosis. Mesothelioma is an incurable cancer which is usually fatal within a year after diagnosis. It is epidemiologically linked to asbestos exposure, and occurs very rarely, if at all, in persons never exposed to asbestos. Asbestosis, a type of pulmonary fibrosis, is usually non-reversible, its advanced stages are disabling, and can be fatal. OSHA concludes that all these diseases are very serious, and that the excess mortality from such severe diseases must be considered an important factor for making a grave danger determination.

2. *Degree of Risk of Developing Dangerous Disease.* OSHA based its calculations of extent of risk faced by workers under current exposure conditions primarily on the results of a quantitative analysis which derived numerical estimates of cancer risk at various cumulative exposures corresponding to levels at which workers are exposed (Ex. 84–392).

Although 2 f/cc is the current PEL for asbestos exposure, actual exposure conditions vary widely, mostly by industry segment. As explained later in this document and as set forth in Table 1, average ambient exposure levels in various industries include high exposure levels such as 20 f/cc in drywall removal, renovation and demolition; 5 f/cc in shipbuilding and repair; mid-range exposure levels such as 2 f/cc in secondary fabricating of cement sheet, packing and gaskets and paper products and rebuilding and refacing brakes; 1.5 f/cc for dry processing of textiles; and lower exposure levels such as 0.5 f/cc and 0.2 f/cc in the manufacture of floor tile.

Because OSHA is required to consider the actual danger faced by workers in assessing whether exposure to a substance presents a "grave danger", OSHA looked at the risk of developing disease not only at the 2 f/cc permissible level but at all exposure levels which workers currently face. Most of the results of these calculations for cancer are presented in Table 11 in the risk assessment section of this document.

The table sets forth predicted excess lifetime cancer risks for exposures of one year, 20 years and 45 years. Risks for exposures of 6 months are closely approximated by one-half the risks for exposures of one year. Although average exposures in demolition and renovation are estimated at 20 f/cc, the table presents risks only for selected exposure levels up to 10 f/cc.

These calculations show that the risks of asbestos-related disease are alarmingly high at current occupational exposure levels. For example, an estimated total cancer risk of 265 excess deaths per 1000 workers exists for workers exposed for a 45-year lifetime at 10 f/cc, a level which currently exists on some construction sites. At 5 f/cc, the exposure levels which are considered average in shipbuilding and repair, the risk of developing asbestos-related cancer for a 45-year exposure period is 149 excess deaths per 1000 workers. At the current permissible level of 2 f/cc which also represents actual exposure levels in such industries as secondary fabricating of cement sheet, packing gaskets and paper products and rebuilding and refacing brakes, risk is estimated as 64 excess cancer deaths per 1000 workers for a 45-year exposure period.

These risks remain very high when the period of exposure for which calculations are done is shortened to 20 years, which OSHA believes is another appropriate point for examination. The period of 20 years is the approximate midpoint between 1 year and 45 years of exposure; also many workers receive 20 years of exposure. Counterpart risk calculations using a 20-year exposure period are: for workers exposed to 10 f/cc, 140 excess cancer deaths per 1000 workers; for exposures to 5 f/cc, 105 excess cancer deaths per 1000 workers and for exposures to 2 f/cc, 44 excess cancer deaths per 1000 workers.

OSHA also estimated risks of developing cancer for a one year period of exposure at various levels to which employees are exposed. The counterpart risks for exposures to 10 f/cc for one year are: 15 excess cancer deaths per 1000 workers; to 5 f/cc, 7 excess cancer deaths per 1000 workers and to 2 f/cc, 3 excess cancer deaths per 1000 workers.

Even at current workplace exposure levels which are less than the current PEL, extraordinarily high risks of disease exist. At 0.5 f/cc, 17 excess cancer deaths per 1000 workers are

predicted for a 45-year lifetime exposure, and 11 excess cancer deaths per 1000 workers for a 20-year exposure period.

OSHA notes that the above calculations are for cancer risk only. In addition, asbestos-exposed workers face a high risk of developing asbestosis, a disabling and often fatal disease. Predictions concerning the estimated magnitude of the asbestosis risk have been performed by OSHA and are discussed in the risk assessment section of this document. Accordingly, OSHA estimates that at 2 f/cc, 50 workers per 1000 exposed to asbestos for 45 years will develop disabling asbestosis. At 0.5 f/cc for 45 years, it is estimated that 12 workers per 1000 will develop disabling asbestosis. Asbestosis risks can also be estimated for exposures for durations shorter than 45 years. For example, the risk of disabling asbestosis from exposure to 1.0 f/cc for 22.5 years is 12 cases per 1000 workers. OSHA's estimates of the magnitude of the asbestosis risk are based on sound data from good epidemiological studies. OSHA believes, however, that the confidence which can be placed in predictions of asbestosis risk is not as great as for the predictions of cancer risk. This is because the cancer risk estimates are based on a larger and more varied data base and are derived from dose-extrapolation models that are better established. Because OSHA has determined that the risks for cancer alone indicate a grave danger, the additional risks of developing asbestosis are not necessary to justify this ETS. However, OSHA has considered that the additional and independent risk of developing asbestosis increases the danger faced by exposed workers and underscores the gravity of the health threats to employees posed by asbestos.

3. *Quality of Data on Which Risk Estimates are Based.* The underlying data upon which the quantitative risk assessments for asbestos are based are high quality epidemiologic studies, conducted in occupational environments. OSHA emphasizes that the data bases for asbestos are of unusual quality and size. Unlike most potential occupational carcinogens, asbestos has been studied often and thoroughly for evaluation of its effects on occupational populations.

In deriving these quantitative estimates for cancer risk, OSHA utilized eleven studies for the calculation of the lung cancer risk, four of which were also used to calculate the mesothelioma risk. Investigations involved "cohort" studies where the frequencies of various types of cancers in workers exposed to asbestos were compared to those in "control" groups not exposed to asbestos or to those of general populations such as U.S. males. Studies of such design are able to provide direct estimates of excess risk.

The studies used by OSHA in deriving dose-response relationships for its risk assessment covered a variety of work situations and industrial processes. This variety improves the predictive value of the risk assessment because it lessens or eliminates the possibility that the results were unique to any one occupational situation or were in fact aberrational. The occupational settings studied were: workers exposed at a chrysotile textile plant from 1930–1975 (Dement *et al.* Exs. 84–036 and 84–037); Canadian workers at an asbestos cement facility (Finkelstein Ex. 84–240); Italian chrysotile miners and millers who worked during 1930–1965 (Rubino *et al.* Ex. 84–86); workers in an asbestos cement pipe plant (Weill *et al.* Ex. 84–206); workers in an asbestos production plant and asbestos cement pipe factory (Henderson and Enterline Ex. 84–48); British workers manufacturing asbestos textile products (Peto Ex. 84–169); asbestos miners and millers in Quebec, Canada (Liddell *et al.* Ex. 84–59); and in the Thetford Mines, Canada (Nicholson *et al.* Ex. 84–72); and workers manufacturing asbestos friction materials (Berry and Newhouse Ex. 84–21).

"Well-conducted epidemiologic studies that show a positive association between an agent and a disease are accepted as the most convincing evidence about human risk" (Risk Assessment in the Federal Government: Managing the Process, National Research Council, 1983, p. 21, Ex. 84–322).

No extrapolation from animal data to human data is necessary in order to show carcinogenicity of asbestos. For most substances, OSHA must infer human health effects, such as carcinogenicity, from animal data.

The results of this risk assessment performed by OSHA agree well with other recent risk assessments performed by other governmental and outside scientists (see Acheson and Gardner) (Ex. 84–216 and 84–243); EPA (Ex. 84–180); Kang and Chu (Ex. 84–001); Selikoff *et al.* (84–002); and CHAP (Ex. 84–256).

4. *Comparative Analysis.* Insight into the magnitude of the risk associated with asbestos exposure can be gained by reviewing other occupational risks. OSHA believes it is instructive to compare asbestos risks with other workplace hazards agreed on as presenting an unusually high degree of hazard, where the data are considered both available and reliable.

The risk of excess mortality estimated as a result of exposure to asbestos at the conditions in the workplace today appears to be substantially higher than other risks experienced by workers from occupational injury hazards. The National Safety Council (NSC) has reported the annual death rates in 1981 from work accidents in a variety of industries (Ex. 84–339). Using the NSC data OSHA has reviewed the annual mortality from work accidents per 1000 workers in several industries in light of the excess cancer mortality from a single year of exposure to asbestos per 1000 workers. For example, in the high risk occupations of agriculture and mining-quarrying, the annual mortality rates from work accidents were 0.54 and 0.55 per 1000 workers respectively in 1981 (Ex. 84–339). In contrast, the death rate from work accidents for all industries combined was 0.12 per 1000 workers in 1981.

OSHA has estimated that the lifetime risk for one year of exposure to 2 f/cc of asbestos is about 3 excess cancer deaths per 1000 exposed workers during the remainder of the workers' lifetimes (Ex. 4–349). Thus, asbestos workers' risk of excess cancer mortality from a single year of exposure to 2 f/cc is roughly 5 times higher than the risk of accidental occupational fatalities from one year of employment in agriculture and mining-quarrying.

As shown in Table 1, OSHA estimates that many workers are exposed to asbestos in the vicinity of 2 f/cc. In addition, OSHA calculated the average excess cancer risk to workers exposed at conditions that exist in the workplace today (for those above 0.5 f/cc and using the scenario described in Table 3). OSHA estimates that 10 excess cancer deaths will occur per 1000 workers for 1 year exposure; thus the average risk to workers (exposed above 0.5 f/cc) in the workplace today is approximately 20 times the annual fatal accident rates in agriculture and mining-quarrying.

These comparisons are striking. They show that the estimated risk of dying of cancer from asbestos exposure at levels existing at the workplace today far exceeds the accidental death rate in the riskiest of industries. Although the estimated mortality rates for cancer due to asbestos exposure are not completely comparable to the total actual accidental fatalities, the review is clearly useful in showing that the magnitude of the asbestos risk is grave.

One example of predicted cancer risk as a result of occupational exposure is the following cancer risk estimated from

occupational exposure to ionizing radiation. The estimated excess cancer fatality rate from 47 years of exposure to the maximum permissible occupational exposure to ionizing radiation (5 rems) is 17 to 29 per 1000 workers (Committee on the Biological Effects of Ionizing Radiation (BEIR) III predictions, see 48 FR 1902). However, most radiation standards (unlike OSHA standards) require that exposure limits be reduced to the lowest level reasonably achievable below the exposure limit (the ALARA principle). Approximately 95 percent of radiation workers have exposures less than one-tenth the maximum permitted limit. The excess cancer deaths at one-tenth the permitted level are 1.7 to 2.9 per 1000 workers exposed 47 years. Asbestos exposures of 45 years to 2 f/cc are predicted by OSHA to result in 64 excess cancer deaths per 1000 workers beginning work at age 25 (Ex. 84–392). OSHA's calculation for the average excess cancer risk to worker exposed at conditions that exist in the workplace today (for those above 0.5 f/cc) for a 45-year exposure, is 196 excess cancer deaths per 1000 workers. This figure was calculated by taking the number of cancer deaths estimated from exposure to existing conditions for 45 years for those workers exposed to greater than 0.5 f/cc of asbestos and dividing by the number of workers exposed to asbestos greater than 0.5 f/cc (multiplied by 1000).

Therefore, the excess cancer risk at 2 f/cc for asbestos workers is estimated as more than twice as high as the maximum permitted radiation cancer risk and about 25 times higher than the estimated cancer risk of 95 percent of the workers exposed to radiation. At existing conditions, asbestos workers' excess cancer risks are estimated to be 85 times higher than the cancer risk faced by 95 percent of the workers exposed to radiation. The risk of asbestosis further increases the significance of the risk from asbestos exposure.

At 0.5 f/cc, OSHA estimates that 17 excess cancer deaths will occur in 1000 workers exposed 45 years. This risk is approximately 7 times higher than the cancer risk faced by 95 percent of the workers exposed to radiation. OSHA finds that these comparative risks strongly support OSHA's finding that workers exposed to air concentrations above 0.5 f/cc are far above the point of significant risk and are at grave danger of dying from cancer.

5. *Conclusion.* OSHA's finding of "grave danger" is based on evidentiary and policy considerations. OSHA's determination that the magnitude of the estimated risk to exposed workers is alarmingly high constitutes the major component of the "grave danger" finding. The overall extraordinary degree of risk, the extent that very high risk is found in many asbestos using industries, and the unusually high quality of the data utilized to make these assessments present a very strong evidentiary basis for a "grave danger" finding. Just as importantly, the unique gravity of asbestos-caused diseases, in particular cancer, such as mesothelioma which is linked almost exclusively to asbestos exposure, strongly supports OSHA's finding of grave danger. Also OSHA's comparison of the risk of asbestos-related disease to other industrial risks underscores the extraordinarily high risk estimated for asbestos exposure. OSHA has also noted the concerns of workers about current workplace conditions and the numerous petitions for an ETS from unions representing many exposed workers. Finally OSHA has relied on its experience in evaluating and regulating workplace hazards in recognizing the extraordinary degree of risk currently faced by asbestos workers and in determining that such risk constitutes a grave danger to those workers.

B. Need for an ETS

OSHA has determined that this ETS is necessary to protect employees from grave danger, the second prong of the Act's test of OSHA's exercise of its ETS authority (Section 6(c) of the Act). As explained in detail, the effect of this ETS is to save many lives which would otherwise be lost to asbestos-related disease if current working conditions were not changed. OSHA believes that employees can be adequately protected against this grave danger only by issuing an ETS. This is because no other Agency action and no other foreseeable event would result in sufficiently reduced asbestos exposures that would alleviate the grave danger. Further, the provisions of the ETS are tailored to effect the necessary exposure reductions expeditiously.

1. *Lives Saved by Issuing an ETS.* OSHA has estimated the number of deaths avoided as a result of an ETS which would reduce the PEL to 0.5 f/cc (see Tables 2 and 3). For cancer only, based on continuing exposures under currently existing conditions for 6 months, the potential number of lives saved is estimated as approximately 210. Based on continuing exposures at currently existing conditions for 1 year, the potential number of lives saved is estimated at approximately 426. Also, OSHA has estimated that the promulgation of an ETS setting a 0.5 f/cc PEL may avoid 5725 cancer deaths assuming 20 years exposure to asbestos of the current workforce at current conditions and 7815 cancer deaths assuming 45 years exposure.

OSHA is aware, of course, that Section 6(c) of the Act limits the effective time of an ETS to 6 months, and OSHA concludes that a grave danger exists and an ETS is necessary even if OSHA focuses exclusively on this six month period. However, the Agency believes it is appropriate to calculate benefits deriving from an ETS using lifetime risks from 20 and 45 years of exposure to the PEL of 0.5 f/cc established by the ETS. Although the ETS expires within 6 months, Section 6(c) requires that rulemaking on a permanent standard also be completed within 6 months, so that there will be no gap in protection for exposed employees. In OSHA's experience and judgment, complying with this statutory directive and completing rulemaking for a permanent standard within 6 months of an ETS has and can be done.

OSHA also believes, based on its experience, that it is very likely that the PEL established after 6(b) rulemaking will be no higher than 0.5 f/cc, the ETS limit. Therefore, OSHA believes that the ETS will result in a reduced lifetime worker exposures of 0.5 f/cc or lower for 20 or 45 years, and that the benefits derived from these exposure reductions for these time periods are appropriately attributed to OSHA's promulgation of this emergency standard.

a. *Employee Exposures.* To derive these estimates of numbers of lives saved, OSHA depended on its knowledge of the following factors: (1) The employee exposure levels from the ambient asbestos air concentrations in the workplace; (2) the number of workers exposed at the various asbestos levels; (3) the duration of the exposure; and (4) the probability of the disease (or the risk) associated with the cumulative exposure.

Employee exposure levels are conventionally measured in terms of the number of asbestos fibers that are 5 microns or more in length in one cubic centimeter of air, f/cc. In these terms, an ambient concentration may seem to be a small amount of asbestos. However, in physical terms, 2.0 f/cc equals 2,000,000 fibers per cubic meter (f/m^3). Humans inhale about one cubic meter of air per hour, depending on degree of physical activity. Thus, at this concentration, a worker would inhale roughly 16,000,000 fibers, 5 microns or more in length, over an eight hour workday.

Note.—Depending on the industrial process, up to 784,000,000 additional asbestos fibers less than 5 microns in length may also be inhaled, assuming that 98% of airborne asbestos fibers are less than 5 microns.

OSHA continues to use the term, f/cc, for convenience but cautions that the numerical estimates of air concentrations given in these terms are only one way of viewing asbestos concentrations and should not be evaluated without interpreting the meaning of the units.

OSHA used existing information to estimate worker asbestos exposure in each affected industry. Data sources included government contractor reports (Ex. 84–002 and Ex. 84–009), various studies reported in the literature, NIOSH Health Hazard Evaluations, and OSHA compliance data (Ex. 84–355). OSHA reviewed the information, and decided to use the 1980 Research Triangle Institute (RTI) report (Ex. 84–009) as the primary basis for exposure estimates because the RTI estimates appear to OSHA to be the most comprehensive. In addition, RTI used a large number of different data sources to make their exposure estimates, including interviews, existing documentation, and industrial hygiene surveys of worksites.

Using the RTI report as the primary reference, OSHA compared RTI data with other exposure information available for each industry. For example, specific reports were found for asbestos cement manufacturing (Ex. 84–248), textile manufacturing (Ex. 84–267), removal of sprayed asbestos material from buildings (Ex. 84–262), and brake repair (Exs. 84–263, 84–298). The Asbestos Information Association provided data concerning exposures during field fabrication and installation of asbestos cement pipe and sheet in controlled conditions (Ex. 84–295). The Environmental Sciences Laboratory (Ex. 84–002) also made best estimates of worker exposure in various industries for 1975.

In addition, OSHA used its own field inspection experience to estimate exposures. OSHA reviewed selected case files and obtained information that listed OSHA asbestos measurements during compliance inspections from 6/1/79 to 5/31/83 (Exs. 84–354, 84–355).

OSHA adjusted the RTI estimate as appropriate, based upon a qualitative judgment as to which data best represent existing exposure conditions. OSHA's exposure estimates are based, therefore, upon a substantial data base and upon considerable experience in enforcing the existing asbestos standard.

OSHA used the employee exposure levels in each industry to calculate the number of deaths avoided by reducing the exposure from current levels to the emergency PEL. Alternative exposure distributions used for sensitivity analysis will be provided in the Preliminary Regulatory Impact Analysis.

OSHA believes that the exposure estimates are relatively good, given the state of the art of worker exposure estimation techniques and data available today. OSHA is not aware of any other available current exposure estimates.

Industrial hygiene reports of operations in the same industry, but at different work sites, invariably report different asbestos exposures among the workers. OSHA reviewed these reports and made decisions regarding typical industry practices. For some operations, such as brake relining, several reports were available with complete descriptions of the working environment and OSHA was able to use these to make direct exposure estimates. Other reports, such as "Removal of Pre-formed Asbestos Insulation" (Ex. 84–296), described careful processes for asbestos handling that did not appear representative of the methods used throughout industry, since the reported air concentrations were not consistent with other reports showing higher exposures (Exs. 84–306, 84–262).

Table 1 shows OSHA's estimates of employee exposure to asbestos by industry segment.

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Table 1

OSHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Primary Manufacturing			
Asbestos/Cement Pipe & Sheet	900	14	1.0
Friction Materials	3677	31	1.5
Floor Tile			
Receiving, introductions mixing	1187	14	0.5
Rest of plant	3559		0.2
Asbestos Paper			
Receiving, introduction mixing & preparation	474	22	0.75
Rest of plant	1423		0.2

Table 1 (Cont.)

OSHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Gaskets, Seals and Packings			
Sheet formation, cutting and packaging	219	26	0.2
Rest of plant	657		0.75
Paintings, Coatings and Sealants			
Mixing, compounding and packaging	34	5	0.75
Rest of plant	101		0.0
Textiles-Wet Process	375	2	0.75
-Dry Process	750	3	1.5
Secondary Fabricators[b]			
Cement Sheets	4301	1076	2.0
Paper Products	4301	1076	2.0
Packings and Gaskets	4301	1076	2.0
Textiles	4301	1076	1.0
Automotive Aftermarket			
Rebuilding and Refacing	4091	140	2.0
Brake Repair			
Garages and Brake Shops	176355	68089	0.15
Gasoline Stations	84961	77896	less than 0.1
Shipbuilding and Repair[c]	1522	38	
Shipbuilding	304		0.5
Ship Repair	1218		5.0
Construction[d]			
Installation of New Materials			
Asbestos Cement Pipe	5458	546	0.75
Asbestos Cement Sheet	1765	177	2.0
Roofing Felts	2499	250	0.15

Table I (Cont.)

OSHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Repair and Maintenance			
Drywall removal, renovation, and demolition[e]	12955	1296	20.0
	38866	3887	0.2
Repair and maintenance involving asbestos removal	14845	1485	0.15
Maintenance workers in schools, chemical plants electrical generating plants and foundries	N/A	N/A	0.15
TOTAL WORKERS EXPOSED ABOVE 0.5 f/cc[f]			48,644
TOTAL EXPOSED WORKERS			375,399

[a] Population and facility estimates were based on the RTI report (Ex. 84-009) and updated to 1983 employment levels by JRB Associates.

[b] The number of plants in the SIC codes making up Secondary Fabricators (2451, 3357, 3523, 3531, and 3842) was derived by JRB Associates by taking the number of establishments with 20 or more employees, as listed in the Economic Information Systems data base for 1983, and expanding that number by the percent of establishments with fewer than 20 employees, as listed in County Business Patterns, 1980. Not knowing exactly how the 17,204 Secondary Fabrication (SF) workers and 4,304 SF plants were distributed among the 4 types of SF facilities, OSHA assumed that the workers and plants were distributed equally among the 4 types of SF facilities.

[c] Assumed that 20% of 3045 shipbuilding/repair workers are not in compliance with current respirator requirements. Hence, the number of workers was adjusted to reflect the 20% of exposed workers.

[d] Assumed average firm employs 9-10 workers as is true of SIC 17 (construction, special trade contractors).

[e] Assumed that 25% of 51820 drywall removal, renovation, and demolition workers are not in compliance with current respirator requirements. Hence, the number of workers was adjusted to reflect the 25% of exposed workers.

[f] This figure excludes segments that are in compliance with 0.5 PEL such as floor tile, brake repair, roofing felts, and repair and maintenance.

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Data from OSHA's Management Information System (MIS) includes a list of all asbestos samples reported by OSHA field staff during June 1, 1979 to May 31, 1983 (Ex. 84–355). During this period, 949 eight-hour time-weighted average (TWA) samples were collected in many different industries. Of the 949 samples, 731(77%) were below 0.5 f/cc 156 (16.4%) fell between 0.5 f/cc and 2.0 f/cc; and 62 (6.5%) were above 2 f/cc. OSHA also reviewed the MIS summary report where the measurement data were grouped within Standard Industrial Code (SIC) classifications (Ex. 84–354). All these data contributed to the development of OSHA's best exposure estimates.

In conclusion, OSHA has used its experience in enforcing the existing asbestos standard to determine the best estimates of worker exposure in the industries. On the whole, in comparison to other toxic substances present in the workplace, asbestos exposure information is well reported. Given that OSHA experience is considerable, OSHA believes its estimates are reasonable and appropriate and provide a satisfactory basis for judgments regarding the extent of risk existing in workplaces.

OSHA acknowledges, however, that the exposure information concerning asbestos removal and renovation in the construction industry is less certain than the other estimates. Despite uncertainities in qualifying exposure in the demolition/removal category, OSHA feels that this best estimate is based upon evidence that is both reasonable and the best available. Furthermore, OSHA believes that any changes made to the estimate as a result of the uncertainities would not be of a sufficient magnitude to warrant a change in its basic findings.

2. *Calculation of Lives Saved and Disease Avoided.* The benefits provided by this ETS consist of cancer deaths and disabling asbestosis avoided. The estimates of deaths avoided by lowering of the exposure limit by the emergency temporary standard are based on the mortality rates developed in the risk assessment discussion. To generate the expected number of excess deaths attributable to asbestos in the U.S. workforce, the expected rate of mortality at each exposure level was multiplied by the population exposed at that level. The expected mortality rate from each exposure level was derived from OSHA's quantitative risk analysis (Ex. 84–392). The expected number of deaths at the reduced PEL was then subtracted from the expected number of deaths at the current worker exposure levels to determine the estimated number of deaths avoided by reducing the permissible exposure limit. The benefits are expressed in terms of estimated deaths rather than disability because the types of cancer associated with asbestos exposure have a very poor survival rate.

An example of such a calculation follows. To calculate the lung cancer deaths avoided during one year of exposure to a worker population in the construction industry who are engaged in the installation of asbestos cement sheet:

Population = 1765 (Table 1)
Estimated Current Exposure Level = 2.0 f/cc (Table 1)
Estimated lung cancer risk for one year at 2 f/cc = 144/100,000 (Table 11)

1. Calculate expected deaths for installers of A/C sheet having one year of exposure at 2 f/cc exposure level:

Population × risk = expected deaths
(1765) (144/100,000) = 2.54 or approximately three deaths among installers.

2. Calculate expected deaths for installers of A/C sheet at PEL of 0.5/cc for one year of exposure:

Estimated risk at 0.5 f/cc = 36.1 per 100,000 (Table 17)
Population × risk = expected deaths
(1765) (36.1/100,000) = 0.64 or approximately one death among installers

3. Calculate lung cancer deaths averted or lives saved for A/C sheet installers by reducing exposure to 0.5: subtract expected deaths at 0.5 f/cc from those expected at 2/f/cc

(2.54) − (0.64) = 1.9 or approximately two lives saved.

The estimated benefits derived from exposure reductions to several PEL's which OSHA is considering for a final standard are presented in Table 2. These benefits represent the estimated number of cancer deaths avoided from those expected due to 20 years exposure at the estimated current exposure levels assuming worker exposure began at age 25. The benefits were calculated using a base of 20 years exposure because, as stated earlier, 20 years is an estimate of typical lifetime exposures for some workers. Exposures of 6 months, one year and 45 years duration are also used to show the grave danger and the need for the standard, based upon a 0.5 f/cc PEL (see Table 3).

For Table 2, OSHA bases its respirator assumptions in the construction industry and shipbuilding industry on its enforcement experience, on its familiarity with the industries, trade unions, and industrial hygienists, and on available studies on this subject. OSHA believes that these estimates may overstate the degree of respirator use. This would lead to underestimation of benefits of the ETS for the following reason: The fewer workers in compliance with the current requirements for respirator use for ambient exposures exceeding 2 f/cc, the greater the potential benefits from an ETS mandating that workers be trained regarding the significant risks from asbestos exposure and the importance of using respirators. Also, workers currently using respirators will benefit by further reductions from 2 f/cc to 0.5 f/cc. However, if respirators mandated by the ETS are not used properly or consistently, then the number of cancer deaths avoided is an overestimate.

To test the results OSHA also calculated the benefits assuming that all shipbuilding/repair and construction/renovation/demolition operations comply with the current standard. All of the shipbuilding/repair workers would thus be protected by respirators which would reduce exposures to 0.5 f/cc. The construction workers would have an exposure of 2 f/cc. The benefits of reducing the PEL to 0.5 f/cc would, therefore be calculated as the difference between expected deaths at 2 f/cc and the expected deaths at 0.5 f/cc for all workers in these segments. Table 4 shows these benefit estimates.

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Table 2

Estimates of All Cancer Deaths Avoided at Three PELs

Assuming 20 Years of Exposure

Industry Segment	PEL (f/cc)		
	0.5	0.2	0.1
Primary Manufacturing	117	172	200
Secondary Manufacturing	471	586	624
Automotive Aftermarket	134	162	370
Shipbuilding/Repair[a]	29	39	43
Construction[b]	4974	5109	5175
Totals	5725	6068	6412

[a] OSHA assumes that 80% of workers in the shipbuilding/repair sector are protected by air-line respirators and only 20 percent may be exposed to the estimated ambient air level.

[b] OSHA assumes that only 25% of construction workers may be exposed to the estimated ambient air levels and these exposures are reduced from 20 f/cc to 0.5 f/cc as a result of the ETS.

Table 3

ESTIMATES OF CANCER DEATHS AVOIDED

Based upon lifetime risk estimates for exposures [a]

Industry Sector	PEL of 0.5 f/cc			
	6 Months	1 Year	20 years	45 years
Primary Manufacturing	2	8	117	174
Secondary Manufacturing	17	31	471	684
Automotive Aftermarket	4	8	134	194
Shipbuilding/Repair[b]	0	1	29	41
Construction [c]	187	378	4974	6722
TOTALS	210	426	5725	7815

[a] This table assumes exposures are reduced only to 0.5 f/cc. The number of lives saved by promulgation of the ETS may be understated in that respirators may reduce exposures below 0.5 in some industrial situations. However, the number of lives saved may be overstated if the respirators are not fully protective, or are not consistently used.

[b] OSHA assumes that 80% of workers in the shipbuilding/repair sector are protected by air-line respirators and only 20% may be exposed to the estimated ambient air level.

[c] OSHA assumes that only 25% of construction workers may be exposed to the estimated ambient air levels and these exposures are reduced from 20 f/cc to 0.5 f/cc as a result of the ETS.

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Although the results in Table 4 show fewer benefits OSHA believes the number of deaths avoided under this scenario, 80 for six months, 162 for 1 year, 2416 for 20 years, and 3513 for 45 years indicate a grave danger and necessitate this ETS action.

Table 4

Cancer Deaths Avoided with a 0.5 f/cc ETS

Assuming Compliance with the 2 f/cc Standard

Industry Sector	6 months		1 year	20 years	45 years
Primary manufacturing	2	8	117	174	
Secondary manufacturing	17	31	471	684	
Automotive Aftermarket	4	8	134	194	
Shipbuilding/Repair*	0	0	0	0	
Construction**	57	115	1694	2461	
TOTAL	80	162	2416	3513	

*OSHA assumes that the entire industry sector complies with the 2 f/cc standard through use of controls or respirators capable of reducing exposure to 0.5 f/cc.

**OSHA assumes that the renovation and demolition industry sectors are protected to 2 f/cc by use of half mask air purifying respirators.

3. *No Other Agency Action Is Adequate To Protect Employees Against This Grave Danger.* OSHA believes that Congress intended that the ETS authority may be exercised when OSHA determines that a grave danger is presented and when the provisions of the ETS are crafted to be an immediately effective means of protecting employees against such danger.

OSHA, however, has evalauted the potential capability of other possible actions to reduce the risk from asbestos exposure. OSHA has determined that no other agency action short of issuing this ETS which compels an immediate four-fold exposure reduction will sufficiently protect employees against the grave danger of developing asbestos related disease. In making this determination OSHA considered the usefulness of stepping up enforcement of the current asbestos standard, and initiating a 6(b) rulemaking proceeding to permanently reduce exposure levels. These actions will be discussed in turn. OSHA notes that these actions are not mutually exclusive, and in fact, OSHA is both stepping up its enforcement activities and embarking on a required 6(b) rulemaking as coordinated activities in addition to issuing an ETS.

(a) OSHA first concludes that merely increasing its enforcement of the current asbestos standard would not sufficiently reduce the grave risk of asbestos-related disease to exposed workers. Even if such increased enforcement resulted in immediately uniform compliance with the current 2 f/cc standard in all industries, risks to asbestos-exposed workers would remain unacceptably high. As stated above, OSHA has estimated that at a 2 f/cc level employees exposed over a working lifetime of 45 years are predicted to have an excess risk of dying from cancer of 64 in 1000 and of contracting disabling asbestosis of 50 in 1000; employees exposed over 20 years are predicted to have excess cancer risk of 44 in 1000 and a disabling asbestosis risk of approximately 22 in 1000. Even at exposures lasting one year, an estimated 3 employees out of 1000 are predicted to die of asbestos related cancer, and there is also additional risk of developing asbestosis. Risks at the 2 f/cc level have been acknowledged as unacceptable by other governments which have reduced their permissible levels below 2 f/cc.

To estimate the number of lives at stake if only the current standard were immediately enforced instead of compelling a 0.5 f/cc level through this ETS, OSHA made other calculations using certain assumptions about actual compliance levels.

For this analysis, OSHA assumed that all construction, renovation and demolition operations comply with the current standard so that workers in this industry would have exposures of 2 f/cc. The difference in the number of deaths avoided by compliance with the 2 f/cc standard compared with those avoided from compliance with the 0.5 f/cc ETS is still very high and shows that asbestos exposure even at 2 f/cc represents a grave danger to such exposed employees. Table 4 sets forth the results of these calculations. Thus, for a 20 year period of exposure, OSHA estimated that merely ensuring compliance with the current 2 f/cc limit may cost 2416 employees their lives. For one year of exposure, OSHA estimated that 162 employees may die if exposures are not reduced to 0.5 f/cc, assuming full compliance with the current 2 f/cc limit.

OSHA believes that these benefits (i.e. lives saved) represent the lower bound of those that would result from the ETS for two reasons. Half mask respirators which may be used at air concentrations of 20 f/cc to comply with the current standard may not effectively reduce employee exposure below 2 f/cc Further under the ETS, half mask respirators may only be used in workplaces where concentrations do not exceed 5 f/cc. Employees in workplaces between 5 and 20 f/cc must use more protective respirators under the ETS; hence, it is likely that their actual

exposures may be reduced to below 0.5 f/cc and the benefits of the ETS will be correspondingly increased. Further, an ETS by nature of the action itself, and the accompanying enforcement program, will undoubtedly boost the incentives to comply with all protective provisions of the asbestos standard.

(b) OSHA rejected relying on merely beginning Section 6(b) rulemaking proceedings to revise the standard to reduce the PEL as an inadequate response to the grave danger faced by asbestos-exposed workers. Beginning rulemaking proceedings results in no immediate workplace changes. Employees would still continue to be exposed to those conditions which define a grave danger for at least the pendency of the rulemaking. In OSHA's experience, completing 6(b) rulemakings not initated by an ETS concerning hazardous substances can take many years. For example, the coke oven emission standard took approximately 3½ years, the lead standard, more than 6 years and the cotton dust standard, more than 4 years. These periods do not include any of the additional delays in the effective dates of OSHA standards that were due to judicially imposed stays, which have resulted in delays lasting several years. Under the most favorable circumstances, however, OSHA believes that it is possible that a section 6(b) rulemaking limited to the issues raised herein might be completed in approximately one year, absent an ETS.

As shown above, the estimated risks of developing asbestos-related cancer due to exposure for one year under current conditions, are still extraordinarily high. The additional risks of developing asbestosis due to one year's exposure under current conditions, although quantified with less certainty, are also more than significant. OSHA also believes that the risks of six months exposure, approximated by taking over half of the one year risks under current conditions, also are unacceptably high. OSHA emphasizes as stated above, that OSHA's experience shows that without an ETS, proceedings leading to a permanent health standard are unlikely to be completed within a six month period. The explanation of OSHA's capability to produce a standard within 6 months of an ETS lies in the urgency generated by OSHA's finding of a grave danger, the existence of a specific statutory deadline to complete a rulemaking within 6 months and the need to prevent a gap in protection between the expiration of the ETS and the imposition of the permanent standard for a substance already determined to present a grave danger.

OSHA also believes that it is helpful to evaulate the extent of risk resulting from lifetime exposure periods of 20 and 45 years in the absence of this ETS. As shown in Tables 10 and 11, these risks are extraordinarily high.

4. *Other Factors Indicating a Need for an ETS.* Although worker exposure to asbestos has been declining over the years, OSHA believes that exposure conditions will continue to present grave danger in the near future unless an emergency standard is promulgated. OSHA bases this finding on its evaluation of exposure information, asbestos use statistics, consideration of the nature of industrial exposure today, and the degree of compliance with the current standard.

Although OSHA anticipates a decline in use of asbestos in products, this decline will not materially affect asbestos use in the near future. The extensive tort litigation regarding asbestos and the awareness of health effects associated with asbestos exposure provides strong inducements for producers and users of products to switch to substitutes for asbestos. In fact, asbestos consumption has declined over the years as shown:

Year	U.S. Consumption Pattern (1000 tons)
1975	552
1976	659
1977	672
1978	619
1979	561
1980	360
1981	349
1982	248

Worker asbestos exposures will continue, however, for many years in the future because substitutes for some products do not appear immediately available.

For other products, old replacement parts will be needed for many years. For example, automobile manufacturers may switch to non-asbestos brakes and clutch facing in new vehicles in the next several years. Old vehicles, containing asbestos parts, will remain in use for many years thereafter. Paik et al. found over half of all multistory buildings surveyed (68 out of 127) contained sprayed on asbestos material (Ex. 84-262). The potential for asbestos exposure exists as long as asbestos remains in these buildings. Renovation work in the building such as relocating walls and electrical wiring, will result in continued exposure for carpenters, painters, electricians, laborers, sheet metal workers and others.

Therefore, OSHA does not believe that major exposure level reductions are about to occur in the near future. The trend towards reduction in asbestos use and asbestos exposure has been a slow gradual process with the exception of instances where the government intervened. For example in 1973 the EPA banned use of sprayed on insulation containing more than 1 percent asbestos. Without OSHA acting at this time, OSHA predicts that the grave danger conditions will persist, certainly during the period required for OSHA's issuance of a 6(b) standard, and probably for many years thereafter.

5. *The Need for the Specific Provisions of the ETS.* The provisions of the ETS require the employer to use any method of control to reduce employee exposure to 0.5 f/cc and to train workers concerning the hazards associated with asbestos and procedures for reducing the risk. These provisions must be implemented immediately. OSHA believes they are greatly needed to afford employees meaningful protection. As the benefit section explained in detail, compelling exposure reductions through an ETS will result in a great number of lives saved.

In addition, as stated earlier OSHA believes that its estimates of the degree of compliance with respirator requirements in the construction and shipbuilding industry may overstate the degree of present respirator use. Thus, OSHA may be understating the benefits to be derived from an ETS, and hence the need for such an ETS to be promulgated. In addition, OSHA's estimates of exposures in demolition and renovation segments of the construction industry are approximately 20 f/cc. Because under the ETS the PEL is lowered to 0.5 f/cc, the airborne concentration at which more protective

respirators (with a protection factor exceeding 10) must be worn drops from 20 f/cc (10 times the former PEL of 2 f/cc) to 5 f/cc (10 times the new PEL of 0.5 f/cc). Therefore OSHA believes that more workers will wear more protective respirators under the ETS than under the current permanent standard, that their actual exposure levels will be reduced to below 0.5 f/cc and consequently that their risks will be reduced even more than the calculations indicate.

OSHA finds also that requiring a training program to be instituted as quickly as possible is one of the most effective methods of maximizing the beneficial impact of the exposure reduction and of all the protective provisions of the current standard. Thus, the content of this ETS has been chosen as the most effective short-term strategy to reduce asbestos risks which will be accepted and implemented.

6. *Conclusion.* OSHA finds that workers exposed to asbestos in the workplace at existing exposure conditions need this emergency temporary standard to protect them from the grave danger presented by these conditions. OSHA finds that by compelling a reduction in exposure to 0.5 f/cc for those employees presently exposed over that level, many lives will be saved. Training imposed by the ETS will enhance the risk reductions, although quantification of that additional reduction cannot be calculated. 0.5 f/cc is the lowest feasible level achievable through this emergency action, where short-term implementation of the controls is required.

Only by issuing an ETS compelling reductions in exposure levels below the current permissible limit of 2 f/cc can OSHA bring about adequate reductions in risks. The administrative action of stepping up enforcement of the current standard is an inadequate response to OSHA's finding that current conditions present a grave danger.

OSHA does not believe that any significant reduction will occur within an acceptable time period without this emergency standard action. OSHA has observed a gradual reduction in asbestos use, but, in the Agency's experience, significant and rapid exposure reductions usually occur in response to standards. The provisions of the ETS will significantly reduce the risk and reduce it quickly. Therefore OSHA has determined that the ETS is necessary to reduce the grave danger.

IV. Occupational Health Data

A. Introduction

1. *Asbestos-related Diseases.* Asbestos exposure can cause a number of disabling and fatal diseases. Among these diseases are lung cancer, cancer of the mesothelial lining of the pleura and peritoneum, and asbestosis. It is also likely that asbestos increases the risk of gastrointestinal cancers. Of all the diseases caused by asbestos, death from lung cancer constitutes the greatest health risk for American asbestos workers. Lung cancer has been responsible for over half of the excess mortality from asbestos exposure in some occupational cohorts.

The relationship between lung cancer and asbestos exposure has been established by numerous epidemiologic studies of diverse groups. Asbestos-induced lung cancer usually has a latency period in excess of 20 years and may be diagnosed at an earlier age than for non-exposed persons (Craighead et al., 1982; Ex. 84–033). Few cases of lung cancer are curable despite advances in medical and surgical oncology. Only 9% of lung cancer patients survive five or more years after diagnosis (American Cancer Society, 1983; Ex. 84–160). Asbestos exposure acts synergistically with cigarette smoke to multiply the risk of developing lung cancer.

Mesothelioma also has been conclusively shown to be associated with asbestos by many studies. In some asbestos-exposed occupational groups, 10%–18% of deaths have been attributable to malignant mesotheliomas. Malignant mesotheliomas of the pleura and peritoneum are extremely rare in persons not exposed to asbestos. Generally, a latency period of at least 25 to 30 years is required in order to observe mesotheliomas in an occupational cohort. Some victims of mesothelioma have had a latency period exceeding 40 years since their initial exposure to asbestos (Craighead et al., 1982; Ex. 84–033). This form of cancer is rarely curable and is usually fatal within a year after diagnosis. There is no evidence for a relationship between cigarette smoking and mesothelioma risk.

Asbestos exposure can cause pleural and/or other pulmonary disease. Pleural plaques are one of the markers of exposure and may develop within 10 to 20 years after the initial exposure. Plaques are opaque patches visible on chest X-rays that consist of dense strands of collagen (connective tissue protein) lined by mesothelial cells. All commercial types of asbestos induce plaques. Plaques can occur even when fibrosis is absent and do not seem to reflect the severity of pulmonary parenchymal disease. Pleural calcification is also commonly found in persons who have been exposed to asbestos (Craighead et al., 1982; Ex. 84–033).

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Adverse effects of asbestosis range from shortness of breath upon exertion to cyanosis, effusions of serous fluid, respiratory failure, cardiac decompensation, and death. Often, asbestosis is a progressive disease, even in the absence of continued exposure. Symptoms of disease are shortness of breath, cough, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. One clinical feature of early asbestosis as well as other lung diseases is end-inspiratory crackles (rales). Diagnosis of asbestosis is based upon the presence of characteristic radiologic changes, symptoms, rales, other clinical features of fibrosing lung disease and a history of exposure to asbestos. Cigarette-smoking asbestos workers may have an increased risk of asbestosis relative to non-smoking asbestos workers. (Craighead et al., 1982; Ex. 84–033).

Some epidemiologic studies have observed increases in esophageal, stomach, colo-rectal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. While the magnitude of increased cancer risk for these sites is not as great as for lung cancer and mesothelioma, the increased risk is nevertheless of considerable importance because of the high background rates of some of these tumors in the general population. A 50% increase in a common cancer such as colo-rectal cancer results in many more deaths than a 50% increase in a rare cancer. Colo-rectal cancer, if detected and treated in an early localized stage, has a five year survival rate of about 70% (American Cancer Society 1983; Ex. 84–160). Surgical and medical treatment is less successful for the other sites listed above.

Adverse effects from exposure to asbestos have been observed in workers involved in asbestos cement pipes and shingles manufacturing (Enterline et al., 1973a, 1973b; Weill et al., 1979; Finkelstein, 1982, 1983) (Exhibits 84–122, 84–123, 84–206, 84–044, 84–240), asbestos mining and milling (Wagner et al. 1960; Liddell et al., 1977; McDonald et al., 1980; Hobbs et al., 1980; Nicholson et al., 1979; Rubino et al., 1979) (Exhibits 2–21, 84–059, 84–065, 84–132, 84–072, 84–086), asbestos textile manufacturing (Doll, 1955; Peto et al., 1980; Berry et al., 1979;

Dement et al., 1983) (Exhibits 84-040, 84-169, 84-020, 84-037), insulation work (Selikoff et al., 1979) (Exhibit 84-090), shipbuilding (Selikoff et al., 1979; Blot et al., 1980; Tagnon et al., 1980) (Exhibits 84-091, 84-109, 84-182), and in a variety of asbestos products manufacturing industries (Jones et al., 1980; Henderson and Enterline, 1979; McDonald and McDonald, 1978; Seidman et al., 1979; Robinson et al., 1979; Acheson et al., 1981) (Exhibits 84-138, 84-048, 84-154, 84-087, 84-082, 84-103).

It should be noted that 2 fibers per cubic centimeter, which is the current OSHA standard, is equivalent to 2 million fibers per cubic meter of air. Because humans breathe in about a cubic meter of air every hour, depending on physical exertion, the current OSHA PEL for asbestos allows workers to inhale 2 million asbestos fibers per hour during an 8-hour work day. For the sake of brevity, subsequent discussion in this preamble will express exposure in terms of fibers per cubic centimeter (f/cc) rather than fibers per cubic meter.

Note.—The current OSHA standard includes asbestos fibers 5 micrometers or more in length, thereby excluding shorter fibers. Since up to 98% of airborne asbestos fibers are shorter than 5 micrometers, workers may inhale up to 100 million asbestos fibers per hour during an 8-hour work day.

Since OSHA's publication of a notice of proposed rulemaking in 1975, additional studies have confirmed that asbestos exposure causes a high risk of cancer. In addition, much more complete data on the nature of dose-response relationships for asbestos-induced diseases are now available. These studies generally indicate that the PEL set by OSHA in 1972 is inadequate to protect asbestos workers from either lung disease or cancer.

The following agencies and organizations have reviewed the health data for asbestos: International Agency for Research on Cancer (IARC) (1977, Ex. 84-321), Organization for Economic Cooperation and Development (OECD) (1979, Ex. 84-337), NIOSH (1976, 1980, Exhibits 84-338 and 84-320), Advisory Committee of the Health and Safety Commission of the United Kingdom (1979, Ex. 84-216), the Chronic Hazard Advisory Panel on Asbestos (CHAP) (1983, Ex. 84-256), and the U.S. Environmental Protection Agency (1982, Ex. 84-180). All of these groups have concluded that there is a causal relationship between asbestos exposure and the development of cancer and non-malignant respiratory disease. NIOSH recommended reduction of the PEL for asbestos to 0.1 fibers per cubic centimeter (0.1 f/cc) in 1976. In 1980, a joint NIOSH/OSHA Asbestos Work Group stated that there was no level of exposure to asbestos below which clinical effects did not occur and recommended a PEL of 0.1 fibers per cubic centimeter (0.1 f/cc), based on the limitations of current technologies of measuring air concentrations of asbestos. The 1979 report of the Advisory Committee of the Health and Safety Commission of the United Kingdom, hereafter referred to in this section as the U.K. Committee, led to the reduction of the British standard for asbestos to 1 f/cc for chrysotile, 0.5 f/cc for amosite, and 0.2 f/cc for crocidolite. Currently, it appears that the United Kingdom may lower the PEL for chrysotile to 0.5.

2. *Evaluation of Risk.* OSHA's first step in analysis of risk of disease from exposure to a potentially hazardous agent is a qualitative evaluation of scientific data. This evaluation involves reviewing human and experimental studies to consider such factors as overall study design, methods of data collection, biologic plausibility of findings, consistency of findings from different studies, temporal correctness of the association, and other factors as well as general scientific judgment.

Subsequently, after a specific agent has been judged to be hazardous, the quantitative exposure-response relationships between the agent and disease can be investigated. The available data on air concentrations of the substance or biological indices of exposure, such as fiber contents within lungs, can be reviewed for cohorts of workers demonstrated to have an increased risk of disease. If workers with an observed excess risk of disease have received cumulative exposures permitted by the current OSHA permissible exposure limit, then a potential significant health risk from exposure to the PEL has been established. If the workers with observed excess risk received cumulative exposures above those permitted by the current PEL, then risk from the current PEL may be estimated from risk observed at higher levels by using dose-response extrapolation models.

The section, *Epidemiologic Evidence on Risk from Exposure at the Current PEL*, will discuss the extent to which excess risk has been *observed* from low exposures to asbestos. Section V., *Quantitative Risk Analysis*, will discuss the *prediction* of excess risk from low asbestos exposures using dose-extrapolation models based on studies observing excess risk in humans. OSHA considers that both risks *observed* by studies and risks *predicted* by dose-extrapolation models are valid indicators of the existence of significant health risks.

Exposure data frequently are not available for workers exposed before 1970. Where historical exposure data are available, the data often have such limitations as having been collected and analyzed using industrial hygiene techniques no longer in use or having been collected in only some areas of the worksite or having been collected on only a few occasions. Therefore, of necessity, estimates of dose-response based on epidemiologic studies will have a fairly broad range of uncertainty. OSHA must examine the best available data on exposure-response to arrive at a determination of significance of risk, despite inherent and inevitable uncertainties in the data.

The current 8-hour time-weighted average PEL for asbestos of 2 fibers per cubic centimeter (2 f/cc) envisages that workers will not receive a cumulative exposure exceeding 100 f/cc-years (=2 f/cc $\times$ 50 years of occupational exposure). For asbestos, OSHA believes that a number of studies suggest that increased risk of lung cancer, asbestosis, and mesothelioma have occurred from cumulative exposures estimated as close to or below 100 f/cc-years.

Note.—OSHA typically uses 45 years as the period of a full working lifetime for purposes of quantifying risk from exposure to toxic agents. For asbestos, many scientists have used 50 years to represent a full working lifetime. Thus, both 45 years of exposure and 50 years of exposure are used in this document for the purpose of analyzing dose-response relationships for asbestos.

In these studies, the cumulative exposures resulted from exposure *levels* greater than the current OSHA PEL of 2 f/cc for an 8-hour day. For example, workers who accumulated 100 f/cc-years could have been exposed to an average level of 5 f/cc for a period of 20 years. Section B.(3), below, discusses the epidemiologic evidence for risk from low exposures in more detail. OSHA believes that a significant health risk has been observed for cumulative exposures that could be accumulated by workers exposed to no more than the present PEL of 2 fibers per cubic centimeter (2 f/cc).

Estimates of cumulative exposure are approximations of total dose received by a worker during the period of employment involving exposure to asbestos. Cumulative exposures generally are estimated by multiplying the varying intensities of exposure, such as the 8-hour time-weighted averages, by the number of year's exposed. Most theories of the mechanism of

carcinogenesis assume that the risk of transformation of target cells to cancer cells increases with increases in the total dose. Exposures received after such a transformation has taken place may aid the development of cancer, but have not caused the cancer. Thus, in some instances, using total cumulative exposure may overstate the exposures sufficient to produce increased cancer risk. For this reason, some epidemiologists omit the later years of exposure to a carcinogen in analyses of mortality in relation to cumulative exposure.

In addition to cumulative exposure, *intensity* of exposure can be examined in relation to disease. Intensity of exposure is often approximated by 8-hour time-weighted averages (TWA's). The OSHA PEL of 2 fibers per cubic centimeter (2 f/cc) as an 8-hour TWA has only been in effect since 1976. At this time, it does not appear possible to determine whether intensity of exposure has an effect on disease risk separate from that of cumulative exposure. This is because the current OSHA PEL has been in effect only since 1976, which is an insufficient period to observe asbestos-related diseases, which characteristically have long latency periods (in excess of 25 years). As discussed in the section, *Quantitiative Risk Analysis*, it appears that duration of exposure may have an independent effect on mesothelioma risk.

The following sections analyze recent epidemiologic and experimental studies and discuss important aspects of the occupational health data concerning asbestos.

B. Epidemiologic Evidence on Risk from Exposure at the Current PEL

1. *Conversion of Particle Counts to Fiber Counts.* Currently, personal asbestos samples of exposed workers are collected with a membrane filter, and fibers are counted using a phase contrast microscope equipped with an eyepiece graticule. In the past, particles were counted rather than fibers, area samples were taken rather than personal samples, and samples were collected using thermal precipitators or midget impingers. These past industrial hygiene measurements were expressed in millions of particles per cubic foot (abbreviated as mppcf or mpcf), whereas current measurements are expressed as fibers per cubic centimeter or per milliliter (f/cc or f/ml). Conversion of measurements from mpcf to f/cc is not a simple matter of applying a single multiplicative factor due to the differing work environments in which samples were taken and differing sampling methodologies. The factor for converting mpcf to f/cc has been suggested as ranging from 1:1 to 1:5 depending on the industry studied by the scientists (Kang and Chu, Ex. 84–1; Hammad et al., Ex. 84–277; McDonald, Liddell, Gibbs, Eyssen, and McDonald, Ex. 84–065). For example, using conversion factors of 1:1 to 1:5 a cumulative exposure of 20 mpcf-years could range from 20 f/cc-years to 100 f/cc-years.

The British Occupational Hygiene Society Committee on Asbestos conducted a study of dust concentrations measured by current methods and historical methods (Ex. 84–024). Conversion factors for historical methods to current methods were 1: 0.07, 1: 2.2, and 1:2, depending on the historical method.

For asbestos mining and milling, this section will use the midpoint of the range of conversion factors: 1 mpcf = 3 f/cc. For asbestos production and asbestos cement production this section will use Hammad et al.'s suggested conversion factor of 1:1.4 for mpcf to f/cc.

2. *Epidemiologic Studies.* The epidemiologic studies that OSHA interprets as suggesting that significant health risk has been observed at low asbestos exposures fall into 3 categories: (1) Studies of household contacts of asbestos workers, (2) studies of workers whose exposures were short-term, and (3) studies of workers with cumulative exposures estimated to be close to or below 100 f/cc-years. This section summarizes these studies and presents OSHA's analysis of these studies.

A number of studies have observed mesotheliomas and an increased prevalence of chest X-ray abnormalities among families of asbestos workers (Anderson et al., Exhibits 84–016 and 84–017; Vianna and Polan, Ex. 84–186, Li et al., Ex. 84–149). In addition, mesotheliomas have been observed in community members living near asbestos mines and factories (Wagner et al., Ex. 2–21; Newhouse and Thompson, Ex. 84–070).

Anderson et al. (Ex. 84–016) observed a 35.9 percent prevalence of chest X-ray abnormalities, including pleural thickening, plaques, pleural calcification, and irregular opacities, among 626 household contacts of amosite factory workers compared to a 4.6 percent prevalence of chest X-ray abnormalities among 326 controls drawn from the same community as the amosite workers. Controls were matched to the cases by age and sex. As of 1976, 4 cases of mesothelioma had been diagnosed among the 626 family contacts of the amosite workers. Presumably, family contacts received their exposure to asbestos from dust carried home on the worker's clothing, especially during the laundering of dusty clothes. About a 10-fold increase in prevalence of pleural thickening compared to controls was observed in family contacts of workers with only one year of exposure within the amosite factory.

Estimated asbestos exposure levels of family contacts and community members observed to be at risk of asbestos related disease have not been reported. OSHA considers it very likely that the cumulative exposures of the family contacts and community members were less than 100 f/cc-years.

Seidman, Selikoff, and Hammond (Ex. 84–087) studied the mortality of 820 amosite production workers employed sometime during 1941–45. Seidman et al. reported that dust concentrations had never been measured in this plant and that the plant was known to have deficient ventilation systems. Workers were classified as having worked less than 1 month, 2 months, 3–5 months, 6–11 months, 1 year, or 2 or more years. Workers in all categories of length of employment had excessive mortality from lung cancer. For example, men employed less than one month had a lung cancer standardized mortality ratio (SMR) of 267, based on supplemental autopsy, clinical, and surgical information. [The standardized mortality ratio is calculated as the observed number of deaths in the exposed population divided by the number of deaths that would be expected in the exposed population, based on mortality rates of an appropriate comparison population. The SMR is frequently used as an approximation to the relative risk.] Hence, OSHA considers that Seidman et al. demonstrated that excess lung cancer risk could be experienced even by workers with exposures of relatively short duration.

Berry, Gilson, Holmes, Lewinsohn, and Roach (Ex. 84–020) studied the workers of an asbestos textile factory in the United Kingdom. Berry et al. reported in 1979 that the average exposure level was 5 f/cc and that 6.6 percent of men employed after 1950 had "possible asbestosis." Among men employed after 1950, Berry et al. observed 1 percent prevalences of crepitations, "possible asbestosis," or "certified asbestosis" at 37, 46, and 63 f/cc-years respectively.

Berry et al. concluded: "In view of these findings there is no room for complacency about the 2 f/cm³ standard

and efforts should be continued to reduce asbestos dust to as low a level as possible. At this stage it is impossible to state definitely that the standard is inadequate, because its introduction is so recent, and it is essential to follow up groups exposed to low levels in order to improve the data necessary for the formulation of better standards" (Ex. 84-020, p. 109).

Finkelstein (Ex. 84-044) studied the development of compensable (certified) asbestosis among 157 Ontario asbestos cement production workers in relation to cumulative exposures (f/cc-years). All workers in the study cohort had at least 15 years of exposure. Ontario criteria for certifying asbestosis, which results in the award of disability pensions, are not inflexible and involve consideration of such factors as history of occupational exposures, dyspnea, crepitations, clubbing of fingers, radiographic signs of pulmonary fibrosis, and abnormal lung function. Certification of asbestosis hence would occur at an advanced stage of disease. Each production worker was classified as having received 0-49, 50-99, 100-149, 150-199, or 200-249 f/cc-years of cumulative exposure within the 18 years following initial exposure.

Finkelstein calculated incidence rates consisting of number of new cases of certified asbestosis per 100 person-years at risk. [Incidence is the rate at which new cases of asbestosis develop in a given period of time. It is a direct measure of the risk of developing the disease.] Incidence rates were 0.5, 3.4, and 6.5 for workers who received 0-49, 50-99, and 100-149 f/cc-years respectively. Finkelstein also calculated the cumulative probability of having developed certified asbestosis by the end of 32 years of latency, and observed that men in the 0-49, 50-99, and 100-149 f/cc-years categories had about 10 percent, 55 percent, and 70 percent probabilities respectively. Due to small numbers of men in each category, these estimated probabilities had much statistical uncertainty.

Finkelstein stated that the uncertainties in exposure assignments and the selection bias arising from exclusion from the study of workers with less than 15 years of employment may have led to overestimation of risk at low exposures, which was "to some extent balanced by the fact that the end point we studied was certified disability, an advanced stage of asbestosis" (Ex. 84-044, p. 501). OSHA considers that Finkelstein's findings of excess risk from low cumulative exposures are very important because the outcome, certified asbestosis, was based upon substantial medical evidence of severe disability from the disease.

Dement and colleagues conducted a detailed study of plant processes and dust control methods at a chrysotile textile plant during 1930-1975 (Ex. 84-036, 84-037). Exposure histories were constructed for each worker and estimates of individual cumulative exposures in terms of f/cc-days were made. After 1940, exposure levels usually were in the range of 5-10 f/cc. Workers were categorized as receiving exposures of less than 1000; 1000-10,000; 10,000-40,000; 40,000-100,000; and greater than 100,000 f/cc-days. Because Dement et al. included holidays and weekends in their estimates of f/cc-days, their estimates of cumulative exposure are likely to be overstated. OSHA calculated that Dement et al.'s categories of f/cc-days are roughly equivalent to less than 2.7; 2.7-27.4; 27.4-109.6; 109.6-274; and greater than 274 f/cc-years of occupational exposure.

Note.—Because Dement et al. counted holidays and weekends for their calculations of f/cc-days, OSHA divided f/cc-days by 365 to arrive at estimates of f/cc-years.

Dement et al.'s first 3 exposure categories fall within the range of cumulative exposures permitted by the current OSHA asbestos standard.

Among white males with 15 or more years of latency, lung cancer SMR's were 140, 279, and 352 in the categories of less than 1000, 1000-10,000, and 10,000-40,000 f/cc-days respectively. The latter 2 categories' excesses of lung cancer were statistically significant. For other non-malignant respiratory disease (excluding both infectious respiratory diseases and bronchitis), the following SMR's were observed for white males with 15 or more years of latency: 362 for men with less than 1000 f/cc-days, 84 for men with 1000-10,000 f/cc-days, and 879 for men with 10,000-40,000 f/cc-days. The excesses were statistically significant for both the first and third category of cumulative exposure.

Dement et al. concluded: "Based on data from this study, significantly elevated mortality risks are predicted for lung cancer and for asbestosis at cumulative exposures of 100 fibers/cc×years in the textile industry" (Ex. 84-037, p. 432).

OSHA considers that Dement et al.'s observations of excess risk from low cumulative exposures are well-supported because of the careful estimation of exposure histories for the cohort.

Henderson and Enterline (Ex. 84-048) studied the mortality of 1075 asbestos production workers who retired during 1941-1967. Mortality was observed during the period 1941-1973. Cumulative exposures, expressed in millions of particles per cubic foot of air times years exposed (mpcf-years), were estimated for each man included in the study cohort. Mean exposures for 6 cumulative exposure categories were 62, 182, 352, 606, and 976 mpcf-years.

Hammad et al. (Ex 84-277) suggested a mpcf to f/cc conversion factor of 1:1.4 for a cement plant. Because cement and other mineral particles have been extensively used in asbestos products manufacturing, using a conversion factor of 1:1.4 does not appear to be unreasonable for Henderson and Enterline's study cohort. Using a factor of 1:1.4, 62 mpcf-years is roughly equal to 87 f/cc-years.

A respiratory cancer SMR of 197.9 was observed in the cumulative exposure category with a mean exposure of 62 mpcf-years. Thus, OSHA views this study as having observed excess risk of dying from respiratory cancer among men receiving cumulative exposures permitted by the current OSHA PEL. Using a conversion factor of 1:3 would result in an estimate of cumulative exposure for the low exposure category that is about 90% higher than that envisaged by the current OSHA PEL.

Dement et al. commented on the marked differences between the studies of Dement et al. and Henderson and Enterline with regard to risk observed from low cumulative exposures (Ex. 84-037). Dement et al. suggested that these differences may be attributable to the fact that Henderson and Enterline studied retirees 65 years or older, with these retirees constituting a select group of survivors. Only 8 of the 35 lung cancer deaths observed by Dement et al. occurred in persons 65 or older.

McDonald, Liddell, Gibbs, Eyssen, and McDonald (Ex. 84-065) studied the mortality of 11,379 workers exposed to chrysotile mining and milling born during 1891-1920. Mortality was observed during the period 1910-1975. Each worker was classified as having accumulated less than 30, 30-299, or 300 or more mpcf-years by age 45. Using a conversion factor of 1:3 for mpcf to f/cc these groupings would correspond to less than 90, 90-899, and 900 or more f/cc-years. Lung cancer SMR's were 93, 118 and 225 for the 3 categories starting with less than 30 mpcf-years respectively. SMR's for pneumoconiosis were 298, 1081, and 5400 for cumulative exposure categories of less than 30, 30-299, and 300 or more mpcf-years. Hence, McDonald et al. did not observe much lung cancer risk but did observe an

increase in pneumoconiosis risk in the low exposure category.

A case-control analysis used similar exposure categories; however, the analysis was intrinsically incapable of observing an excess risk in the less than 30 mpcf-year category because the controls had also been chrysotile miners and millers.

Regarding the different findings on lung cancer risk from low exposures between the studies by McDonald et al. and Dement et al., Dement et al. suggested imprecision of exposure estimates and differences in airborne fiber characteristics as possible reasons for the differences. Dement and Harris previously had found that textile processing produced a higher proportion of long thin fibers falling within the ranges delineated as carcinogenic by the animal studies of Stanton and colleagues (See Section E(3) below, *Experimental Data).*

Finkelstein (Ex. 84–240) also studied mortality from lung cancer, mesothelioma, and other diseases among workers at an Ontario asbestos cement factory established in 1948. The study cohort consisted of 339 men hired before 1960 who had been employed at the factory for 9 years or more. Each cohort member was classified as having accumulated 8–69, 70–121, or 122–420 f/cc-years of asbestos exposure within the 18 years following initial exposure. These exposure categories, hereafter referred to as Groups A, B, and C, had the following mean cumulative exposures respectively: 44, 92, and 180 f/cc-years. Groups A and B are low exposure groups.

Mortality by cumulative exposure was analyzed starting 20 years after initial exposure, so that the calendar period during which deaths were observed spanned 1968–1980. Cohort mortality was compared to that of Ontario men during 1970–1974. Age-standardized mortality rates per 1000 man-years for specific causes of death were computed for Groups A, B, and C and for Ontario men. Thus, this study did not have the biases from confounding effects of age that can occur when SMR's are being compared among different groups of workers (See Ex. 84–335). One potential problem is that lung cancer mortality may have risen in Ontario during 1975–1980; this would result in some underestimation of comparison values and hence some overestimation of lung cancer risk. However, this overestimation of risk likely would be slight.

Mesothelioma mortality rates per 1000 man-years for Groups A, B, and C were 1.9, 4.9, and 11.9 respectively. Lung cancer mortality rates per 1000 man-years were 13.6, 26.1, 11.9, and 1.6 for Groups A, B, and C and for Ontario men respectively. Approximate relative risks for Groups A, B, and C, as compared to Ontario men, are 8.5, 16.3, and 7.4 for lung cancer mortality. Gastrointestinal cancer mortality was also elevated in Groups B and C relative to Ontario men.

The lung cancer mortality rates did not consistently increase with increasing estimates of cumulative exposure in that Group C had the lowest lung cancer excess. Finkelstein suggested several potential explanations, including inaccuracy of exposure classifications, statistical fluctuations resulting from the small size of the cohorts and confounding effects of smoking if there were differences in smoking habits among Groups A, B, and C. Because a consistent dose-response was observed both for mesothelioma mortality and asbestosis in the study group, Finkelstein suggested that the exposure classifications may have been correct.

Finkelstein concluded that lung cancer mortality rates "may be raised several-fold" (Ex. 84–240, p. 143) at cumulative exposures of 100 f/cc-years. With regard to gastrointestinal cancer, Finkelstein judged that no firm conclusions could be drawn due to the small number of deaths, although there was a trend of increasing risk with increasing cumulative exposure. Mesothelioma death rates were considered by Finkelstein to be related to cumulative exposure.

OSHA believes that Finkelstein's study presents evidence of excess lung cancer and mesothelioma risk from relatively low cumulative exposures, namely 44 and 92 f/cc-years. Lung cancer risk may have been somewhat understated by Finkelstein's exclusion of lung cancer deaths which occurred before 20 years of follow-up.

Rubino, Piolatto, Newhouse, Scansetti, Aresini, and Murray (Ex. 84–086) studied the mortality of 952 male Italian chrysotile miners and millers during 1946–1975. Mortality from respiratory disease and other causes of death, but not from lung cancer, was excessive in this cohort. Criteria for inclusion in the study cohort were survival until January 1, 1946, and at least one month of employment during 1930–1965. Comparison of mortality was made to age, calendar period, and cause-specific mortality rates of Italian males. In addition, mortality rates were compared among the cohort members using a case-control analysis and a historical prospective analysis. The cumulative fiber exposure was estimated for each worker in terms of f/cc-years. The investigators simulated past working conditions and measured dust concentrations during these simulations in order to make more accurate estimates of exposure during periods (pre-1969) in which exposures were not measured. Mean concentrations of asbestos were estimated to range up to 50 f/cc before 1950.

Compared to Italian males, the overall cohort had statistically significant excesses of mortality from laryngeal cancer, non-malignant respiratory diseases, tuberculosis, cardiovascular diseases, cirrhosis of the liver, and accidents. Lung cancer mortality was elevated only slightly (SMR = 106); however, there was some trend of increasing lung cancer risk with increasing length of follow-up. For example, the SMR for lung cancer was 206 during 1971–1975.

Because all analyses of mortality in relation to cumulative exposure consisted of comparisons among the cohort members, rather than between the various exposure subgroups and Italian males, these analyses were incapable of detecting excess risk in the lowest cumulative exposure category. These analyses were capable only of detecting trends toward increased risk with increased exposure. Although the excess lung cancer risk (odds ratio = 2.89) in the high exposure group was not statistically significant, Rubino et al. considered it "likely that the increasing mortality truly reflects the effects of higher exposure" (Ex. 84–086, p. 193). [The odds ratio is an estimate of the relative risk defined as the ratio of the odds of dying from cancer in the exposed population to the odds of dying from cancer in an unexposed population.]

Rubino et al.'s study is unusual in not finding a higher lung cancer risk among workers exposed to relatively high levels of asbestos. OSHA believes that the trends of increasing lung cancer risk with both increasing length of follow-up and increasing exposure are consistent with an asbestos etiology, however. OSHA also believes that the high risks of mortality from other causes such as non-malignant respiratory disease might have obscured lung cancer risk, especially since these high risks appeared within the first 19 years following exposure and asbestos-related lung cancer generally has a longer latency period. Also, OSHA calculated that this study only had 33.5% power to detect a 50% increase in lung cancer risk among workers with 20 or more years of follow-up.

Note.—Statistical power quantifies the ability of a study to detect a true increased risk of a specified magnitude and refers to the

probability of not missing a true risk. Generally, it is considered desirable for studies to have at least 80% power. Because lung cancer is a relatively common cancer, epidemiologic studies should have at least 80% power to detect a 50% increase in risk of lung cancer. See Ex. 84–336 for a description of OSHA's method of calculating power.

Weill, Hughes, and Waggenspack (Ex. 84–206) investigated exposure-response relationships between respiratory cancer risk and exposure in an asbestos cement plant. Weill et al. did not observe excess risk among men with low cumulative exposures. A total of 5,645 men with at least 20 years of latency since first exposure in either of 2 asbestos cement plants were studied. All men had at least one month of employment before 1970 and their vital status was determined as of December 31, 1974.

Each worker's cumulative dust exposure during the 20 years from initial exposure was estimated in terms of mpcf-years. Men were classified in one of 5 different cumulative exposure categories: 10 or fewer, 11–50, 51–100, 101–200, and 201 or more mpcf-years. Using the conversion factor of 1:1.4 suggested by Hammad et al., the 5 cumulative exposure categories would be equivalent to 14 or fewer, 15–70, 71–140, 141–280, and 281 or more f/cc-years. Respiratory cancer SMR's were as follows, starting with the lowest category: 77, 70, 26, 290, and 226. None of the other causes of death were in excess for workers in the 3 lowest categories.

Concerning their failure to detect excess respiratory cancer mortality in their lowest categories of exposure, Weill et al. stated: "Such findings are not necessarily incompatible with a linear response curve at low doses because of the relative insensitivity of currently used epidemiologic methods in detecting slight increases in risk when compared to background. They do indicate, however, that any excess risks at low degrees of exposure are small" (Ex. 84–206, p. 353).

Weill et al. noted that the relatively high proportion (25%) of the cohort who were lost to follow-up and assumed alive through 1974 may have led to underestimation of respiratory cancer risk. The upper limits of the 95% confidence intervals of the respiratory cancer SMR's for the 3 lowest exposure categories ranged from about 115 to 150, indicating, in OSHA's opinion, that excess risk could not be ruled out for these categories.

Berry and Newhouse (Ex. 84–021) studied mortality during 1941–1976 of a cohort of friction material production workers whose exposures were relatively low. Levels of exposure ranged from less than 1 f/cc to 5 f/cc after 1931, and cumulative exposures for the cohort averaged less than 50 f/cc-years. Although excessive mortality from mesothelioma was observed, there appeared to be little excess mortality from lung cancer. Most of the mesothelioma cases had been exposed to asbestos levels exceeding 5 f/cc. The cumulative exposures to asbestos of the mesothelioma cases were not reported by the authors.

Unexpectedly, this study observed excessive mesothelioma mortality but only a non-significant excess of lung cancer mortality. A sizable portion of the study cohort had a short follow-up period between their initial exposure and the study cut-off date. For example, 33% of the men had follow-up periods of less than 20 years. Lung cancer risk may be expected to increase in this cohort as the members are followed for a longer period.

3. *Summary.* A number of epidemiologic studies have examined exposure-response relationships for asbestos and asbestos-related diseases. OSHA recognizes that there are many inevitable uncertainties associated with epidemiologic studies of exposure-response. Rarely, if ever, are personal samples of asbestos concentrations for exposed workers during the entire period of exposure available. Investigators typically have developed individual indices of exposures from reconstructed occupational histories, recent industrial hygiene data, and assumptions about past working conditions for which exposures were not measured. Another question concerns the factors for conversion from historical methods of measuring dust concentrations to current methods of measuring fiber concentrations. The ratio of millions of particles per cubic foot (mpcf) to fibers per cubic centimeter (f/cc) has been suggested as ranging from 1:1 to 1:5. Conversion factors of 1:3 for mpcf: f/cc in asbestos mining and milling and 1:1.4 in asbestos production and asbestos cement operations appear reasonable to OSHA.

OSHA also recognizes the statistical variation associated with estimation of Standardized Mortality Ratios (SMR's). Such statistical variation, as well as differences in study design, statistical power, and length of follow-up, may account for some of the divergent findings among studies.

Because the present OSHA PEL of 2 f/cc was effective in 1976, there are few, if any, occupational cohorts exposed solely to 2 f/cc or less who have follow-up intervals sufficient for the appearance of diseases related to asbestos exposure. At present, OSHA is not aware of any evidence suggesting that *intensity* of exposure will affect excess risk in a manner different from *cumulative exposure*, which encompasses both duration of exposure and intensity of exposure. Most epidemiologic studies have observed increasing risk with increasing cumulative exposure. *Duration* of exposure may have an independent effect on mesothelioma risk (see Section V., Quantitative Risk Analysis).

A worker exposed to the OSHA PEL of 2 f/cc for 50 years would have a cumulative exposure of 100 f/cc-years. Hence, studies of workers estimated to have received close to or less than 100 f/cc-years provide evidence concerning risk from exposure to the OSHA standard, even though the past intensities of exposure may have exceeded 2 f/cc.

OSHA considers that the following studies have observed increased risk close to or below 100 f/cc-years. Berry et al. (Ex. 84–020) observed a 1% prevalence of crepitations, possible asbestosis, and certified asbestosis at 37, 46, and 63 f/cc-years respectively among asbestos textile workers. Finkelstein (Ex. 84–044) observed a 10% probability of having certified asbestosis among asbestos cement production workers with cumulative exposures of less than 50 f/cc-years who had been observed 32 years since their initial exposures. Finkelstein (Ex. 84–240) also observed excessive lung cancer mortality among workers with average cumulative exposures of 44 and 92 f/cc-years.

Among asbestos textile workers, Dement et al. (Ex. 84–036) observed excessive mortality from lung cancer and non-malignant respiratory diseases at cumulative exposures of less than 1000 f/cc-days and 1000–10,000 f/cc-days (equivalent to less than 2.7 and 2.7–27.4 f/cc-years). Henderson and Enterline (Ex. 84–048) observed about a 2-fold increase in lung cancer mortality among retired asbestos production workers receiving an average cumulative exposure of 62 mpcf-years (equivalent to 87 f/cc-years using a conversion factor of 1:1.4).

At relatively low cumulative exposures, the following studies did not observe excess lung cancer risk or observed only a small increase in lung cancer risk. Berry and Newhouse (Ex. 84–021) observed little excess lung cancer mortality among friction material production workers whose cumulative exposures averaged less than 50 f/cc-years. Mesothelioma cases were observed by Berry and Newhouse;

however, their cumulative exposures were not reported. Weill et al. (Ex. 84-206) did not find increased mortality from any cause of death below 101 mpcf-years (equivalent to 141 f/cc-years using a conversion factor of 1:1.4) in a cohort of asbestos cement workers. Rubino et al. (Ex. 84-086) observed only a slight excess of lung cancer mortality (and a large excess of mortality from other causes, such as non-malignant respiratory disease) despite high exposure levels. Data were not analyzed by Rubino et al. in such a way as to permit estimation of risk from low cumulative exposures.

McDonald et al. (Ex. 84-065) observed little or no excess lung cancer mortality among asbestos miners and millers receiving low cumulative exposures. Excess mortality from pneumoconiosis was observed in the low exposure group, however. Workers receiving less than 30 mpcf-years by age 45 had an SMR of 298 for pneumoconiosis (30 mpcf-years equals 90 f/cc-years using a conversion factor of 1:3).

As is commonly observed among epidemiologic studies of etiologic agents for disease, there are some inconsistencies in the findings of different studies of workers accumulating relatively low exposures. Statistical variation, differences in the size distribution of airborne fibers, imprecision of exposure estimates, and competition among different causes of death might explain some of the inconsistencies. Nonetheless, OSHA considers that many well-conducted studies observed substantially increased risk of death from lung cancer and non-malignant respiratory disease among workers receiving cumulative exposures permitted by the current OSHA standard. OSHA concludes that these study results provide evidence of grave danger from low cumulative exposures to asbestos.

C. Carcinogenicity of Asbestos for Sites Other Than the Lung and Mesothelium

1. *Introduction.* A number of studies of asbestos workers have observed excesses of cancer at sites other than the lung and mesothelium. These sites include colon and rectum, esophagus, stomach, larynx, pharynx, buccal cavity, kidneys, and ovaries. Based on these studies, OSHA has concluded that gastrointestinal malignancies appear to have been produced by asbestos inhaled in the workplace.

A variety of community-based epidemiology studies have investigated the effects of ingestion of asbestos in drinking water. One study suggested that asbestos in drinking water increased cancer incidence in San Francisco and Oakland (Kanarek et al.), while other studies did not observe a relationship between asbestos in drinking water and cancer incidence (Harrington et al., Meigs et al., Levy et al.) (Kang. Ex. 84-139). OSHA is aware that ecological studies generally have certain limitations for determining the effects of long-term environmental exposure to specific substances, including confounding variables such as migration into and from communities and multiple exposures to other carcinogens and toxic chemicals. For example, increased cancer mortality in a particular community may result from occupational exposures rather than from carcinogens in the drinking water or ambient air. Because studies of occupational cohorts do not have as many limitations as ecological studies, occupational studies have the potential to be more determinative concerning carcinogenic risk to humans, depending on size of the cohort, length of observation of the cohort, and other pertinent factors. Therefore, because well-conducted epidemiologic studies of asbestos workers are available and because inhalation rather than ingestion is the primary route of workplace exposure, OSHA has based its conclusions on the potential carcinogenicity of asbestos for sites other than the lung and mesothelium on epidemiologic studies of asbestos workers.

2. *Epidemiology Studies.* Elmes and Simpson studied the mortality of Belfast insulators employed during 1940, mostly in shipyards (1971, 1977) (Exhibits 84-041 and 84-042). Vital status was observed during the period 1940-1975. Excess mortality was observed from asbestosis, lung cancer, mesothelioma, and gastrointestinal cancers (stomach, jejunum, pancreas, colon and rectum).

Elmes and Simpson stated that "both in respiratory and in gastrointestinal cancers there is the difficulty of differentiating between mesothelial and epithelial tumours" (Ex. 84-042, p. 176). Of the total 122 deaths in this cohort, either autopsy information or clinical information with biopsies and/or radiographs supplemented the death certificates for all but 22 deaths. By 1966, 13 deaths had been coded as gastrointestinal cancers on death certificates, 12 of which continued to be classified as gastrointestinal cancers after supplemental information had been obtained. Using the expected value of 5.16 deaths for all non-respiratory cancers that were reported by Elmes and Simpson, OSHA calculated that the gastrointestinal cancer excess was statistically significant at the 0.05 level (one-tailed Poisson test).

Elmes and Simpson concluded in their 1971 paper: "Cancer of the lung and mesotheliomas do not account for all the excess of deaths; a significant excess of other cancers remain . . . and most of these appear to be in the gastrointestinal tract" (Ex. 84-041, p. 235). In their 1977 paper, Elmes and Simpson reported a decline in both asbestosis and gastrointestinal cancer as major causes of mortality among the survivors followed from 1967-1975.

Selikoff, Hammond, and Seidman studied a cohort of 17,800 U.S. and Canadian insulation workers (Ex. 84-090). Comparison of insulators' mortality during 1967-1976 was made to age and calendar period-specific mortality rates of U.S. white males. The large size of this cohort resulted in very high statistical power to detect increased mortality from specific causes. Therefore, OSHA considers that this study carries much weight with regard to the question of asbestos-induced malignancies. The investigators sought supplemental clinical, surgical, and autopsy information in order to determine the extent of misclassification of cancers.

Based on death certificate information alone, significant excess mortality was observed from lung cancer (SMR = 406), mesothelioma (104 deaths), esophageal cancer (SMR = 253), stomach cancer (SMR = 126), colon-rectal cancer (SMR = 152), laryngeal cancer (SMR = 191), pharyngeal and buccal cavity cancer (SMR = 159), kidney cancer (SMR = 223), all other cancers (SMR = 191), and non-infectious respiratory diseases (SMR = 319), including 78 deaths from asbestosis. With the exception of deaths listed as "all other cancers", reclassification of deaths based on supplemental clinical, autopsy, and surgical data resulted in slightly higher SMR's for the causes of death listed above.

OSHA believes that Selikoff et al.'s reclassification of causes of death is justifiable because misdiagnosis of mesothelioma and asbestosis can occur due to these conditions' resemblance to more common diseases. Furthermore, it is possible that metastases from primary lung cancers could be misdiagnosed as primary cancers of other sites, and vice-versa. One disadvantage of reclassification of deaths, however, is that the extent of misclassification in the comparison population of U.S. white males remains unknown. Nonetheless, OSHA believes that, for this particular cohort, the advantage of reclassification in terms of improving the certainty about the causes of death outweighs the disadvantage.

In the category listed as "all other cancers," 252 deaths were observed compared to 131.8 deaths expected. The excess in this category was mostly due to increased mortality from pancreatic cancer (SMR=281), liver and biliary tract cancer (SMR=265), prostate cancer (SMR=137), and brain cancer (SMR=163). When reclassified according to supplemental information, the pancreatic cancer excess declined greatly and the liver and biliary tract cancer excess disappeared.

Selikoff, Hammond, and Seidman concluded: "Asbestos insulation workers in the United States and Canada suffer an extraordinary increased risk of death of cancer and asbestosis associated with their employment. This includes increases in death from lung cancer, pleural mesothelioma, peritoneal mesothelioma, cancer of the esophagus, colon and rectum, cancer of the larynx, oropharynx, Kidney, and perhaps stomach. Some increases were seen in cancer of several other sites, as well, but data are inadequate at this time to permit characterization of their significance, although attention is called to such wider increase" (Ex. 84–090, 114).

Dement and collegues (Ex. 84–037) observed a statistically non-significant increase in digestive cancer mortality (SMR=131). When Dement et al. confined their analysis to white males with latency intervals of 15 or more years and examined exposure-response relationships for digestive system cancer, SMR's increased with increasing cumulative exposure, ranging up to 390. Because of the small numbers of deaths, none of the excesses of digestive cancer in any of the exposure categories were statistically significant.

McDonald and colleagues (Ex. 84–065) observed some increases (not statistically significant) in mortality from esophageal and stomach cancer and from colo-rectal cancer among chrysotile miners and millers in Quebec. Gastrointestinal cancer SMR's increased with heavier cumulative exposures.

Seidman, Selikoff, and Hammond (Ex. 84–087) studied a cohort of 820 amosite insulation production workers employed at a New Jersey plant during 1941–1945. A statistically non-significant excess of gastrointestinal cancer (esophagus, stomach, and colon-rectum) was observed (SMR=121). Henderson and Enterline (Ex. 84–048) studied the mortality during 1941–1973 of 1348 retired asbestos factory workers. Fifty-five deaths from digestive system cancer were observed compared to 39.9 deaths expected (SMR=137.8) (OSHA calculated that this excess was statistically significant at the 0.05 level, using a one-tailed Poisson test). Nicholson, Selikoff, Seidman, and Hammond (Ex. 84–251) also studied a cohort of U.S. asbestos factory workers and observed a statistically non-significant 1.5-fold excess of gastrointestinal cancer. Newhouse and Berry (Ex. 84–330) observed a gastrointestinal cancer SMR of 136 in a cohort of London asbestos factory workers (60 deaths observed versus 44.2 expected) (OSHA calculated that this excess was statistically significant at the 0.05 level using a one-tailed Poisson test). Puntoni et al. (Ex. 84–246) studied the mortality of shipyard workers exposed to asbestos in Genoa, Italy. These workers were also exposed to other toxic substances, including silica, benzene, carbon tetrachloride, and polycyclic aromatic hydrocarbons. Compared to the age-specific mortality rates of male Genoans, the shipyard workers had statistically significant increases in mortality from colon cancer (relative risk=1.81). All of the studies listed in this paragraph also observed excessive mortality from lung cancer.

In addition, other investigators have observed excesses of digestive sytem cancer. Robinson et al. (Ex. 84–082) observed an SMR for digestive system cancer of 121 (not a statistically significant excess) among asbestos production workers. Kleinfeld et al. (Ex. 84–140, 84–141) observed an SMR of 400 (statistically significant) for digestive system cancer among tremolite and anthophyllite exposed workers mining talc. Mancuso and Coulter (Ex. 84–224) also observed a significantly elevated digestive system cancer SMR among insulation workers. Finkelstein observed a statistically non-significant 2-fold increase in mortality from digestive system cancer among asbestos cement workers (Ex. 84–240).

A number of studies have not observed excessive gastrointestinal cancer mortality among workers exposed to asbestos. Nicholson, Selikoff, Seidman, Lilis, and Formby (Ex. 84–072), who studied the mortality of 544 chrysotile miners and millers from Quebec, observed a gastrointestinal cancer SMR of only 105. Weill, Hughes, and Waggenspack (Ex. 84–206), who studied a cohort of 5,645 asbestos cement production workers, also did not observe an excess of deaths from gastrointestinal cancer. Other investigators who did not observe an increase in gastrointestinal cancer mortality include Berry and Newhouse (friction materials production workers), Rubino et al. (chrysotile miners), Meurman et al. (anthophyllite miners), Brown et al. (talc workers exposed to asbestos), Weiss (chrysotile factory workers), McDonald and McDonald (asbestos gas mask workers), Peto et al. (asbestos textile workers), Thomas et al. (asbestos cement workers), Rossiter and Coles (shipyard workers), and Jones et al. (asbestos gas mask workers) (Ex. 84–256).

When non-gastrointestinal cancers at sites other than the lung and mesothelium are considered, at least 4 studies observed excesses at these other sites: Selikoff et al., Shettigara and Morgan, Puntoni et al., and Stell and McGill. Other studies have not observed excesses of cancers at other sites.

One issue which the Agency had to address was how to weigh the positive epidemiologic data versus the non-positive epidemiologic data. One consideration is statistical power, the ability to detect a true risk if such a risk exists. The Chronic Hazard Advisory Panel on Asbestos (CHAP) convened by the U.S. Consumer Product Safety Commission did not find a consistent relationship between having a higher degree of statistical power and finding excessive mortality from these other cancers (Ex. 84–256). It should be noted that the study that had the highest statistical power by virtue of studying 17,800 workers, namely that of Selikoff et al., observed excesses of gastrointestinal, laryngeal, kidney, and pharyngeal and buccal cavity cancer.

Another consideration is the relationship between the magnitude of excess lung cancer risk and excess gastrointestinal cancer risk. CHAP observed that studies with high lung cancer excesses were also likely to have found gastrointestinal cancer excesses. Because high lung cancer risks would be expected to have resulted from relatively high exposures, this observation suggests that gastrointestinal cancer excesses are found where exposures are greater, which increases the plausibility of there being a true association between asbestos and gastrointestinal cancer.

In summary, at least 12 different occupational cohorts exposed to asbestos have been observed to have excesses of mortality from gastrointestinal cancer, 7 of which were statistically significant. OSHA considers that these findings constitute substantial evidence for an association between asbestos exposure and gastrointestinal cancer risk. The evidence for a relationship between asbestos exposure and cancer at other sites is noteworthy yet not as substantial as that regarding gastrointestinal cancer.

Goldsmith (Ex. 84–235) reviewed the evidence for a causal relationship between asbestos exposure and non-

pulmonary cancer in 8 studies of 11 occupational cohorts followed for at least 20 years since initial exposure. He concluded that the data "cast doubt on whether there is site-specificity of asbestos-related cancer" and that "a systemic carcinogenic role is more likely [for asbestos]" (Ex. 84–235, pp. 346–347).

3. *Toxicology Studies.* A number of toxicology studies have been conducted to determine the carcinogenicity of ingested asbestos. Inhaled asbestos is thought to enter the digestive tract when asbestos fibers caught in the mucous lining of the lung are brought up to the throat and swallowed. Also, fibers caught in the nose may travel down to the pharynx (Kang, Ex. 84–139). Evans et al. (Ex. 84–236) conducted an inhalation study in rats of radio-labelled crocidolite. The radio-labelled crocidolite traveled to the larynx, esophagus, and gastrointestinal tract immediately after exposure, and was largely excreted in the feces within the 30 days following inhalation.

The National Toxicology Program (NTP) has administered chrysotile, amosite, tremolite, and crocidolite in feed (1% of diet) to laboratory animals. Increased incidences of tumors have not been reported in any of the NTP studies (Exhibits 84–225, 84–226, 84–227, 84–228). In some of the studies, relatively short fibers were administered. The asbestos dose of 1% in diet was not the maximally tolerated dose (MTD), unlike most carcinogenesis bioassays.

Ward, Frank, Wenk, Devor, and Tarone (Ex. 84–200) examined the effect of oral exposure to amosite or chrysotile on gastrointestinal (GI) carcinogenesis among F344 rats who had been injected with azoxymethane. Azoxymethane is a well-recognized intestinal carcinogen for laboratory animals. Rats were also exposed to amosite alone and azoxymethane alone. The exposure period was 10 weeks and the rats were observed for 95 weeks or more (some rats did not survive as long as 95 weeks). Although amosite and chrysotile exposure did not significantly increase the incidence of GI cancer among rats given azoxymethane injections, the 49 rats receiving amosite alone had an unusually high incidence (32%) of colon carcinoma compared to the incidence among historical control F344 rats maintained in the same laboratory.

Ward et al. commented on these findings: "The results of these experiments suggest that oral asbestos exposure may have caused an increased incidence of intestinal tumors in male F344 rats . . . Although our findings did not conclusively demonstrate the co-carcinogenic or carcinogenic effect of asbestos for the intestinal tract, our results suggest that additional sensitive animal experiments are needed" (Ex. 84–200, p. 311).

Bolton, Davis, and Lamb (Ex. 84–214) administered amosite, crocidolite, and chrysotile in diet supplements to Wistar rats for periods of up to 25 months. Malignant tumors, including GI tumors, were not increased in the asbestos-exposed animals compared to the controls; however, chrysotile-treated rats had a statistically significant excess of benign tumors. The excess of benign tumors in chrysotile-treated rats was largely due to an excess of mesenteric hemangiomas. Bolton et al. thought that the observed excess of benign tumors in chrysotile-treated animals was not likely to be due to asbestos because they did not observe asbestos fibers in the mesenteric lymphatic tissues of the animals.

Donham, Berg, Will, and Leininger (Ex. 84–222) fed F344 rats a diet consisting of 10% chrysotile. A total of 189 asbestos-fed rats and 312 control rats were studied. Regarding their findings, Donham et al. stated: "Although the risk differences for development of colon tumors specifically is not statistically significant at the 5% level, we feel there is suggestive evidence that ingested asbestos may have some role in colon carcinogenesis . . ." [Ex. 84–222, p. 1080).

Smith, Hubert, Sobel, Peters, and Doerfler (Ex. 84–193) administered amosite asbestos in drinking water to Syrian hamsters of the Lak: LVG strain for periods ranging up to 22 months. There was some clustering of malignant tumors, including a peritoneal mesothelioma, a pulmonary carcinoma, and 2 squamous cell carcinomas of the forestomach, in the hamsters exposed to amosite (4 of 180 animals). None of the control animals developed these types of malignant tumors. Smith et al. did not consider the clustering of malignant tumors in amosite-exposed animals to be related to their ingestion of amosite because these types of tumors have been observed in control Syrian hamsters of the Lak: LVG strain by other investigators.

OSHA considers that there is some evidence that oral ingestion of asbestos is carcinogenic to laboratory animals; however, this evidence is rather inconsistent. The generalizability of the non-positive NTP studies is somewhat limited by the low doses and short fibers that were administered to the animals.

4. *Summary.* In summary, at least 12 epidemiologic studies have observed increased mortality from gastrointestinal cancers among workers exposed to asbestos, 7 of which were statistically significant. Also, at least 4 epidemiologic studies have observed excesses of cancer at sites other than the respiratory tract, mesothelium, and gastrointestinal tract. A number of other studies have not observed increases in mortality from cancers at sites other than the lung and mesothelium. It is possible for physicians to misdiagnose peritoneal mesothelioma as gastrointestinal or other cancers; however, the excess of gastrointestinal cancer persisted even after Elmes and Simpson and Selikoff et al. reclassified causes of death using supplemental autopsy, surgical, and clinical information. OSHA believes that the results of these reclassifications constitute additional evidence for an association between asbestos exposure and development of gastrointestinal cancer.

OSHA regards the numerous epidemiologic studies indicating increased risk from gastrointestinal cancer as outweighing non-positive epidemiologic studies and non-positive and equivocal findings in animals ingesting asbestos. Dose-response relationships for gastrointestinal cancer are characterized less well than for respiratory system cancers. Nonetheless, OSHA concludes that gastrointestinal malignancies should be included in quantitative analyses of excess cancer risk from asbestos exposure because such cancers have made substantial contributions to the increased mortality of many cohorts of asbestos workers. Otherwise, excess cancer risk from asbestos exposure would be understated.

The excesses of malignancies at sites other than the lung, mesothelium, and gastrointestinal tract observed by Selikoff et al. are particularly noteworthy because of the large size of Selikoff et al.'s cohort. The large size of their cohort resulted in a high degree of statistical power and a high degree of stability for the observed SMR's. OSHA considers that asbestos might induce cancer at sites other than the lung, mesothelium, and gastrointestinal tract based on the studies finding cancer excesses at these other sites, especially the study of Selikoff et al. OSHA will not attempt to quantify the excess risk at these other sites in relation to exposure. OSHA views the evidence for asbestos inducing gastrointestinal tract cancer as stronger and more consistent than the evidence for asbestos inducing cancer at these other sites.

D. Effects of Cigarette Smoking

1. *Introduction.* A multiplicative effect of asbestos exposure and cigarette smoking with regard to producing

increased lung cancer risk was shown in a 1968 paper by Selikoff, Churg, and Hammond (Ex. 2–5). Subsequently, other studies of occupational cohorts confirmed this finding (Selikoff, Seidman, and Hammond, Ex. 84–190; Hammond, Selikoff, and Seidman, Ex. 84–047). Cohen et al. (Ex. 84–031) observed poorer particle clearance from the lungs of smokers than from the lungs of non-smokers. This finding may help to explain the higher lung cancer risk of smoking asbestos workers. In addition, smoking asbestos workers have been reported to be at higher risk of asbestosis and chest X-ray abnormalities, including pleural plaques (Hammond et al., Ex. 84–047; Weiss, Ex. 84–097; Weiss, Levin and Goodman, Ex. 84–099). There is no evidence for an association between cigarette smoking and either mesothelioma risk or gastrointestinal cancer risk (Hammond et al., Ex. 84–047).

2. *Respiratory Cancer.* Hammond et al. (Ex. 84–047) collected smoking histories from 8220 of the 12051 insulation workers with a follow-up period of 20 or more years since initial exposure who had been studied by Selikoff and colleagues. The mortality experience of these workers was observed during 1967–1976. Of the 8220 workers who answered the questionnaire on smoking habits in late 1966, 6841 were either current or past cigarette smokers, 488 had a history of pipe or cigar smoking, and 891 had never smoked regularly. The comparison population was drawn from the American Cancer Society's long-term prospective epidemiologic study conducted by volunteers, and consisted of 73,763 white men who had no more than a high school education, were not farmers, were alive as of January 1, 1967, and had a history of occupational exposure to dust, fumes, vapors, gases, chemicals, or radiation. The major advantage of this comparison population was the availability of age-specific mortality rates by smoking status. Also, men with the above described education and occupational histories likely would resemble the insulation workers more than the general U.S. white male population.

Age-standardized lung cancer mortality rates for controls and for asbestos workers are given in Table 5. As shown in Table 5, non-smoking asbestos workers had a mortality rate from lung cancer that was 5 times higher than that of non-smoking controls. The lung cancer mortality of smoking asbestos workers was also 5 times higher than the controls with a history of cigarette smoking. Thus, for both smoking and non-smoking asbestos workers, the relative risk of death from lung cancer was about 5-fold. Hence, the relationship between cigarette smoking and asbestos exposure can best be described as multiplicative in nature.

Table 5

Age-Standardized Lung Cancer Death Rates by Smoking Status and Occupational History of Asbestos Exposure

Group	Exposure to Asbestos?	History of Cigarette Smoking?	Death Rate*	Mortality Difference	Mortality Ratio
Controls	No	No	11.3	0.0	1.00
Asbestos Workers	Yes	No	58.4	+ 47.1	5.17
Controls	No	Yes	122.6	+111.3	10.85
Asbestos Workers	Yes	Yes	601.6	+590.3	53.24

*Rate per 100,000 man-years standardized for age on the distribution of the man-years of all the asbestos workers (based on death certificate information) From Hammond et al., Ex. 84 047

Regarding these data, the NIOSH/OSHA Asbestos Work Group stated:

"The combined effect of smoking and asbestos exposure appears to be more than simple addition. If the combined effect were additive, one would expect death rates of 169.7 per 100,000 man-years among asbestos workers who smoked. This rate was derived from the sum of the baseline rate (11.3) plus the excess over that baseline due to asbestos (58.4–11.3 = 47.1) plus the excess due to smoking (122.6–11.3 = 111.3). The data seem rather to satisfy a multiplicative model. It was shown that smoking alone increased the death rate about 11 times, and asbestos alone increased it 5 times. Therefore, for a multiplicative model, the mortality ratio for those exposed to both asbestos and smoking would be 55 (5 times 11) times greater than those who were exposed neither to asbestos nor to smoking. The mortality ratio for those exposed to asbestos and to cigarettes was actually 53.24" (Ex. 84–320, p. 27).

Selikoff, Seidman, and Hammond examined the effects of cigarette smoking and asbestos exposure among 582 amosite production workers, 567 of whom had smoking histories (Ex. 84–190). As in Hammond et al.'s study, comparison was made to age and cause-specific mortality rates within each smoking status category of the American Cancer Society (ACS) cohort. Non-smoking amosite workers had a greater than 5-fold increase in lung cancer risk compared to non-smokers in the ACS cohort, while smoking amosite workers had an almost 5-fold increase compared to their smoking ACS counterparts. Based on the excess lung cancer risk in non-smokers, Selikoff et al. stated that asbestos exposure alone produced an increased risk of lung cancer, although the increase among non-smokers was limited in terms of total numbers of additional deaths. For cigarette smoking asbestos workers, Selikoff et al. described the increased numbers of lung cancer deaths as "devastating." Selikoff et al. observed no increased risk of death from mesothelioma.

gastrointenstinal cancer, and asbestosis among smoking amosite workers compared to non-smoking amosite workers.

3. *Lung Disease and Chest X-ray Abnormalities.* Hammond et al. reported that asbestosis workers who smoked one or more packs of cigarettes per day had an asbestos mortality rate 2.8 times higher than that of asbestos workers who had never smoked regularly (Ex. 84-047). Hammond et al. also reported that ex-smokers who were asbestos workers had substantially lower death rates than asbestos workers who had not quit smoking.

Weiss (Ex. 84-097) conducted a chest X-ray and questionnaire survey of 100 asbestos textile workers. Weiss reported that smoking workers had a 40% prevalence of pulmonary fibrosis and non-smoking workers had a 24% prevalence of pulmonary fibrosis. A gradient in risk of fibrosis was observed for both increasing age and increasing duration of exposure. The age distributions of the smokers and non-smokers were similar, as were the median durations of exposure to asbestos. Weiss concluded that both asbestos exposure and cigarette smoking were associated with pulmonary fibrosis and that smoking asbestos workers had a higher prevalence of fibrosis relative to non-smoking asbestos workers.

Weiss did not indicate whether the difference in pulmonary fibrosis prevalence between smokers and non-smokers was statistically significant. OSHA tested the significance of the difference in prevalence of pulmonary fibrosis between smokers and non-smokers using a chi-squared test of proportions and did not find a significant difference (p greater than 0.1).

In 1981, Weiss, Levin, and Goodman (Ex. 84-099) reported the results of a survey of 45 men aged 40 or more who had worked 5 or more years in an asbestos manufacturing plant. The prevalence of pleural plaques was greater in cigarette smokers; however, there was some confounding of this relationship by cumulative asbestos exposure, which also seemed to influence the prevalence of pleural plaques. Weiss et al. stated:

"Conclusions are restrained by the small number of workers in this investigation. A clear-cut answer to the question as to whether the association between plaques and smoking is spurious will require a much larger research effort, preferably in a cohort study" (Ex. 84-099, p. 429).

Pearle (Ex. 84-079) surveyed 131 asbestos-exposed shipyard workers to determine the relative contribution of asbestos exposure and smoking to lung function decrements and chest X-ray abnormalities. Pearle found that both cigarette smoking and asbestos exposure reduced FEV1 (forced expiratory volume in 1 second) and FVC (forced vital capacity), with combined exposure having a "cumulative or possibly synergistic effect" (Ex. 84-079, p. 39). Pearle also reported that both smoking and asbestos exposure produced pleural and interstitial abnormalities and that smoking appeared to be the primary factor in airways obstruction and diffusion impairment.

Berry, Gilson, Holmes, Lewinsohn, and Roach (Ex. 84-020) studied 379 men employed at an asbestos textile mill as of June 30, 1966. Smoking histories were available for 376 men. Men were classified as having never smoked, as ex-smokers, or as current smokers (light, medium, or heavy cigarette consumption). The mean cumulative exposures (fibers/cubic centimeter-years) were similar among the smoking status groups, and age adjustments were made to account for the younger ages of non-smokers. Significantly greater prevalances of crepitations and small radiological opacities were observed in heavy smokers and ex-smokers compared to non-smokers and light smokers. For example, 16% of heavy smokers employed after 1950 had small radiological opacities compared to 4.8% of never-smokers employed after 1950.

Kilburn (Ex. 84-237) has reviewed the studies of the relationship between cigarette smoking and X-ray evidence of pulmonary fibrosis. Kilburn criticized Weiss's use of a definition for pulmonary fibrosis other than that of the ILO in his 1971 study, as well as the small number of workers reported on in Weiss's 1971 paper and his other papers. A study by Samet et al. which included a relatively large number of subjects and which did not find an effect of cigarette smoking on radiologic abnormalities characteristic of asbestosis was cited. Kilburn concluded that cigarette smoking neither produced X-ray appearance of pulmonary fibrosis nor contributed to fibrosis resulting from asbestos exposure.

In summary, there is some evidence that smoking asbestos workers have a higher risk of mortality from asbestosis, as well as a higher prevalence of crepitations, lung function decrements, and small radiological opacities. This evidence is inconclusive.

4. *Attributing Probable Etiologies to Lung Cancer Among Individual Asbestos Workers.* Enterline (Ex. 84-126) analyzed the probability that any single case of lung cancer in a person with known exposure to asbestos could be attributed to the asbestos exposure. His paper emphasized that it cannot be stated with *certainty* that a lung cancer in an individual worker was due to asbestos exposure; rather, statements can only be made concerning *probabilities* of cause and effect. He converted observed relative risks into probabilities using the following formula:

$$\text{Individual Probability of Lung Cancer being Due to Asbestos Exposure} = \frac{(\text{Relative Risk} - 1)}{\text{Relative Risk}} \times 100$$

Using Selikoff et al.'s data on insulators, where a relative risk of about 4.5 was observed for smoking asbestos workers and non-smoking asbestos workers alike, Enterline estimated a probability of 75% that lung cancers were attributable to asbestos exposure for both smoking and non-smoking asbestos workers ($3.5/4.5 \times 100$ is about 0.75).

Enterline's paper is important in exploring the extent to which asbestos can be considered the etiologic agent for lung cancer in exposed workers. However, in the case of smoking asbestos workers, dichotomizing causation as either due to smoking or due to asbestos does not seem appropriate to OSHA, because of the factor of synergism between cigarette smoke and asbestos. Using Selikoff et al.'s data, probabilities of causation were estimated by OSHA for each etiologic factor (See Tables 6 and 7).

Table 6

LUNG CANCER MORTALITY BY SMOKING STATUS[1/]

Lung Cancer Rate per 100,000 per Year	
Smoking Asbestos Insulators:	362.0
Non-Smoking Asbestos Insulators:	40.4
Smoking U.S. Males:	74.4
Non-Smoking U.S. Males	9.2

[1/] From Selikoff et al., 1979 (Ex. 84-090)

Table 7

PERCENT ATTRIBUTABLE RISK FROM ASBESTOS EXPOSURE AND SMOKING

Lung Cancer Risk Attributable To:	Formula	% Attributable Risk for Asbestos Workers: Smoking	Non-Smoking
Background	9.2	2.5%	22.8%
Asbestos alone	40.4 - 9.2= 31.2	8.6%	77.2%
Smoking alone	74.4 - 9.2= 65.2	18.0%	
Interaction of Smoking and Asbestos	362 - 9.2 - 31.2 - 65.2 = 256.4	70.8%	
		99.9%	100%

While OSHA's calculations differ from Enterline's calculations of attributable risk by including the synergism factor, the probability estimates do not differ much. According to OSHA's calculations, asbestos exposure contributes to 79.4% and 77.2% of lung cancer deaths among smoking asbestos workers and non-smoking asbestos workers respectively.

5. *Summary.* OSHA considers that asbestos exposure by itself can cause lung cancer, asbestosis, mesothelioma, and gastrointestinal malignancies, thereby presenting a significant health risk to exposed workers and a grave danger under current exposure conditions. Cigarette smoking by itself can cause lung disease and lung cancer. Cigarette smoke and asbestos exposure appear to have a multiplicative relationship for causation of lung cancer. Mortality from asbestosis has been reported to be increased in cigarette-smoking asbestos workers compared to non-smoking asbestos workers, although this evidence is inconclusive. Pleural plaques and the radiologic abnormalities characteristic of pulmonary fibrosis have also been reported to be more prevalent in cigarette-smoking asbestos workers; this evidence is also inconclusive. Ex-smoking asbestos workers have been reported to have decreased lung cancer risk relative to smoking asbestos workers. There is no evidence for any relationship between cigarette smoking and induction of mesotheliomas and gastrointestinal malignancies.

E. Relative Carcinogenicity and Toxicity of Different Fibers

1. *Introduction.* OSHA has reviewed the data concerning the relative carcinogenicity and toxicity of different asbestos fiber types and has decided not to make distinctions in this emergency temporary standard by asbestos fiber type with regard to regulatory provisions designed to protect workers from the harmful effects of asbestos exposure. Mainly, this is because lung cancer is the leading cause of death associated with asbestos exposure and there do not appear to be differentials in lung cancer risk by fiber type.

Some investigators and committees have suggested that different fiber types of asbestos have differences in their carcinogenic potency, including Enterline and Henderson (Ex. 84-122), McDonald and McDonald (Ex. 84-154), Weill et al. (Ex. 84-206), Acheson and Gardner (Exs. 84-015 and 84-243), Muir (Ex. 84-350), and the Advisory Committee on Asbestos (Ex. 84-216). These scientists generally believe that crocidolite and amosite are more carcinogenic than chrysotile and anthophyllite. Based on these scientists' recommendations, both the United Kingdom and the province of Ontario, Canada have promulgated the following standards for asbestos:

0.2 fibers per cubic centimeter (0.2 f/cc) for crocidolite

0.5 fibers per cubic centimeter (0.5 f/cc) for amosite

1 fiber per cubic centimeter (1 f/cc) for chrysotile and all other forms of asbestos

Recently, the United Kingdom has announced reductions in the limits for chrysotile and amosite. It is important to note that the question of differentials in potency by fiber type primarily concerns induction of mesotheliomas, not asbestosis and lung cancer. For mesothelioma, Acheson and Gardner in 1979 described "a powerful case. * * * that crocidolite has been more dangerous than chrysotile and anthophyllite" (Ex. 84-216, p. 11), whereas they characterized evidence for

fiber type differentials in risk from lung cancer and asbestosis as "inconclusive" and "slight" respectively (Ex. 84–216, p. 11).

In 1983, Acheson and Gardner stated: "Peritoneal mesothelioma has an almost exclusive relationship with exposure to the amphiboles crocidolite and amosite" (Ex. 84–243, p. 8). Concerning lung cancer, they noted that although one study (Weill et al., Ex. 84–206) had found a higher risk among workers exposed to crocidolite, no "clear distinction" of risk by fiber type could be found when the slopes of dose-response curves were compared. Hence, they concluded that available evidence did not support the assumption that chrysotile was a less potent lung carcinogen (Ex. 84–243, p. 8).

In 1983, the Chronic Hazard Advisory Panel on Asbestos (CHAP) convened by the U.S. Consumer Product Safety Commission also reviewed the evidence for fiber type differentials in carcinogenic risk (Ex. 84–256). They concluded that there were inconsistent and inconclusive findings with regard to lung cancer differentials by fiber type. For peritoneal mesothelioma, CHAP concluded that epidemiologic studies suggested that this disease was most common in amosite workers, less common in crocidolite workers and rare or non-existent in chrysotile workers. Evidence for a fiber type differential in pleural mesothelioma risk was not considered by CHAP to be as substantial as for peritoneal mesothelioma.

Some health scientists who believe that evidence links crocidolite exposure to a substantial increase in mesothelioma risk have suggested separate regulatory treatment for crocidolite (Ex. 84–216). OSHA has been urged to consider requiring that workers exposed to crocidolite or asbestos mixtures containing crocidolite wear appropriate respirators, irrespective of airborne concentrations of asbestos and irrespective of compliance with the permissible exposure limit. Furthermore, OSHA has been urged to consider requiring that employees exposed to crocidolite be informed of the potential greater risks associated with crocidolite and the reasons for requiring respirator usage whenever crocidolite exposures occur. OSHA invites comments on this suggestion and on other alternative approaches to separate regulatory treatment of crocidolite.

There are also scientific questions concerning the relationship between fiber dimensions and ability to cause disease. OSHA believes that asbestos fibers longer than 5 micrometers (μm) cause lung disease and cancer, provided that the ratio of fiber length to fiber width is 3:1 or greater. Evidence for risk from fibers less than 5 μm in length is inconclusive.

A critical analysis of the evidence concerning risk differentials by fiber type and fiber dimension follows.

2. *Epidemiologic Data—Introduction:* Commercial asbestos fiber types including amosite, chrysotile, and crocidolite, have been observed to be associated with elevated risks of asbestosis, lung cancer, and mesothelioma whether exposures occurred to a single fiber type or to various combinations of fiber types (NIOSH/OSHA, 1980, Ex. 84–320). Excess lung cancer risk and asbestosis have been observed in anthophyllite asbestos workers; however, no cases of mesothelioma have been reported among anthophyllite workers.

For amosite, an association between exposure and disease has been observed by the following investigators: Seidman et al. (Ex. 84–087), Anderson et al. (Ex. 84–017), and Murphy et al. (Ex. 84–311). For chrysotile, the following investigators have obtained positive findings: McDonald et al. (Ex. 84–065), McDonald and Fry (Ex. 84–064), Liddell et al. (Ex. 84–059), Nicholson et al. (Ex. 84–072), Rubino et al. (Ex. 84–086), Dement et al. (Ex. 84–037), and Acheson and Gardner (Ex. 84–015). For crocidolite, positive findings were observed by the following investigators: Jones et al. (Ex. 84–138), Hobbs et al. (Ex. 84–132) and McDonald and McDonald (Ex. 84–154). Meurman et al. (Ex. 84–181) observed an excess lung cancer risk among anthophyllite miners in Finland. In addition, numerous studies have observed asbestosis, lung cancer, and mesothelioma among workers exposed to mixed fiber types (Hughes and Weill, Ex. 84–135; Weill et al., Ex. 84–206; Jones et al., Ex. 84–138; Berry et al., Ex. 84–020; Elmes and Simpson, Ex. 84–042; Peto et al., 84–80; Lacquet et al., Ex. 84–144; Selikoff et al., Ex. 84–089; Robinson et al., Ex. 84–082; and Balselga-Monte and Segarra, Ex. 84–019). Also, several studies of talc miners and millers, where the talc contained tremolite and anthophyllite, have observed excesses of lung cancer and lung disease, and reductions in pulmonary function (Kleinfeld et al., Ex. 84–140, 84–141; Brown et al., Ex. 84–025; Gamble et al., Ex. 84–181). In addition, zeolite, an asbestiform mineral found in the soil and water in two villages in Turkey, may be responsible for those villages' high mortality rates from mesothelioma (Artvinli and Baris, Ex. 84–018; Baris et al., Ex. 84–110).

OSHA is not aware of any epidemiologic studies which compare workers exposed to different fiber sizes within the same industrial process. Undoubtedly, this is due to the scarcity of such occupational groups since most occupational populations have been exposed to a mixture of long and short fibers. Therefore, most of the data on differential risk by fiber size are from experimental studies rather than epidemiologic studies and will be discussed in section (D)(3) *Experimental Data.*

Evaluating the relative carcinogenicity of the different asbestos fiber types involves comparison of results from different epidemiologic studies. OSHA believes that it is important to note the potential difficulties of comparing different occupational cohorts. Standardized Mortality Ratios (SMR's) are risk measures that are dependent on the age distribution (as well as other factors) of the particular study population. This is because the values used for comparison, referred to as the expected values, are derived from mortality rates specific for age, race, sex, and calendar period in the comparison population. Cancer risk rises with increasing age, so that an older population would have higher expected values for cancer mortality.

Misleading results may be obtained when comparing risk measures for cancer among study populations with different underlying age distributions. An example of the misleading results that may be obtained in such an instance is given in Ex. 84–335, which illustrates that SMR's of diverse study populations may be the same while the actual excess risk of mortality may vary greatly because of differences in age distribution. Sex and calendar period of observation also affect expected values, because women have lower mortality rates from lung cancer and lung cancer has risen greatly since the 1940's. Length of follow-up is another pivotal variable because of the long latency periods necessary for development of lung cancer and especially mesothelioma.

Epidemiologic Studies of Lung Cancer, Mesothelioma, and Absestosis: The following studies examined the question of differential lung cancer risk by asbestos fiber type by comparing the mortality experiences of different occupational cohorts: McDonald and McDonald (Ex. 84–154), Henderson and Enterline (Ex. 84–048), Weill et al. (Ex. 84–206), McDonald and Fry (Ex. 84–064), and Acheson et al. (Ex. 84–015). Some of these studies also addressed the question of differential mesothelioma risk by fiber type. Some additional studies of workers exposed to a single fiber type are also pertinent to evaluation of risk by fiber type.

including McDonald et al. (Ex. 84–065), Hobbs et al. (Ex. 84–132), Weiss (Ex. 84–098), Dement et al. (Ex. 84–037), and Berry and Newhouse (Ex. 84–021).

McDonald and McDonald (Ex. 84–154) suggested that crocidolite was more carcinogenic than chrysotile based on their comparison of the mortality of Canadian chrysotile miners and millers with that of Canadian workers manufacturing crocidolite-containing gas masks. For gas mask workers, 13% and 16% of the observed deaths were from lung cancer and mesothelioma respectively. In contrast, 6% and 0.26% of the observed deaths among chrysotile miners and millers were from lung cancer and mesothelioma respectively. One potential problem was that the personnel records of the crocidolite workers were incomplete, which could result in biases toward observing greater or lesser risk in this cohort. An unpublished report by Dr. Han K. Kang (Ex. 84–139) commented as follows on this comparison:

(1) Two major potential confounding factors, fiber size distribution and fiber concentration, were not analyzed by the authors. If the gas mask plants had higher fiber concentrations and/or a higher proportion of long thin fibers than the mines, a higher cancer risk would be expected in the plants.

(2) Comparison of risk measures such as Standardized Mortality Ratios (SMR's) and Proportionate Mortality Ratios (PMR's) might not be appropriate between the two occupational cohorts because of potential differences in age distribution and length of follow-up period.

Henderson and Enterline (Ex. 84–048) compared mortality of retired workers exposed to different asbestos fiber types. After adjusting for differences in cumulative dust exposures, Henderson and Enterline reported the following respiratory system cancer SMR's for workers in an asbestos factory and workers manufacturing asbestos cement: 247 for workers receiving chrysotile exposures only, 364 for workers receiving amosite exposures only, and 461 for workers receiving combined exposures to chrysotile and crocidolite. Asbestos cement pipe workers had a very high lung cancer SMR of 522. Henderson and Enterline stated: "Men who worked in the production of asbestos cement pipe exhibited a higher risk of respiratory cancer, as did men with some crocidolite asbestos exposure. Because these two groups overlap, we could not be certain that crocidolite asbestos was responsible for the increased risk" (Ex. 84–084).

Concerning Henderson and Enterline's findings, OSHA notes that the asbestos cement pipe exposures may have been dustier than earlier estimates indicated and that some of the workers thought to have been exposed only to chrysotile may have had indirect exposure to crocidolite. Also, workers in the asbestos cement pipe operation probably were exposed mostly to chrysotile (Kang, Ex. 84–139). Another potential confounding factor was that exposure levels were uncertain for each group of workers.

Weill, Hughes, and Waggenspack (Ex. 84–206) studies the mortality of asbestos cement pipe workers in two plants. In the first plant, workers were exposed to both crocidolite (3% of product) and chrysotile. In the second plant, workers were exposed to chrysotile, amosite (1% of product), and crocidolite (infrequently).

Weill et al. reported respiratory system cancer SMR's as follows for workers receiving cumulative asbestos exposures greater than 200 million particles per cubic foot-months (mpcf-months) during the first 20 years of employment:

No crocidolite exposure	SMR = 182
Intermittent exposure to crocidolite	SMR = 357
Steady exposure to crocidolite	SMR = 241

OSHA notes that the apparent differences in lung cancer risk by fiber type observed by Weill et al. are based on relatively small numbers of deaths. Hence, statistical variation may be considered a possible explanation for the observed differences. It is not known if the 75% follow-up rate may have contributed to these apparent differences.

Weill, Ziskind, Waggenspack, and Rossiter (Ex. 84–207) suggested that crocidolite exposed workers had poorer pulmonary function than workers exposed to other forms of asbestos. They reported that crocidolite workers had smaller lung volumes, a higher prevalence of X-ray changes, lower FEV1's, and reduced diffusing capacity.

Note.—FEV1 refers to the volume of air forcibly expired in one second, and diffusing capacity refers to the ability of oxygen to leave the alveoli and enter the pulmonary bloodstream. Reductions in FEV1 and diffusing capacity are indicative of impaired lung function.

A comparison between Canadian chrysotile miners studied by McDonald et al. (Ex. 84–065) and Australian crocidolite miners studied by Hobbs et al. (Ex. 84–132) has been made by Kang (Ex. 84–139). The Australian miners with one or more years of employment and at least 15 years of follow-up had a lung cancer SMR that was approximately twice as high as that of Quebec miners with one or more years of employment and at least 20 years of follow-up. Comparison of these two groups of miners is problematic because of potential differences in age distribution, fiber concentrations, and length of employment (Kang, Ex. 84–139).

Acheson, Gardner, Pippard, and Grime (Ex. 84–015) studied mortality of female workers manufacturing mostly chrysotile-containing gas masks in one plant (Plant 1) during 1939 and female workers manufacturing mostly crocidolite-containing gas masks and some chrysotile-containing gas masks in a second plant in 1939 (Plant 2). Plant 2 had a larger excess of mortality than Plant 1. Ages at initial employment were very similar at the 2 plants. At Plant 1, 7 lung cancer deaths were observed versus 4.8 expected (SMR = 145, statistically non-significant). One death from pleural mesothelioma was observed in a female worker from Plant 1.

At Plant 2, 15 lung cancer deaths were observed versus 6.2 expected (SMR = 241, p less 0.01). Mesothelioma was mentioned on 5 women's death certificates, 3 of which coded mesothelioma as the underlying cause of death. A statistically significant increase in ovarian cancer mortality was also observed at Plant 2 (12 deaths observed versus 4.4 expected, SMR = 275, p less than 0.01). Possibly, the deaths certified as due to ovarian cancer may have actually been misclassified peritoneal mesotheliomas.

Acheson et al. concluded that "the pattern of mortality is consistent with the view that mesothelioma (and possibly ovarian cancer) is particularly associated with exposure to crocidolite" (Ex. 84–015, p. 347).

Acheson et al.'s study has 2 advantages relative to other studies of populations exposed to different asbestos fiber types: both the age distributions and lengths of follow-up were similar for Plant 1 and Plant 2. Neither air concentrations nor durations of employment were reported for the 2 plants, however. Because Plant 2 had been operating longer than Plant 1, Plant 2 workers may have had a greater median length of employment. Manual manufacturing processes were employed at Plant 2, while mechanical processes were employed at Plant 1. Perhaps the manual process led to higher dust exposures for the individual workers at Plant 2. Yet it is also possible that the mechanical process at Plant 1 reduced

the diameters of the fibers, rendering them more hazardous. OSHA considers that this study provides suggestive evidence for a fiber type differential in mesothelioma risk; however, this evidence is not conclusive because of the lack of information on the air concentrations and durations of employment.

Both plants had excesses of lung cancer mortality, although only the Plant 2 excess was statistically significant. OSHA calculated that the statistical power to detect a 50% increase in lung cancer risk was only 19% at Plant 1. Given the low power to detect increased risk at Plant 1, OSHA believes the statistically non-significant excess of lung cancer at Plant 1 should not be disregarded. Also, Acheson et al. calculated 95% confidence intervals for lung cancer mortality as 135–397 for Plant 2 and 58–298 for Plant 1. In OSHA's view, these overlapping confidence intervals for the 2 plants indicate that the observed differences in lung cancer mortality cannot be considered statistically different. Hence, OSHA concludes that Acheson et al.'s study does not establish the existence of a differential in lung cancer risk by fiber type in these 2 occupational cohorts.

Weiss (Ex. 84–098) studied a cohort of 264 production workers in a paper and millboard factory. This factory had used only chrysotile asbestos. No increased mortality from lung cancer was observed among these workers (4 lung cancer deaths observed versus 4.32 expected). Two men died of abestosis.

OSHA noted limitations of Weiss's study that include lack of asbestos exposure data and very low statistical power. OSHA calculated that this study had only 20.8% power to detect a 50% increase in lung cancer risk. Hence, OSHA does not consider Weiss's study as reliable evidence of low cancer risk among chrysotile workers.

Dement et al. (Ex. 84–037) observed a high lung cancer risk among chrysotile textile workers (35 deaths observed versus 11.10 expected, SMR=315). A high risk of mortality from non-malignant respiratory diseases, including asbestosis, was also observed in this cohort (28 deaths observed versus 9.53 expected, SMR=294). One peritoneal mesothelioma was confirmed by autopsy. Several other death certificates listed "cancer of the abdomen," but the authors were unable to obtain additional data to determine whether these particular cancers were actually mesotheliomas. Expected values for mortality were derived from U.S. mortality rates.

Dement et al. suggested that the higher risk of respiratory cancer mortality in their chrysotile exposed cohort compared to cohorts of chrysotile miners and millers may have been due to different fiber size distributions. Using expected values of lung cancer mortality derived from the South Carolina county in which the chrysotile textile plant was located, instead of U.S. mortality rates, would have reduced the lung cancer SMR's for the cohort because lung cancer mortality rates were 75% higher in the county than in the United States as a whole. Dement et al. considered use of the county rates to be inappropriate because of the probable contribution of a nearby shipyard as well as the study plant to the elevated lung cancer rates in the county. State (South Carolina) mortality rates from lung cancer were similar to those of the United States.

Dement et al. also addressed the possibility of confounding effects from smoking. Questionnaires administered in 1964 and 1971 to workers employed at the plant did not indicate that the study cohort had a higher prevalence of smoking compared to the U.S. population.

OSHA regards Dement et al.'s study as strong evidence of the potential for high lung cancer risk from exposure to chrysotile.

McDonald and Fry (Ex. 84–064) published a preliminary report on their study of 2 asbestos factories (Plants A and B) where chrysotile was used exclusively and 1 factory (Plant C) where chrysotile, amosite, and crocidolite were used. Plant A was the study plant reported on by Dement and colleagues. Plant C had previously been studied by Robinson and colleagues. Respiratory system cancer mortality was in excess at all 3 plants. Expected values for each plant were derived from the age, sex, and cause-specific mortality rates of the states in which the plants were located. SMR's were calculated beginning 20 years after initial employment at the plants. Air concentrations were highest in Plant C, next to highest in Plant A, and lowest in Plant B. Criteria for inclusion in the study cohorts were: (1) One month or more of employment by January 1, 1959, and (2) having any Social Security Administration files. Vital status was determined as of December 31, 1977.

The overall respiratory system cancer SMR was 285 at Plant A, confirming the high lung cancer risk observed at the same plant by Dement and colleagues. Furthermore, McDonald and Fry noted that their inclusion of clerical workers and workers with 1–5 months of exposure in the cohort, unlike Dement et al., probably reduced observed respiratory cancer risk. Among male workers employed 1–4 years at Plants A, B, and C, respiratory system cancer SMR's were 225, 149, and 41 respectively. Among male workers employed 20 or more years at Plants A, B, and C, respiratory system cancer SMR's were 315, 168, and 140 respectively. The lower respiratory cancer risk in men in Plant C was unexpected, given the higher air concentrations in Plant C.

A different pattern of respiratory system cancer risk was apparent for female workers compared to male workers; however, the female mortality rates were not stable because of the small number of deaths. Female workers in Plants A, B, and C had respiratory system cancer SMR's of 234, 348, and 52 respectively.

McDonald and Fry characterized the differences in the distribution of mesothelioma deaths among the 3 plants as "striking." Plant A had 1 death from mesothelioma (=0.1% of all deaths) and Plant B had no deaths from mesothelioma. Plant C had 18 deaths from mesothelioma (1.26% of all deaths). Possibly, an even greater number of deaths from mesothelioma occurrred at Plant C, due to unrecognized cases being coded as abdominal cancers or other/unspecified cancers.

Robinson et al. (Ex. 84–082) had also observed a high mesothelioma risk among workers at Plant C. McDonald and Fry considered the probability of missing true cases of mesothelioma at Plants A and B to be low because of good cancer case ascertainment in the areas where these plants were located. McDonald and Fry stated that exposure-response relationships at the 3 plants might be clarified after the individual subjects were classified by exposure levels.

OSHA considers the following points important for interpreting the findings of McDonald and Fry. Although McDonald and Fry stratified by duration of exposure for their inter-plant comparison of lung cancer mortality, other important variables were not controlled for, including age at initial employment, fiber concentration, and length of follow-up. Plant C, which had the greatest number of deaths from mesothelioma, also had the highest exposure levels. Hence, OSHA considers that the differentials in mesothelioma risk among the 3 plants are suggestive, but do not conclusively demonstrate increased mesothelioma risk from crocidolite relative to other asbestos fiber types. Of interest is the finding of higher lung cancer risks at the chrysotile plants (A and B) relative to plant C. Again, the variables of fiber

concentration, age distribution, and length of follow-up need to be controlled for when comparing lung cancer risk of different cohorts.

Berry and Newhouse (Ex. 84–021) and Newhouse, Berry, and Skidmore (Ex. 84–163) studies the mortality of a cohort of workers manufacturing friction materials. Exposure was to chrysotile exclusively, except during 1929–1933 and 1939–1944 when a small percentage of the workforce was exposed to crocidolite. Asbestos exposures were low in the plant; only 5% of the male workers accumulated as much as 100 f/cc-years. The only cause of death in excess was mesothelioma. To examine etiologic factors for mesothelioma, a matched case-control study was conducted for 10 mesothelioma cases. For each case, 4 controls were selected from the plant. Controls were matched on year of hire at the factory, sex, age, and duration of employment. Definite crocidolite exposure was discovered in the occupational histories for 8 of the 10 mesothelioma cases and for 3 of the 40 controls. About 90% of the cases and 25% of the controls had been exposed to levels of chrysotile exceeding 5 f/cc. When Berry and Newhouse limited their comparison to those cases and matched controls who had been exposed to over 5 f/cc of chrysotile, a statistically significant greater number of cases had an occupational history of exposure to crocidolite as well.

Matching the controls for the mesothelioma cases on year of hire controlled for the important factor of length of follow-up. OSHA considers that both crocidolite and chrysotile are implicated in the causation of mesothelioma by this study: chrysotile because 90% of the cases received high chrysotile exposures compared to 25% of the controls, and crocidolite because 80% of the cases compared to 7.5% of the controls had been exposed to crocidolite.

The Chronic Hazard Advisory Panel on Asbestos (CHAP) compared lung cancer risk per unit of cumulative exposure (also known as K_L, the lung cancer potency factor) among the cohorts exposed to different fiber types. CHAP reported that studies of chrysotile workers yielded both low and high values of K_L, as well as studies of crocidolite workers and amosite workers. Hence, CHAP considered that evidence for a differential in lung cancer risk was mixed and inconclusive (Ex. 84–256).

Pathology Studies: Wagner, Berry, and Pooley (Ex. 84–202) examined the asbestos contents of tissue samples of lungs of asbestos textile workers who died from mesothelioma and other causes. Wagner et al. did not find either higher chrysotile or higher crocidolite contents in the lungs of the mesothelioma cases compared to the lungs of asbestos workers who died from other causes.

McDonald, McDonald, and Pooley (Ex. 84–175) conducted a study of the mineral fiber contents of lung tissues for 99 autopsied mesothelioma cases and 99 autopsied controls. Controls matched for sex and age were selected for each mesothelioma case. All controls had been diagnosed as having pulmonary metastases from a primary cancer other than lung cancer. Lung tissue specimens were examined for mineral fiber content using an electron miscroscope and X-ray energy-dispersive analyzer.

Chrysotile, amosite, crocidolite, anthophyllite, and tremolite were detected in the lung specimens of the cases and controls. For amosite and crocidolite, about 3 times as many mesothelioma cases as controls had more than 1 million fibers per gram of dried lung tissue. For anthophyllite, twice as many cases as controls had more than 1 million f/gram. For chrysotile and tremolite, little difference in fiber contents was observed between cases and controls.

McDonald, McDonald, and Pooley stated: "The equal quantities of chrysotile fibers found in lung tissue from cases and controls fail to support any association between this mineral type of asbestos and mesothelial tumors. However, the lung chrysotile fibre content at death must be interpreted cautiously, as these fibres probably disappear in the course of time" (Ex. 84–175, p. 420).

There are several points to consider concerning McDonald et al.'s study. First, if the fibers responsible for inducing mesothelioma were also responsible for inducing cancers at sites other than the lung and mesothelium, then a true effect of a fiber on mesothelioma genesis could fail to be detected because of the stipulation that all controls had to have pulmonary metastases. Gastrointestinal cancers sometimes metastasize to the lung, and some studies have observed excesses of gastrointestinal cancer among asbestos workers. Second, since chrysotile constitutes up to 90% of commercially used asbestos and since asbestos exposure is ubiquitous, one would expect controls to have chrysotile fibers in their lungs. The widespread exposure to chrysotile could obscure a true relationship between chrysotile and mesothelioma.

McDonald et al. suggested that chrysotile may be cleared faster from the lungs than other asbestos fibers, so that chrysotile retention in the lungs may not be the best way to estimate chrysotile exposure. Rowlands, Gibbs, and McDonald (Ex. 84–178) suggested a tendency for chrysotile to be removed from the lungs because of their observation that the quantity of tremolite in the lungs of Quebec miners and millers was similar to that of chrysotile, despite the miners' much greater exposure to chrysotile. In general, OSHA believes that the results of autopsy studies of fiber content of lungs cannot serve as direct measures of risk differentials by fiber type.

Mesothelioma Findings: As mentioned in the introduction to this section, the primary basis for the hypothesis that crocidolite is more carcinogenic than other forms of asbestos is the observed variation in mesothelioma mortality among cohorts exposed to different fiber types. A summary of the percentage of deaths from mesothelioma among cohorts exposed to different fiber types follows.

Meurman et al. (Ex. 84–256), who observed excess lung cancer mortality among anthophyllite miners, did not find any deaths from mesothelioma in their cohort. In Seidman et al.'s cohort of amosite insulation production workers, a total of 14 mesotheliomas were identified by death certificate or pathological reports (Ex. 84–087). These 14 deaths from mesothelioma constituted 2.7% of total deaths in this cohort.

Cohorts of chrysotile workers had relatively low percentages of deaths from mesothelioma:

Table 8

MESOTHELIOMA DEATHS AMONG COHORTS OF CHRYSOTILE WORKERS

Study	% of deaths from mesothelioma
McDonald et al. (Ex. 84-065) - miners	0.3
Nicholson et al. (Ex. 84-072) - miners	0.5
Dement et al. (Ex. 84-037) - textile workers	0.5
Rubino et al. (Ex. 84-086) - miners	0

Hammond et al., however, observed a higher percentage of deaths from mesothelioma (Ex. 84-047). Hammond et al. studied insulation workers exposed predominantly to chrysotile and to some amosite, but not to crocidolite. From death certificates and other clinical material, 175 deaths (7.7%) were attributed to mesothelioma out of a total of 2271 deaths. Peto (Ex. 84-168) studied a factory which used mostly chrysotile and some crocidolite, and found a high mesothelioma risk. Robinson et al. (Ex. 84-082) observed 4% of deaths from mesothelioma in a cohort where the factory used the following percentages of asbestos fiber types: chrysotile—99%, amosite—0.9% and crocidolite—0.07%.

Among crocidolite workers, McDonald and McDonald (Ex. 84-154) observed 16% of deaths from mesothelioma. Jones et al. observed 10% of deaths from mesothelioma (Ex. 84-138). McDonald and Fry (Ex. 84-064) observed 1.26% of deaths from mesothelioma, and Hobbs et al. (Ex. 84-132) observed 9% of deaths from mesothelioma.

The Chronic Hazard Advisory Panel on Asbestos (CHAP) stated that peritoneal mesothelioma "appears to be most common in workers exposed to amosite, less often to crocidolite, and rarely or never to chrysotile" (Ex. 84-256, p. 127). However, CHAP noted the large variation in peritoneal mesothelioma mortality among crocidolite workers, the lack of risk data expressed in terms of unit exposure, and the frequent misdiagnosis of peritoneal mesothelioma. Consequently, CHAP suggested that factors other than fiber type, such as fiber dimension, may be important for induction of peritoneal mesothelioma. For pleural mesothelioma, the differences in mortality among cohorts were not as marked as for peritoneal mesothelioma, according to CHAP (Ex. 84-256, p. 126).

Summary of Epidemiologic Data: In summary, there is evidence that all commercial asbestos fiber types, except for anthophyllite, cause asbestosis, mesothelioma, and lung cancer in humans. Anthophyllite has been shown to cause lung cancer and asbestosis, but no mesotheliomas have been reported among workers exposed to anthophyllite. For lung cancer, OSHA views the evidence for differentials in risk by fiber type as inconclusive and inconsistent. Some studies have found that chrysotile workers have roughly the same or higher risk of lung cancer compared to workers exposed to amphibole fibers, while other studies have found that chrysotile workers had somewhat lower relative risks of lung cancer. As discussed by CHAP with regard to their comparison of lung cancer risk per unit of cumulative exposure, consistent patterns of higher lung cancer risk among workers exposed to crocidolite and amosite did not emerge. With some exceptions, comparisons of lung cancer risk among occupational cohorts exposed to different fibers generally have failed to control for the following variables: Fiber concentrations, age distribution, and length of observation. These variables are sufficiently important determinants of asbestos-induced lung cancer risk such that OSHA believes these particular cross-cohort comparisons provided inconclusive evidence concerning differences in carcinogenic potency of the various fibers. Other important variables that may confound cross-cohort comparisons are fiber size distributions, hygienic measures instituted by the companies, and respirator use.

The evidence for a differential in mesothelioma risk, particularly peritoneal mesothelioma, by fiber type is more consistent than for lung cancer. Nonetheless, this evidence appears not to be conclusive because of failure by most investigators to control for important variables when comparing different occupational cohorts. Mesothelioma risk is affected by the same variables that determine the degree of lung cancer risk. Furthermore, mesothelioma has a longer latency period than asbestos-induced lung cancer and rises exponentially with increasing time since initial exposure, such that length of observation is a variable that must be controlled for in cross-cohort comparisons.

Chrysotile is a lung carcinogen for humans. Even if chrysotile could be definitively shown to induce fewer mesotheliomas than the other forms of asbestos, OSHA believes that epidemiologic studies indicate that chrysotile poses a significant health risk to humans by inducing lung cancer and asbestosis.

OSHA has concluded that fiber type is not an important determinant of lung cancer mortality arising from asbestos exposure. Because lung cancer is the major cause of excess mortality among asbestos workers, OSHA does not deem it appropriate to permit higher levels of exposure to chrysotile than to other asbestos fiber types on the basis of the possibility that chrysotile may induce fewer mesotheliomas than the amphiboles (amosite, crocidolite).

3. *Experimental Data.* OSHA believes that numerous studies of laboratory animals exposed to asbestos have found that the dimensions of fibers rather than types of fibers are major determinants of risk for lung disease and cancer (Harington, Ex. 84-131; Pott, Ex. 84-173; Stanton, Ex. 84-93, 84-195; Wagner et al., Ex. 84-198; Wright and Kuschner, Ex. 84-210). Aspect ratios (i.e. length to width ratios) of fibers have also been suggested as factors influencing carcinogenicity (Bertrand and Pezerat, Ex. 84-114). Because fiber size distribution appears to affect disease-causing potency, the source of the asbestos used for laboratory experiments and the methods used to produce the asbestos "clouds" should be considered when interpreting the results of laboratory experiments.

Chrysotile, amosite, and crocidolite have all induced cancer in animals upon administration by inhalation, injection and implantation (NIOSH, Ex. 84-338; NIOSH/OSHA, Ex. 84-320; Wagner et al., Ex. 84-205; Davis et al., Ex. 84-120). Davis et al. found that UICC chrysotile

produced more fibrosis in rats via inhalation than did UICC amosite. Factory samples of chrysotile, however, produced a similar degree of fibrosis via inhalation compared to factory samples of amosite.

Wagner et al. conducted inhalation studies of 5 UICC asbestos samples (2 chrysotile, 3 amphibole) in C/D Wistar rats, and found similar degrees of pulmonary fibrosis and lung tumor incidences for all exposed groups (Ex. 84–096). [The Union Internationale Centre Cancer (UICC) was the source for the asbestos fiber samples used in the study.] Aninals exposed to the 2 chrysotile samples retained much less dust in their lungs at the end of the exposure periods than the 3 other exposed groups. Concerning this study, the NIOSH/OSHA Asbestos Work Group commented: "In terms of degree of response related to the quantity of dust deposited and retained in the lungs of rats, chrysotile appears to be much more fibrogenic and carcinogenic than the amphiboles" (Ex. 84–320, p. 15). Of interest were the mesotheliomas occurring after only one day of exposure to amosite and crocidolite.

Intrapleural administration of various forms of asbestos produced the following incidence of mesotheliomas: crocidolite—61%, amosite—36%, anthophyllite—34%, Canadian chrysotile—30%, and Rhodesian chrysotile—19% (Wagner et al. Ex. 84–197). In contrast, Stanton and Wrench (Ex. 84–338) did not observe differences in mesothelioma incidence by fiber type with intrapleural implantation.

Chrysotile may act as a co-carcinogen in addition to acting as a primary carcinogen. Kung-Vosamae and Vinkmann (Ex. 84–143) observed a strong interaction between chrysotile administered intratracheally and N-nitrosodiethylamine administered orally with regard to production of lung tumors in hamsters. N-nitrosodiethylamine has been demonstrated to be carcinogenic to many different species by many different routes of administration.

In 1977, Stanton, Layard, Tegeris, Miller, May, and Kent published the results of tests of 17 fibrous glasses of varying types and dimensions (Ex. 84–093). These fibrous glasses were implanted in the pleurae of female Osborne-Mendel rats, and surviving animals were sacrificed after 2 years. Statistical analyses indicated that the fibers less than or equal to 1.5 micrometers (μm) in diameter and longer than 8 μm produced the highest incidence of pleural sarcomas. Fibers less than 8 μm in length appeared to be inactivated by phagocytosis. (Phagocytosis is the engulfing of foreign particles by phagocytes, which are cells that usually digest these particles in order to protect the body from them.) Stanton et al. stated: "Since neoplastic response to a variety of types of durable fibers, particularly asbestos fibers, was similar, our experiments reinforce the idea that the carcinogenicity of fibers depends on dimension and durability rather than physicochemical properties and emphasize that all respirable fibers should be viewed with caution" (Ex. 84–093, p. 587).

OSHA believes that Stanton et al.'s study has important implications for the question of fiber type differentials in risk. The study suggests that any observed differences in risk by fiber type may be due to differences in the fiber size distribution within the workplaces being compared rather than inherent chemical properties of the particular fibers. Stanton et al.'s study suggests that fibrous materials besides asbestos can produce a carcinogenic response in both the pleura and peritoneum, provided that these materials possess carcinogenic dimensions. Among the fibrous materials demonstrated by Stanton et al. to produce malignant tumors following implantation are: All forms of asbestos, including amosite, anthophyllite, chrysotile, crocidolite, and tremolite; borosilicate; glass; aluminum silicate glass; mineral wool; aluminum oxide; potassium titanate; silicon carbide; sodium aluminum carbonate; wollastonite; and attapulgite. It should be noted that Stanton et al.'s study did not rule out carcinogenicity of fibers outside of the dimensions shown to be carcinogenic.

Stanton et al. (1981) continued their implantation experiments, greatly expanding the number of durable minerals, including asbestos, tested via implantation into the pleurae of female Osborne-Mendel rats (Ex. 84–195). Stanton et al. observed that the most carcinogenic fibers were those 0.25 μm or less in diameter and greater than 8 μm in length; however, high correlations with carcinogenicity were also observed for fibers 1.5 μm or less in diameter and longer than 4 μm.

Wright and Kuschner (Ex. 84–210) studied the production of fibrosis by intratracheal injection of asbestos fibers in guinea pigs. They observed fibrosis only from asbestos fibers longer than 10 μm. Gibbs and Hwang (Ex. 84–128) pointed out that industrial processes using asbestos may reduce the percentage of shorter fibers in the air.

NIOSH (Platek, Groth, Finnell, Stoll, and Ulrich) conducted a study of the chronic effects of inhalation of short asbestos fibers, with short fibers defined as those less than 5 micrometers (μm) in length (Ex. 84–230). Both rats and monkeys were exposed to a chrysotile asbestos aerosol for 18 months. The surviving rats were observed for 6 months following the cessation of exposure. Neither pulmonary fibrosis nor tumors were increased in the exposed rats compared to the control rats. Monkeys are being maintained for an indefinite period following exposure to determine the chronic effects of exposure.

The NIOSH investigators encountered some difficulties in trying to generate short fibers. The ball milling method was used to generate fibers, resulting in asbestos balls that could not meet the desired 3:1 aspect ratio. Some problems also occurred with regard to the methods of counting asbestos fibers and determining aerodynamic diameters (Ex. 84–230). Consequently, OSHA considers that Platek et al.'s study provides suggestive but not conclusive evidence that short asbestos fibers do not induce pulmonary fibrosis or tumors.

Some chemists have posited that asbestos fibers have biochemically active sites on their surfaces that can be modified so as to reduce the hazardous potential of asbestos fibers (Ex. 84–333). The electrical charge of chemical groups on the surface of asbestos fibers has been hypothesized to influence toxicity of fibers. For example, one chemical process removes the magnesium hydroxide groups on the surface of chrysotile and replaces them with silanol groups, producing a form of asbestos known as silanized asbestos. In vitro tests (tests conducted on cells in test-tube simulations of living systems) have been conducted for normal asbestos fibers and chemically-treated asbestos fibers. Decreased toxicity in chemically treated asbestos fibers compared to normal asbestos fibers has been reported (Ex. 84–333). OSHA considers that the hypothesis that biochemically active sites on the surface of asbestos fibers determine the degree of carcinogenicity of the fibers is not well supported at this time. This is because many in vivo studies, especially those conducted by Stanton et al., have found that fiber dimensions rather than chemical properties appeared to be the primary determinant of fiber carcinogenicity. Stanton et al. found that a variety of non-asbestos fibers could induce cancer, if they were milled to specific dimensions. The in vitro studies of chemically treated asbestos are not as determinative of health risk as the in vivo studies of fiber dimension and hence do not refute the findings of Stanton et al. and other investigators

concerning the overriding importance of fiber dimension. Therefore, OSHA will continue to include chemically-treated asbestos longer than 5 micrometers with a 3:1 or greater aspect ratio in the scope of the asbestos standard, on the basis that chemically-treated asbestos poses a health risk similar to that of untreated asbestos.

In summary, OSHA regards experimental studies of animals as suggesting that all asbestos fiber types possess similar carcinogenic potency. Animal studies also suggest that fiber dimensions rather than chemical properties or fiber type may be the strongest determinant of carcinogenicity, in OSHA's view. Extrapolation of the results of experimental studies in animals to the human experience necessitates an assumption that the fiber dimensions used for experimental studies resemble fiber dimensions in workplaces. This assumption might not be valid in all instances.

4. *Other Factors.* The various types of asbestos fibers may differ in the percentage of fibers available for inhalation and the length of time that dust clouds remain airborne (Rowe, Ex. 84–085). Crocidolite might stay airborne for a longer period of time and have a greater number of respirable fibers compared to amosite, which in turn may exceed anthophyllite in regard to these two characteristics (Muir, Ex. 84–350). The preparation method for chrysotile will determine these two characteristics for a laboratory sample of chrysotile or for a particular workplace with chrysotile exposure (Rowe, Ex. 84–085). Because thicker fibers might drop to the ground faster and crocidolite is generally finer than the other fibers, crocidolite use might lead to dustier work environments and hence a greater health risk, even if crocidolite is not more dangerous on a fiber-for-fiber basis (Muir, Ex. 84–350). However, most respirable fibers, which are the fibers likely to cause disease, will tend to remain airborne for long periods of time.

Another point to consider is whether, for different fiber types, the ratio between fibers visible under a microscope and ultra-fine submicroscopic fibers varies. This would confound comparisons between cohorts apparently exposed to the same levels of different visible fibers under the light microscope, if indeed fibers not counted by the present optical microscopy method pose a hazard to health (Muir, Ex. 84–350).

OSHA believes that thicker fibers are found in mining and milling and that subsequent manufacturing processes tend to break fibers apart and reduce their diameter. Based on experimental findings implicating long thin fibers as being the most carcinogenic fibers, these subsequent processes may have a greater carcinogenic hazard compared to the initial mining and milling operations (Nicholson, 1981, Ex. 84–071).

OSHA examined the question of differentials in carcinogenic risk among manufacturing processes which fall under OSHA's jurisdiction. As is the case for studies of fiber type, cross-cohort comparisons of processes should control for the following variables: fiber concentrations, duration of follow-up, duration of exposure, and age distribution. To account for the variable of fiber concentration, OSHA compared the potency factors for lung cancer (K_L) of different manufacturing studies because potency factors are based on risk per unit dose. As discussed in Section V, *Quantitative Risk Analysis*, the potency factors for lung cancer were not consistently higher for any particular manufacturing process. Because potency factors for mesothelioma (K_m) could be calculated for only 4 studies, OSHA could not compare K_M's for different manufacturing processes. In summary, there does not appear to be a consistent pattern of differential lung cancer risk by manufacturing process. Therefore, OSHA deems it appropriate to continue to apply a single PEL to all segments of industry covered by the Agency.

Relatively thick respirable fibers tend to lodge in the lung while thinner fibers can travel to the periphery of the lung, and penetrate and then lodge in the pleura. These fine fibers lodged in the pleura might be the inducers of mesothelioma (Nicholson, 1981, Ex. 84–071). Bignon et al. (Ex. 84–105) studied the lungs and pleurae of shipyard workers, and found larger fibers, especially amphiboles, in the lungs. In the pleurae, fine and small fibers, usually chrysotile, were found.

In summary, OSHA recognizes that the fiber types may differ with regard to their tendencies to break into fine fibers. Crocidolite appears to divide into finer fibers more readily than other asbestos fiber types, which may render it more hazardous. Manufacturing processes could increase the carcinogenicity of asbestos by generating fibers that are thinner in diameter relative to mining and milling processes. While these factors are interesting and contribute to the formation of hypotheses regarding the mechanisms of asbestos carcinogenesis, OSHA believes that these factors do not provide a definitive answer to the question of possible differentials in risk by fiber type. OSHA views the data from epidemiologic and experimental studies, which have observed excess cancer risk from exposure to all asbestos fiber types, as being the most important with regard to the question of differential health risk by fiber types.

5. *Tremolite and Anthophyllite.* Some but not all commercial talc deposits contain serpentine asbestos and fibrous amphibole asbestos, including chrysotile, tremolite, and anthophyllite (Dement and Zumwalde, Ex. 84–039). Kleinfeld et al. (1967, Ex 84–181) studied the proportionate mortality of 220 talc miners and millers in New York State who had been exposed to asbestos contained in talc. All men were employed during 1940 and had 15 or more years of exposure during 1940–1965. Of 91 deaths in the study cohort, 10 (11%) were from respiratory system cancer and 28 (31%) were from pneumoconiosis or complications of pneumoconiosis. Kleinfeld et al. calculated that only 2.9 (3.2%) deaths from respiratory system cancer would have been expected, resulting in a greater than 3-fold risk of respiratory cancer. A follow-up study by Kleinfeld et al. (1974, Ex. 84–141) included 260 workers exposed to asbestos in talc. Of the 108 deaths observed, 13 (12%) were from respiratory cancer compared to 4 (3.7%) expected. The high proportion of deaths from pneumoconiosis may have reduced the number of deaths from lung cancer.

Kiviluoto et al. (Ex. 84–181) and Nurminen et al. (Ex. 84–181) observed pneumoconiosis and excess lung cancer mortality among Finnish worker exposed to talcs containing fibrous anthophyllite and fibrous tremolite. No deaths from mesothelioma were reported by these investigators.

Yazicioglu, Ilcayto, Balci, Sayli, and Yorulmaz (Ex. 84–211) reported a high prevalance of pleural calcification and thickening and a high mortality rate from mesothelioma among residents of Cermik, a town in Turkey in which there are many deposits of asbestiform minerals which are used as construction materials. The construction materials have been shown to contain fibrous tremolite, antigorite, lizardite, chlorite, and talc. Yazicioglu et al. also reported an excess of lung cancer in this population.

Brown, Dement, and Wagoner of NIOSH (Ex. 84–025) conducted a historical prospective study of talc miners and millers of one company in New York State reported by the company to be mining talcs not containing asbestos minerals. NIOSH (Dement and Zumwalde), however, had reported asbestos exposure in the talc

mine and mill. NIOSH conducted an industrial hygiene survey of the study talc mine and a neighboring talc mine known to contain asbestos fibers. Silica exposures were found to be very low, well below NIOSH's recommended PEL for silica. Radon daughter measurements made by the Mine Enforcement Safety Administration (MESA) showed only nil to trace levels. Dement and Zumwalde found that exposure characteristics between the study mine and neighboring mine were substantially similar:

"In fact, the airborne dust samples from the mine and mill studied by NIOSH and maintained by the company to be asbestos free were found to contain a *higher* proportion of positively identified asbestiform amphiboles largely due to a higher tremolite content. All other fiber characteristics, such a[s] median length, diameter, aspect ratio, and proportion less than 5 θm in length, were not statistically different at the 0.5 level" (Ex. 84–181, p. 10).

The NIOSH study cohort (Brown et al.) consisted of all white males employed sometime during 1947–1959. Vital status of the 398 cohort members was determined as of June 30, 1975. Comparision was made to age, calendar period, and cause-specific mortality rates of U.S. white males. Significant increases in lung cancer mortality (9 observed deaths versus 3.3 expected) and non-malignant respiratory disease mortality (8 observed versus 2.9 expected) were observed. One death from mesothelioma occurred. Since the individual who died from mesothelioma had previously worked in the construction industry, his death could not be definitely ascribed to his exposure to tremolite or anthophyllite. Of the 10 individuals who died from respiratory system cancer, 3 had previously worked for other New York State talc companies.

NIOSH investigators also addressed the potential confounding effects of cigarette smoking. In their opinion, a cohort of heavy smokers would have no more than a 49% increase in lung cancer risk in relation to all U.S. white males. Because they observed a greater increase in lung cancer risk, almost a 3-fold risk, they judged that cigarette smoking was unlikely to account for the observed excess lung cancer risk among these talc miners and millers exposed to asbestos. The cross-sectional morbidity survey conducted by NIOSH in 1975 found a 48% prevalence of smoking, a prevalence similar to that of U.S. males. Brown, Dement, and Wagoner stated that "exposures to asbestiform tremolite and anthophyllite stand out as the prime suspected etiologic factors" associated with the observed excess risks of lung cancer and respiratory disease. They concluded that "exposures to talcs from the Gouverneur mining area are associated with an increased risk of bronchogenic cancer and non-malignant diseases of the respiratory system" (Ex. 84–181).

As measured by optical microscopy, average air concentrations of fibers greater than 5 um in length ranged from 1.7 f/cc to 9.8 f/cc as an 8-hour time-weighted average for 6 different job titles in the mine. In the mill, average air concentrations for such fibers ranged from 1.5 f/cc to 8.4 f/cc as an 8- hour time-weighted average for 18 different job titles. (Ex. 84–181, pp. 7–10).

In addition to the excess mortality from lung cancer and non-malignant respiratory disease observed by Kleinfeld et al. and Brown et al., numerous studies of talc miners and millers exposed to asbestos contained in talcs have established that these workers have a high prevalence of pleural thickening, pleural calcification, decrements in pulmonary function, and fibrosing lung disease (Dreessen, 1933; Dreessen and Dalla Valle, 1935; Siegel et al., 1942; Schepers and Durkan, 1955; Messite et al., 1959; Kleinfeld et al., 1963, 1964, 1964, 1964, 1965, 1965, 1973; Meurman et al., 1974; Kiviluoto et al., 1964; Ahlman et al., 1972; Porro et al., 1942; Ex. 84–181). Many of these studies were conducted in the same geographic area as the studies by Brown et al. and Kleinfeld et al.

A cross-sectional morbidity study of the same company whose mortality experience was studied by Brown and colleagues was performed by NIOSH investigators (Gamble, Fellner, and DeMeo, Ex. 84–181). As discussed above, NIOSH considered that this company's workforce was exposed to asbestos contained within talc. NIOSH observed markers of asbestos exposure in the lungs of these workers in addition to respiratory symptoms and lung function decrements. Of 156 male miners and millers, 121 participated in the survey. Respiratory questionnaires, chest X-rays, and spirometric testing were administered to participating workers. Comparison of respiratory morbidity was made to 9347 coal miners, 1097 potash miners, chrysotile asbestos workers and synthetic wool textile workers. OSHA considers that one of the major strengths of Gamble et al.'s cross-sectional morbidity study was the choice of comparison populations. Because talc, coal, and potash miners are likely to be similar in many non-occupational factors that may affect respiratory morbidity, the likelihood of observed differences in respiratory morbidity being due to specific workplace exposures of the talc workers rather than other risk factors for lung disease is greatly increased. Comparisons with the coal and potash miners were stratified by age, height, smoking status, and duration of employment in mining.

Compared to coal miners and potash miners, the talc workers with no previous occupational exposure within other talc mines and mills had statistically significant increases in pleural thickening and a higher prevalence of pleural calcification. When all talc workers were combined without regard to previous occupational exposure to talc, increased prevalences of cough, phlegm production, dyspnea, pleural thickening, pleural calcification, and irregular opacities on the X-rays were observed in talc workers compared to one or both mining control groups.

In addition, talc workers had significantly decreased pulmonary function (FEV1 and FVC). Decreased lung function was associated with increased cumulative exposures and lengths of exposure.

Talc workers had a similar prevalence of respiratory symptoms when compared to chrysotile asbestos workers and a much higher prevalence of symptoms when compared to synthetic wool textile workers. In contrast, pleural thickening was four times as common in talc workers compared to the chrysotile workers. Smoking was not found to be associated with the observed radiographic changes in talc workers.

Regarding their studies of morbidity and mortality of workers exposed to talc containing asbestos, NIOSH concluded:

"A thorough review of the available literature demonstrated that findings of the present studies are in agreement with those of other studies of occupational groups exposed to the same or similar minerals or mineral mixtures. This is especially true for occupational exposures to anthophyllite asbestos. These findings make it imperative that workers from the mine and mill studied, herein, be routinely observed using medical surveillance criteria established in the OSHA and MSHA asbestos standard. Furthermore, all provisions of these standards should be followed during the production and subsequent use of these talcs" (Ex. 84–181, p. 33).

Stille and Tabershaw (Ex. 84–196) of Tabershaw Occupational Medicine Associates studied all male workers employed sometime during 1948–1977 at the talc mine and mill studied by NIOSH. A total of 708 men were eligible for the study, and vital status as of December 12, 1978 was ascertained for 672 of the men. Of the 708 men, 53

workers were excluded because of lack of information on specific variables, leaving a cohort of 655 for analysis. Comparison was made to age, calendar period, and cause-specific mortality rates of U.S. white males.

For the overall cohort, excesses in mortality that were not statistically significant were observed for lung cancer and non-malignant respiratory disease. Stille and Tabershaw judged that the non-significant excess of lung cancer was "consistent with a smoking effect" rather than an effect from occupational exposure (Ex. 84–196, p. 481).

Stille and Tabershaw also separately analyzed the mortality of the talc workers with a history of any work experience before employment at the study mine and mill. This prior work experience included all previous jobs, not only jobs at other talc mines and mills. For this subcohort of 540 white males, mortality from the following causes of death was significantly elevated: all cancers (SMR=192), liver cancer (SMR=1013), respiratory system cancer (SMR=228), lymphopoietic cancer (SMR=374), and non-malignant respiratory diseases (SMR=307). Stille and Tabershaw stated: "Since the cancers and lung diseases typically have long latencies, the possibility exists that exposures prior to work at the TMX study mine and mill were responsible for at least some of these diseases" (Ex. 84–196, p. 482).

When the mortality of the subcohort with no work experience prior to employment at the study mine and mill was analyzed, no causes of death were in excess. In fact, the SMR for all causes was significantly decreased (SMR=50). As would be expected, this cohort was generally younger than the cohort which had previous work experience. Stille and Tabershaw characterized these findings as follows: (1) "Workers with 'exclusive' TMX [study mine and mill] employment seem to be at no considerable risk of having lung cancer develop" and (2) "exposures at TMX seem to be noncarcinogenic" (Ex. 84–196, p. 483).

Brown, Beaumont, and Dement of NIOSH commented on Stille and Tabershaw's study (Ex. 84–218, p. 178; Ex. 84–231), listing several problems in the analysis by Stille and Tabershaw that could account for the different conclusions of the two sets of investigators. First, Stille and Tabershaw failed to analyze mortality by length of followup latency interval). Brown et al. thought such an analysis was particularly important given that recently hired workers were allowed to enter the cohort as late as one year before the study cut-off date for vital status determination.

Second, Brown et al. commented that Stille and Tabershaw's division of the study group into subcohorts with and without work experience prior to their employment at the study facility resulted in "selection biases inherent in the definition of the subcohorts" (Ex. 84–218, p. 179). The selection biases which tended to lessen the statistical power of the subcohort without previous work experience included the short length of follow-up, short durations of exposure, and small size of the subcohort. Brown et al. stated: "Any mortality analysis based on such a small cohort with generally short latency is not likely to be very informative" (Ex. 84–218, p. 179).

Third, Brown et al. criticized Stille and Tabershaw's analyses concerning the duration of employment of the lung cancer cases. These analyses examined the observed lung cancer deaths without calculating the expected number of deaths for each latency category and duration of employment category. In addition, Brown et al. pointed out that Stille and Tabershaw's conclusions had not adequately acknowledged that many study facility workers had been employed by neighboring talc companies with exposures similar to those of the study facility.

Brown et al. concluded that Stille and Tabershaw's report did not adequately address the question of increased lung cancer risk from working at the study facility. In addition to the points discussed above, NIOSH also commented that death certificates should have been coded according to the rules of the ICDA in effect at the time of death and then converted to either the 7th or 8th revision of the ICDA for analysis, rather than coding the deaths directly to the 8th revision. NIOSH also had questions concerning the 53 workers eliminated from the cohort and how workers lost to follow-up were treated in the analysis.

Tabershaw and Thompson responded to the NIOSH critique with the following comments (Ex. 84–218). First, they cited mineral scientists and laboratories who disagreed with NIOSH's method of identifying asbestos in silicate mineral mixtures and who did not find significant asbestos concentrations in the talc processed at the mine and mill. Second, they stated that talc ore at the study facility was not similar to that of other talc mines of upstate New York. Third, Tabershaw and Thompson reiterated that many of the lung cancer deaths occurred in short-term workers employed for less than one year. In their opinion, this lessened the likelihood of the lung cancers being attributable to occupational exposure at the study plant. Tabershaw and Thompson also pointed out that only one talc miller developed lung cancer, despite the historically higher exposures of talc millers. In conclusion, Tabershaw and Thompson stated that application of the asbestos standard to the Vanderbilt workforce was unwarranted based on current evidence.

OSHA calculated a statistical power of 20% to detect a 50% increase in risk of lung cancer in Stille and Tabershaw's subcohort of workers with no previous work experience. (See Ex. 84–336 for a description of how OSHA calculated statistical power.) OSHA considers that this very low statistical power supports NIOSH's criticism of the sensitivity of Stille and Tabershaw's study design. The statistical power would have been even lower if it had been calculated for the group of workers with at least 20 years of latency.

As discussed earlier, cross-cohort comparison may be problematic if the age distributions, durations of exposure, and lengths of follow-up differ among the cohorts being compared. OSHA believes that this appears to be the case with TOMA's comparison of the subcohorts with and without previous work experience.

Several points are notable with regard to the question of the short-term workers who developed lung cancer. First, short durations of exposure may result in high cumulative doses depending upon the intensity of the exposure. Second, the phenomenon of short-term asbestos exposure and subsequent disease has been observed in other epidemiologic studies. Third, if the majority of person-years-at-risk were contributed by short-term workers, then finding most of the lung cancer deaths among these workers would not be unusual. Also, Tabershaw and Thompson did not discuss the expected number of lung cancer deaths when they mentioned the single lung cancer death among the study facility talc millers.

In 1983, Consultants in Epidemiology and Occupational Health (CEOH) prepared another analysis of the mortality of Stille and Tabershaw's study cohort (Ex. 84–257). NIOSH reviewed CEOH's analysis and stated:

"Although the findings of these analyses appear to support their [CEOH's] hypothesis that the talc is non-carcinogenic, the resulting statistical analyses are based on *assumptions, small numbers,* and *short latency.* Therefore, the CEOH conclusions are based on analyses that are inherently deficient in being able to

detect a true risk in an exposed population" (Ex. 84–375, p. 3).

Smith, Hubert, Sobel, and Marquet (Ex. 84–194) studied health effects of talc containing asbestos in laboratory animals. Smith et al. administered intrapleural injections of 4 different tremolitic substances into hamsters, including fibrous tremolitic talc from New York state, tremolite prepared from tremolitic talc ore of the facility studied by NIOSH, tremolite prepared from western U.S. tremolitic talc ore, and asbestiform tremolite. Periods of observation ranged from 350 days to 600 days after injection. Tumors and pleural fibrosis were observed only in animals injected with asbestiform tremolite and tremolite prepared from western U.S. tremolitic talc ore. Smith et al. found that the samples of asbestiform tremolite had greater proportions of long thin fibers than the sample of tremolite from the facility studied by NIOSH.

The sample of fibrous tremolitic talc from New York state also contained long thin fibers and Smith et al. suggested that the negative results from this particular sample were due to its much lower tremolite content relative to the carcinogenic samples. Smith et al. suggested that the sample of tremolite from the facility studied by NIOSH may have failed to induce tumors because of the shorter length of its fibers, despite its high tremolite content. Commenting on their results and on the fact that the carcinogenic samples contained material other than tremolite, Smith et al. stated:

"* * * we cannot be sure that their activity is due wholly, or even in part to tremolite * * * consideration must be given, not merely to the amount of tremolite, but also to other factors, such as the morphologic characteristics of the mineral" (Ex. 84–194, p. 338).

OSHA considers that interpretation of Smith et al.'s findings is limited by the small number of animals studied, short survival times, and short periods of observation.

In summary, OSHA concludes that NIOSH studies have shown that exposure to asbestos when it is present in talc appears to have resulted in excess mortality from lung cancer and non-malignant respiratory disease and excess risk of pleural thickening and lung function decrements. OSHA is cognizant of the fact that talc mining and milling in the absence of asbestos exposure can result in pneumoconiosis. Furthermore, NIOSH's findings on mortality are consistent with those of Kleinfeld et al., Kiviluoto et al., Nurminen et al., and Yazicioglu et al. NIOSH's morbidity findings are consistent with those of numerous other studies. OSHA believes that the epidemiologic study of the talc company conducted by Stille and Tabershaw of Tabershaw Occupational Medicine Associates has serious limitations such that it does not refute the hypothesis that talc containing asbestos poses a lung cancer hazard to exposed workers. Smith et al.'s experimental study observed positive findings of tumorigenicity for asbestiform talc and non-positive findings for the talc from the facility studied by NIOSH; however, OSHA thinks that limitations of Smith et al.'s study render its findings inconclusive for talc from the facility studied by NIOSH. In any event, the positive human findings outweigh the non-positive animal findings. Talcs containing asbestos minerals, therefore, appear to pose a significant health risk to exposed workers, and talc workers exposed to asbestos should receive the protection afforded by the asbestos standard. OSHA notes that the broader issue as to which mineral fibers are to be included in the definition of asbestos will be part of the rulemaking for the permanent standard. This ETS action does not change the definition of asbestos as found in 1910.1001.

6. *Summary.* The evidence presently before the Agency indicates that all asbestos fiber types, except for anthophyllite, cause lung cancer, mesothelioma, and asbestosis. Anthophyllite causes lung cancer and asbestosis. Mesothelioma has not been reported in anthophyllite workers.

For lung cancer, OSHA notes that inconsistent and inconclusive findings with regard to differential risk by fiber type have been observed by different investigators. Some studies have observed the same or higher lung cancer risk in chrysotile workers compared to workers exposed to amphibole fibers; other studies observe lower risk of lung cancer in chrysotile workers. For example, high respiratory cancer risk was observed by Dement and colleagues among chrysotile textile workers. As discussed by CHAP, consistent patterns of higher lung cancer risk by fiber type did not emerge. With some exceptions, investigators generally failed to control for variables affecting lung cancer risk when comparing the mortality of different occupational cohorts. Among the important determinants of lung cancer risk, which were not consistently controlled for, are fiber concentration, length of observation, and age distribution.

OSHA views evidence for differential mesothelioma risk by fiber type as suggestive yet not conclusive. Occupational cohorts exposed to crocidolite and amosite appear to have had a higher proportion of deaths from mesothelioma, particularly peritoneal mesothelioma, compared to occupational cohorts exposed to chrysotile. Nonetheless, OSHA is unable to characterize this evidence as conclusive because most investigators failed to control for fiber concentration, length of observation, and age distribution when making cross-cohort comparisons of mortality from mesothelioma. Controlling for length of observation is particularly important because mesothelioma usually has a latency period of 30 years or more and the risk rises exponentially with increasing time since initial exposure.

Lung cancer is the major cause of asbestos-induced occupational mortality. Mesothelioma and asbestosis also are significant causes of excess mortality among asbestos workers. OSHA has concluded that there is a grave risk for lung cancer and asbestosis among workers exposed to all asbestos fiber types and that workers need to be protected from these risks by this ETS, which sets the lowest PEL that is feasible at this time. As a practical regulatory endpoint, therefore, it is inconsequential whether the mesothelioma risk is greater for certain fiber types than for other types.

Experimental studies of animals have found that chrysotile is as least as potent a carcinogen as other asbestos fiber types. One study found that chrysotile was more carcinogenic than other asbestos fibers when administered by inhalation. Many experimental studies have reported that fiber dimension is a very important determinant of carcinogenicity in laboratory animals. Fibers longer than 4 micrometers (um) and with diameters of 1.5 um or less have been implicated as the most carcinogenic fibers. A variety of different natural and synthetic substances having fibers longer than 4 um with widths of 1.5 um or less have induced cancers via implantation in laboratory animals, suggesting that the chemical properties of asbestos (such as fiber type) and non-asbestos fibers may not affect carcinogenicity but that fiber dimensions may determine carcinogenicity. Thus, in OSHA's view, animal studies do not support the hypothesis that there are differences in carcinogenic potency among the various fiber types.

Fiber types may differ with regard to the fineness of fibers used in industrial processes. Finer fibers may be more carcinogenic, according to animal studies, and crocidolite appears to be divided more readily into fine fibers

than other asbestos fiber types. Also, manufacturing processes may break fibers apart to generate fibers thinner in diameter than those found in the mining and milling processes.

NIOSH scientists (Brown, Dement, and Wagoner) observed excessive mortality from lung cancer and non-malignant respiratory disease among workers in one plant exposed to talc containing asbestos. A morbidity survey of the same plant found increased risk of pleural thickening and lung function decrements. NIOSH concluded that increased risk of lung cancer and non-malignant respiratory disease was apparent in workers exposed to talc containing asbestos. Kleinfeld and colleagues also observed excess lung cancer and respiratory disease mortality among workers exposed to talc containing asbestos, and numerous morbidity surveys have documented respiratory disease excesses among talc miners and millers exposed to asbestos. Stille and Tabershaw conducted a study which they interpreted as contradicting NIOSH's findings regarding excessive mortality among talc workers exposed to asbestos. Stille and Tabershaw's study had serious methodologic limitations such that NIOSH's conclusions still appear to be valid. While not all talc products contain asbestos, OSHA finds that when asbestos minerals are contained in talc products, there appears to be a health risk to exposed workers.

Practical administrative considerations also are pertinent to the question of making regulatory distinctions by fiber type. Several types of asbestos may be present in the same workplace, as is the case for insulation, creating considerable measurement difficulties. Determining asbestos type(s) within each workplace might complicate compliance and exposure monitoring. However, OSHA is aware that the United Kingdom has been able to overcome such complications.

In summary, OSHA concludes that on the basis of the epidemiologic and experimental studies reviewed above, it is not appropriate at this time to make distinctions by fiber type for regulatory purposes. Accordingly, quantitative analyses of risk should base estimates of excess risk on asbestos fibers as a whole rather than on separate fiber types. Provisons of OSHA's standard for asbestos, including the permissible exposure limit, should also be the same for all commerically used asbestos fiber types.

F. Conclusions

Asbestos poses a grave danger to the health of exposed workers, having caused excess mortality and disability in epidemic proportions among some groups of exposed workers. Asbestos causes non-malignant respiratory disease, which can result in complete disability and death. Asbestos also causes malignant mesothelioma, which is usually rapidly fatal, and lung cancer, which is usually fatal. The causal relationship between asbestos exposure and disease has been established by a multitude of epidemiologic studies conducted throughout the world, including the United States, United Kingdom, Canada, Australia, Italy, and Finland. Furthermore, asbestos has been shown to cause excess disease in many different occupational environments, starting with mining and milling of asbestos and continuing to cause disease in various manfacturing processes such as asbestos textile production and asbestos cement production. Asbestos also has been shown to be extremely hazardous when used as a product by insulation workers and shipbuilding workers. Numerous scientific organizations and agencies have reviewed the health data for asbestos and have concluded that asbestos exposure causes lung cancer mesothelioma, and asbestosis.

To determine the potential of a hazardous agent to cause disease at low exposures, OSHA has examined the results of studies of workers receiving low exposures, where such studies are available and have sufficient sensitivity to detect excess risk of disease. OSHA has also attempted to predict risk at low exposures from risk observed at high exposures by using dose-extrapolation models (see section V). Both of these methods of evaluating risk at low exposures are valid.

Studies are not available of workers exposed solely to asbestos levels of 2 f/cc which have sufficient cohort size and long enough follow-up periods to permit observation of increases in cancer and lung disease mortality. Studies are available of workers with low cumulative exposures to asbestos, however. Workers exposed 50 years to the OSHA PEL of 2 f/cc would have a cumulative exposure of 100 f/cc-years. Hence, studies of workers with cumulative exposures close to or below 100 f/cc-years provide some evidence of risk from working lifetime exposures to OSHA's PEL. Studies finding adverse pulmonary effects or excessive mortality from lung disease from exposure close to or below 100 f/cc-years were conducted by Berry et al., McDonald et al., Dement et al., Berry and Newhouse, and Finkelstein. Dement et al., Finkelstein, and Henderson and Enterline also observed excess mortality from lung cancer among workers receiving relatively low cumulative exposures. Weill et al. and McDonald et al. did not observe increased lung cancer mortality among workers receiving relatively low cumulative exposures. Despite some inconsistencies in findings regarding risk from low cumulative exposures, OSHA considers that the many well-conducted studies which observed substantially increased risk of morbidity and mortality among workers receiving low cumulative exposures are evidence of significant hazard at exposures allowed by the existing PEL. Section V., *Quantitative Risk Analysis*, will discuss *predicted* risk from exposure to OSHA's PEL.

A number of investigators have suggested that different fiber types of asbestos have differences in their ability to induce mesothelioma. Specifically, crocidolite has been hypothesized to be the most hazardous type of asbestos because of suggestive evidence that indicates that the mesothelioma risk may be higher for crocidolite exposure than for other asbestos types. All commercially used fiber types have induced lung cancer, mesothelioma, and asbestosis in exposed workers, except for anthophyllite, which has induced lung cancer and asbestosis. OSHA regards evidence for differentials by fiber type in lung cancer risk and asbestosis risk as being inconclusive and inconsistent. However, evidence for fiber type differentials in risk with regard to induction of mesothelioma, particularly peritoneal mesothelioma, appears to be more consistent, based on epidemiologic studies of occupational cohorts exposed to different fiber types. Because variables that affect the sensitivity of studies for detection of risk of mesothelioma have not been controlled for by most investigators comparing different occupational cohorts, OSHA views the evidence for fiber type differentials in mesothelioma risk as inconclusive. Among the variables that influence the appearance of mesothelioma are length of observation, duration of exposure, fiber concentration, and age distribution.

It is possible that mesothelioma risk may be higher from exposure to finer fibers, and that operations using crocidolite may tend to break fibers apart to make them more carcinogenic. Studies in laboratory animals have not consistently observed differential risk by fiber type with regard to induction of pulmonary fibrosis and cancers; in fact, some studies in animals have found chrysotile to be the most carcinogenic among the various asbestos fibers tested.

Lung cancer is the major cause of asbestos-associated occupational mortality. The very high risk of lung cancer from exposure to all asbestos fiber types supports choosing the same PEL for all fiber types.

Several epidemiologic studies, including one performed by NIOSH, have found that workers exposed to talc containing asbestos have excess mortality from lung cancer and non-malignant respiratory disease. Many other studies have observed excess morbidity from respiratory disease, chest X-ray abnormalities, and lung function decrements among such workers. One non-positive study conducted by Stille and Tabershaw of talc workers has methodologic limitations such that it does not refute studies finding excess mortality among workers exposed to talc containing asbestos.

A number of studies in laboratory animals have implicated long thin asbestos fibers in the etiology of cancer and lung fibrosis. Stanton et al. found that fibers greater than 4 μm in length and 1.5 μm or less in diameter were the most carcinogenic; however, OSHA believes that Stanton et al.'s studies do not exclude the possibility of carcinogenicity of fibers shorter or thicker than these dimensions.

At least 12 studies have observed excess mortality from gastrointestinal cancer (stomach, esophagus, colon and rectum) among asbestos exposed workers, 7 of which found statistically significant excesses. Other cancer sites have also been observed to be increased by different investigators. OSHA believes that the positive human studies finding gastrointestinal cancer excesses outweigh the non-positive and equivocal animal studies of ingested asbestos, as well as the non-positive human studies. Therefore, OSHA concludes that excess mortality from gastrointestinal cancer should be included in quantitative risk analyses for asbestos.

Cigarette smoke and asbestos have a multiplicative (synergistic) effect with regard to production of lung cancer. Asbestosis also might be increased in cigarette smoking asbestos workers relative to non-smoking asbestos workers. OSHA is not aware of any evidence for an effect of cigarette smoking on induction of mesotheliomas or gastrointestinal malignancies among asbestos workers. Hammond et al. found that both smoking and non-smoking asbestos insulation workers had relative risks for lung cancer of about 5.

V. Quantitative Risk Analysis

A. Introduction

As explained above, OSHA's determination that currently exposed workers face a grave risk of asbestos-related disease is primarily based on the results of quantitative risk assessment performed by the Agency. The process of assessing the risk from asbestos exposure includes several steps. OSHA has critically evaluated the scientific evidence concerning the health risk from asbestos exposure. OSHA, as well as other scientific groups, believes that asbestos exposure causes lung disease, respiratory cancer, mesothelioma, and gastrointestinal cancer. OSHA has also examined (and discussed in the section entitled *Epidemiologic Evidence on Risk from Exposures at Current the PEL.* Section IV B.) evidence that indicates that excess disease risk has been observed at cumulative exposures at or below those permitted by the existing OSHA 8-hour permissible exposure limit. In addition, OSHA has made risk estimates of excess mortality from lung cancer, mesothelioma, gastrointestinal cancer and incidence of asbestosis using mathematical models that describe the data observed in epidemiologic studies conducted in various industrial populations.

In many cases the elevated risks seen in worker populations reflect past exposures that were higher than those permitted today. OSHA's quantitative risk assessment entails using the directly observed risks from these past exposures to estimate risk at lower exposure levels. OSHA believes this is a scientifically appropriate and valid procedure. In some instances, OSHA estimated risks using studies which actually observed risks at or below cumulative exposures permitted by the current standard. The range of studies covers many different work situations and exposure levels upon which to base the extrapolations. Where possible, OSHA has quantified the ranges of uncertainties in the estimates. These numerical estimates, as well as those risks observed at low exposures, were evaluated to determine the significance of the risk and to determine whether the standard will lead to a substantial reduction in risk.

The sections below provide a brief synopsis of OSHA's quantitative risk estimates derived from mathematical models. A more detailed description of OSHA's calculations for asbestos-related cancers is in the public docket and is available upon request (Ex. 84-392).

B. Dose-Response Model for Lung Cancer

Dose-response information for lung cancer based on the epidemiological studies indicates that the risk of asbestos-induced lung cancer increases linearly with dose. Therefore, OSHA believes it is appropriate to use a mathematical model which assumes that the excess risk is linearly proportional to dose to estimate the excess mortality which is associated with asbestos exposure. This excess risk is expressed as the number of additional lung cancer deaths per 1000 workers exposed for a specific time period. Excess risk equals the cumulative dose multiplied by a potency coefficient (slope of the dose-response curve) estimated from the studies. [Note: Total dose, also referred to as cumulative exposure or cumulative dose, is a measure of the amount of asbestos inhaled; it is the product of the duration of exposure (in years) and the intensity of exposure (which is workplace air concentration in mppcf or fibers/cc). Under this definition of exposure, a person exposed to airborne asbestos at 2 fibers/cc for 20 years (40 fibers/cc-years) has the same total dose as a person who is exposed to asbestos at 4 fibers/cc for 10 years (40 fibers/cc-years)].

Evidence of the linear dose-response relationship for lung cancer is found in several well-conducted epidemiologic studies that examined lung cancer mortality in relation to the cumulative asbestos exposure in the workplace (for example, Henderson and Enterline, 1979, Ex. 84-48; Liddell et al., 1977, Ex. 84-59; and Dement et al., 1982, Ex. 84-35). In the three studies cited above, workplace asbestos air concentrations were available from measurements made in the worksite studied. Although the studies differ in the magnitude of the risk found (discussed later in the section), all three demonstrate a linear relationship over the entire range of observation.

Other scientists and scientific groups who have attempted to estimate risk from asbestos exposure have used the linear model for lung cancer (Crump, Ex. 85-22, British Advisory Committee on Asbestos, Ex. 84-216, Acheson and Gardner, Ex. 84-243, Selikoff, Ex. 82-2, EPA, Ex. 84-180, CHAP, Ex. 84-256). The model is generally accepted and OSHA believes use of the linear model for predicting lung cancer due to asbestos exposure is reasonable and well-supported.

Relative risk is defined as the ratio of the mortality rate of exposed persons to the mortality rate of equivalent non-

exposed persons. Relative risk is frequently approximated by the standardized mortality ratio (SMR), which is the observed number of deaths in the exposed population divided by the number of deaths that would be expected in the exposed population. The number of expected deaths is usually derived from the specific age, sex, and calendar year mortality rates in the comparison population.

Based upon the considerations listed above and on the data, the relative risk model used by OSHA in assessing the risk of developing lung cancer from asbestos exposure is described by the following equation:

$$R_L = R_E [1 + (K_L \times f \times d_{t-10})] \quad (Eq.1)$$

That is,

$$(R_L/R_E)-1 = K_L \times f \times d_{t-10} \quad (Eq. 2)$$

where R_L is the lung cancer mortality resulting from the asbestos exposure, R_E is the expected mortality in the absence of exposure, f is the intensity of exposure in fibers/cc, d is the duration of exposure in years, t is the time from the onset of the asbestos exposure in years (minus 10 years to allow for a minimum latent period) and K_L is the proportionality constant that is a measure of the carcinogenic potency of the asbestos exposure (slope of the dose-response curve). (For a more detailed rationale for the choice of this model, see Ex. 84-392). This calculation was performed for each five-year age interval; the overall lung cancer risk is then computed as the sum of the risks in each of the five-year intervals from age 25 to age 70.

The concept of direct proportionality of the risk of lung cancer to the dose can be demonstrated with a simple example. Using Equation 2, if does is increased by a factor of three, such as increasing the duration of exposure from two years to six years, the excess relative risk [(R_L/R_E) − 1] risk increases by a factor of three. Also, reducing dose by reducing air concentrations, such as from 4 fiber/cc to 1 fiber/cc, reduces the excess relative risk by a factor of four. [It should be noted that the estimates of risk given in Tables 10 and 11 are estimates of excess risk, not excess relative risk. Therefore, direct proportionality of dose and risk as described above may not be observed. Further explanation is given in Section E.]

C. Dose-Response Model for Mesothelioma

OSHA believes that the risk of mesothelioma is best estimated by an absolute risk model. Absolute risk is calculated as (observed deaths/person-years at risk). Use of SMR's or relative risk is not appropriate for mesothelioma because the expected number of deaths in a cohort would be close to zero due to the rarity of the disease. In addition to using absolute risk rather than relative risk, this model is different from that used for lung cancer because both duration of time since initial exposure and duration of exposure are determinative risk. The magnitude of the risk increases linearly with intensity of exposure, whereas the risk increases exponentially with duration of exposure and time from onset of exposure.

The rationale for such a model for describing mesothelioma risk has been discussed by several authors (Armitage and Doll, 1969, Ex. 84-252; Pike 1966, Ex. 84-385). Such a model was utilized by Newhouse and Berry (1976, Ex. 84-342) in predicting mesothelioma mortality among a cohort of factory workers in England. Limited data are also available from three studies on the dose-response relationship for mesothelioma (Seidman et al., 1979, Ex. 84-87; Hobbs, et al., 1980, Ex. 132, and Jones et al., 1980, Ex. 84-138).

The data indicate that mortality from mesothelioma begins to increase only after a minimum of ten years following the initial exposure and begins to decrease after 45 years from onset of exposure (Selikoff et al., 1979, Ex. 84-90 and Nicholson et al., 1983, Ex. 84-251). The mortality from mesothelioma can be described by the following equations (Equations 3).

$$AR_M = f \times K_M [(t - 10)^3 - (t-10-d)^3] \quad \text{for } t \geq 10+d$$

$$AR_M = f \times K_M (t-10)^3 \quad \text{for } 10+d > t \geq 10$$

$$AR_M = .0 \quad \text{for } 10 > t$$

where AR_M is the mortality from mesothelioma, f is the intensity of exposure in fibers/cc, d is the duration of exposure in years, t is time after first exposure in years, and K_M is the proportionality constant that is a measure of the mesothelioma carcinogenic potency (slope of a dose-response curve) (Ex. 84-392).

D. OSHA's Quantitative Risk Assessment

OSHA's critical evaluation of all relevant animal and epidemiological studies resulted in selection of eleven epidemiological studies for calculation of the K_L for lung cancer (Selikoff et al., 1979, Ex. 84–90; Seidman et al., 1979, Ex. 84–87; Henderson and Enterline, 1979, Ex. 84–48; Weill et al., 1979, Ex. 84–206; Finkelstein, 1983, Ex. 84–240; Peto, 1980, Ex. 84–169; Dement et al., 1982, Ex. 84–35; Berry and Newhouse, 1983, Ex. 84–21; Liddell et al., 1977, Ex. 84–65; Nicholson et al., 1979, Ex. 84–72; and Rubino et al., 1979, Ex. 84–86) and four for K_M for mesothelioma (Selikoff et al., 1979, Ex. 84–90; Seidman et al., 1979, Ex. 84–87; Finkelstein et. al., 1983, Ex. 84–240; and Peto, 1980, Ex. 84–169). In general, studies of human cohorts in the workplace should provide a better basis for quantitative risk populations at risk and the populations from which the risk estimates are derived. In determining the potency coefficients K_L and K_M, Equations 1 and 3 were used to define the dose-response relationship so that cancer mortality was estimated for various exposure levels and exposure durations. A number of well-conducted and high quality epidemiologic studies were available that contained sufficient information on which to base a quantitative risk assessment. Some of these studies did not contain exposure data, but could be coupled with exposure information from other sources in order to obtain an estimate of K_L and K_M.

OSHA chose not to use animal studies to predict quantitative estimates of risk from asbestos exposure due to the many high quality human studies that exist that were conducted in actual workplace situations. Rather OSHA has supplemented the human data with results from animal studies in the evaluation of the health information and in the determination of the significance of risk because OSHA believes that the animal studies provide valuable qualitative information on asbestos-related disease. It is not clear in all instances whether laboratory animals have been exposed to fiber size distributions similar to those found in workplaces. In addition, asbestos appears to multiply the underlying lung cancer risk of smoking and nonsmoking workers; laboratory animals generally do not have any underlying risk for developing lung cancer. However, the animal studies do show that all commercial asbestos types can cause cancer and pulmonary fibrosis. Animal studies also indicate that longer, thinner fibers may have greater carcinogenic potency than short coarse fibers.

The range of estimates of risk from the eleven epidemiologic studies is rather large. The differences in results among the studies can be explained in several ways. There appears to be actual differences in risk depending upon the nature of the asbestos exposure. One potential explanation is that workplaces differ with regard to fiber size distributions (longer finer fibers appear to have greater carcinogenic potential than the coarse fibers). The observed K_L values for studies of mining and milling operations, where airborne fibers are relatively coarse, are lower than the K_L values found in studies of textile operations where fibers are fine.

Differences may also be explained by the variations in study design and other factors influencing the ability to detect excess risks. One of these is the limited knowledge of past fiber exposures of those populations whose mortality was later evaluated. Prior to 1970, few measurements were made in facilities using asbestos fibers. Further, those measurements that were done usually quantified all dust present in the workplace air and not just fibers. Current techniques, which involve use of membrane filters and phase contrast microscopy for the counting of fibers longer than five micrometers have been utilized in Great Britain and the United States only since 1964 (Ayer et al., 1965, Ex. 84–253;) and have been standardized in the United States only since 1972 (Leidel, 1979, Ex. 84–62) and even later in Great Britain. In any case, sampling has occurred only for few worksites and then only occasionally. OSHA has evaluated these differences and have dealt with their implications on a study by study basis, as explained in the quantitative risk assessment (Ex. 84–392). OSHA notes that, despite these apparent limitations, taken as a whole, the asbestos studies contain data of unusually high quality which has enabled OSHA to make the risk estimates with a high degree of confidence.

In addition, variability in work activities and in sampling circumstances add considerable uncertainty to knowledge of dose.

Some of the epidemiologic studies, including those by Dement et al. (Ex. 84–35), McDonald et al. (Ex. 84–48), and Henderson and Enterline (Ex. 84–48), have measured air concentrations at the exposure site and used job histories of the study population to estimate exposure. In these cases the dose-response curve was calculated by estimating total asbestos exposure (in mppcf-years or in fiber/cc-years) according to the time that an individual spent at a job with a measured exposure value. A conversion factor for converting from mppcf to f/cc was employed on a study by study basis depending upon the data available. Other epidemiological studies, for example those by Selikoff et al. (Ex. 84–90), and Seidman et al. (Ex. 84–87), had neither job histories nor direct industrial hygiene measurements for the studied worker population. For these studies, exposure estimates were derived from industrial hygiene surveys of similar work operations and processes for which industrial hygiene data were available. The study by Seidman et al., however, contained good information regarding duration of exposure (which can often be examined as a surrogate for dose in establishing the shape of the exposure-response relationship).

As discussed in Section IV, OSHA has concluded that workers exposed to

asbestos are likely to be at an increased risk of gastrointestinal cancer. Though an excess of GI cancer has not been observed consistently in every study of asbestos workers, and while the ratio of gastrointestinal cancer to lung cancer varies considerably from study to study, there appears to be sufficient evidence to roughly estimate the excess gastrointestinal cancer risk in asbestos-exposed populations. In general, the risk ranges from about 5 to 20% of the excess lung cancer risk. (A detailed table of the risk from gastrointestinal cancer observed in 27 studies is given in Ex. 84–392). In an attempt to quantify the risk of gastrointestinal cancer, OSHA considers that a simple risk model in which the lung cancer excess is multiplied by 0.1 (10%) is appropriate for estimating the risk from gastrointestinal cancer. The estimates of risk from gastrointestinal cancer are also given in Tables 10 and 11.

Cancers at sites other than the lung, mesothelium, and gastrointestinal tract have been shown to be elevated in some asbestos exposure studies, including laryngeal, kidney, pharyngeal and buccal cavity cancer. To OSHA, it appears that the excess risk for "other cancers" is about the same as for gastrointestinal cancers. OSHA recognizes many uncertainties in quantifying this risk, in view of the inconsistencies in findings among different epidemiologic studies. (Some studies have found excess risk from other cancers, while other studies have not.) The sites showing excess risk have also varied among studies. Therefore, OSHA has not made numerical estimates of risks for these other causes at this time. The data indicating gastrointestinal cancer excesses are stronger and more consistent than the data suggesting excess at these other cancer sites. OSHA does not feel compelled to quantify this risk at this time. The high quality and well-supported estimates of excess risk of mortality from lung cancer, mesothelioma and asbestosis alone provide sufficient bases upon which to justify this action.

E. Estimates of Cancer Mortality

A best estimate of K_L was calculated for each of the eleven epidemiologic studies and an estimate of K_M was calculated from four of these studies (see Table 5) (Ex. 84–392). For each study, the best estimate for K_L and K_M is indicated along with a range of uncertainty. The ranges listed are those are the result of estimates of exposure uncertainties (usually a factor of 2), methodological uncertainties that led to alternate evaluations of risk or exposure or in some cases, statistical uncertainties associated with small numbers. Detailed derivation of each range of uncertainty is discussed in Ex. 84–392.

The distinct nature of mining-milling data (and hence, the estimates of K_L from these data) have been considered earlier. There is some evidence that risks in the asbestos mining-milling operations are lower than other industrial operations due to differences in fiber size. Thus, in determining the best overall value for K_L from the eleven studies, the data were examined both with and without the K_L calculated from the studies of mining-milling processes.

The range of individual values for K_L covers two orders of magnitude, from 0.0006 to 0.068. The arithmetic mean of the eleven values of K_L (unit risk per f-y/cc) is 0.0201, and 0.0267 when the K_L's from mining and milling are excluded. The geometric mean of the data is 0.007; when the estimates of K_L from mining-milling operations are excluded, the geometric mean of the K_L's is 0.0113. The K_L's have a median of 0.0051 with the mining-milling processes and a median of 0.0138 when the mining-milling processes are excluded.

Considering the industrial processes other than mining and milling, OSHA believes 0.01 to be a reasonable estimate of K_L. It is the geometric mean and median of the K_L's derived from studies of asbestos manufacturing and insulation application processes. The geometric mean has the advantage of minimizing the influence of outlying values and a K_L of 0.01 is approximately within one order of magnitude of all the estimates of K_L. In sum, the K_L of 0.01 is a best estimate which contains appropriate recognition of studies with higher and lower values of K_L. It should be noted however, that the uncertainties around this estimate of K_L are such that, an appropriate estimate of K_L could lie between 0.003 and 0.03.

The estimates of K_M given in Table 15, are derived from studies with four of the five highest K_L values. That is, there is some bias in examining the value of K_M independent of the K_L in the same studies because it is likely that these K_M would tend to be slightly higher than those derived from other studies, due to the demonstrated high power of these studies to detect risk. The arithmetic mean of the K_M's is 4.98×10^{-8}, and the geometric mean of the K_M's is 2.91×10^{-8}.

To account for some of this bias when estimating K_M, it is useful to examine the ratio of K_M to K_L. For the four studies for which K_M was calculated, the range of the ratios of K_M to K_L is only two-fold (from 0.75×10^{-6} to 1.79×10^{-6}). Both the arithmetic and geometric means of these ratios are 1×10^{-6}. Thus, 1×10^{-6} is an appropriate choice as the best estimate of K_M/K_L. Using this estimate of the ratio K_M/K_L and the preferred estimate of K_L (0.01), the preferred estimate of K_M would be 1×10^{-8} ($K_M=1\times10^{-2}\times1\times10^{-6}$). A range of 3×10^{-8} to 3×10^{-8} for K_M would appropriately represent most exposure situations.

There is no evidence in this analysis that would suggest that a special lung cancer potency is ascribable to a specific type of fiber. Some of the highest and lowest values for K_L are obtained from pure chrysotile exposures (for example, K_L calculated from data of Dement et al. is 0.042; using data from Peto et al. gives a K_L of 0.0076). Exposures involving a mixture of fibers, including amosite and crocidolite, also span a large range of values for K_L. Wide differences also occur in the results of separate epidemiological studies of similar work conditions.

Some scientists have suggested that some asbestos processes, such as asbestos textile manufacturing, may pose a greater hazard than other processes. For example, mining and milling appears to pose a lesser carcinogenic hazard than manufacturing processes. OSHA compared the potency factors for lung cancer (K_L) among different epidemiology studies of manufacturing processes because the potency factors are based on risk per unit dose. No consistent pattern of differential lung cancer risk (i.e., higher K_L's) by process emerged. One study of asbestos textile workers found a very high risk while another found a much lower risk, and the same was true for the two studies of asbestos production workers and the two studies of asbestos cement workers. Therefore, the choice of a midpoint unit risk for all industrial processes ($K_L=0.01$) is a reasonable and justified choice.

The best estimates of K_L and K_M were utilized to estimate the mortality from exposures to varying concentrations of asbestos for different time periods beginning at different ages. The calculations are age, intensity and duration specific. Tables 10 and 11 show the excess asbestos-related mortality rates from lung cancer, mesothelioma, and gastrointestinal cancer (gastrointestinal cancer excess is assumed to be 10 percent of the lung cancer excess). In these calculations, Equation 1 and Equation 3 were used with values of K_L equal to 0.01 and K_M equal to $1\times10-8$ and the 1977 U.S. male background lung cancer mortality rates. Because of age-specific increases in lung cancer rates in older men since 1977,

estimates based on more recent background rates would be higher. Calculations were done for each 5-year age interval, and then summed to give a total lifetime risk. The calculations performed to give the results in Tables 10 and 11 assumed that the relative risk increased following ten years after onset of exposure and continued to rise until ten years after cessation of exposure, after which it remained constant.

Table 10 gives estimates of risk for one year of exposure to asbestos at various concentrations for workers beginning exposure at ages 20, 30, 40, 50 and 60. It should be noted that employees exposed at earlier ages show higher risk of all cancers due to the long period of time during which it will be possible for disease to develop. One year of exposure to asbestos at 2 f/cc starting at age 20 may result in a total excess cancer risk of 345 per 100,000 workers.

Table 11 gives the predicted excess lifetime risk of cancer for exposures of one year, 20 years, and 45 years assuming first exposure at age 25.

Several comments should be made regarding the results in Tables 10 and 11. Though excess relative risk is linear in dose, the excess mortality rates given in Tables 10 and 11 are not strictly linear in dose. Therefore, for example, the risk at 2 f/cc is not exactly 4 times the risk at 0.5 f/cc, though there is a close approximation. It should also be noted that the risks for longer periods of exposures do not appear to be a straight-forward multiplication of the risks of shorter duration. In the longer exposures categories, where exposure will affect older workers, some adjustments have been made for competing risks which are likely to affect the death rate from lung cancer. In addition, when looking at the total cancer risks, it must be remembered that these include the risk of mesothelioma, which is related to time in an exponential fashion.

As can be seen from Table 11, the predicted risk from mesothelioma is approximately equal to the lung cancer risk for one year of exposure and, about one-half the risk value for lung cancer in the 20-year exposure group. The excess risk of mesothelioma after a lifetime exposure (45 years) to asbestos is approximately one-third the lifetime excess lung cancer risk. These predictions comport with observations in several populations, where mortality from mesothelioma is observed to comprise approximately 50 percent of the excess mortality from lung cancer.

Using the equations given earlier, and based on the calculations in Table 11, OSHA predicts a lifetime excess risk of total cancer for a lifetime exposure (45 years) to 2 f/cc as 6,411 excess deaths per 100,000 workers, or approximately 64 per 1,000. Recognizing that a 20 year exposure to asbestos may be another approximation of actual worker experience of interest, the models predict an excess cancer mortality of 4,392 deaths per 100,000 workers.

Reduction in the PEL from 2 f/cc to 0.5 f/cc reduces the risk from lifetime exposure from 64 per 1,000 to 17 per 1,000. Similarly, for a 20 year exposure, the risk is reduced from 44 per 1,000, to 11 per 1,000, representing a 75% reduction in risk.

The lifetime risk from one year of exposure follows a similar course. The risk reduces from 296 per 100,000 at 2 f/cc, to 74 per 100,000 at 0.5 f/cc. As discussed above, this implies that the lifetime excess risk from a six-month exposure to asbestos would be approximately 198 per 100,000 at 2 f/cc, and 37 per 100,000 at 0.5 f/cc.

Lastly, Table 11 contains the risks for levels higher than 2 f/cc, because OSHA believes some industrial areas (such as construction) may be at these higher levels. This population of workers would consequently experience a much greater reduction in risk by exposures to 0.5 f/cc, or less.

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Table 9

Estimates of the Slope Parameters for Lung Cancer (K_L and Mesothelioma (K_M), by Process

Study	K_L [1/]	$K_M \times 10^8$	K_M/K_L ($\times 10^6$)
MANUFACTURING			
Asbestos Products			
Henderson & Enterline (1979)	0.0047 (0.0026 - 0.0066)		
Asbestos Cement Products			
Weill et al. (1979)	0.0033 (0.0016 - 0.0086)		
Finkelstein (1983)	0.067 (0.033 - 0.13)	12 (4-30)	1.79
Textile Products			
Peto (1980)	0.0076 (0.0009 - 0.023)	0.7 (0.3-2)	0.92
Dement et al. (1982)	.042 (0.023 - 0.21)		
Friction Products			
Berry & Newhouse (1983)	0.0006 (0 - 0.008)		
Insulation Products			
Seidman et al. (1979)	0.068 (0.0049 - 0.14)	5.7 (3-11)	0.84
INSULATION APPLICATION			
Selikoff et al. (1979)	0.020 (0.008 - 0.030)	1.5 (0.5 - 2.5)	.75
MINING-MILLING			
Liddell et al. (1977)	0.00065 (0.0002 - 0.0011)		
Nicholson et al. (1979)	0.0023 (0.001 - 0.007)		
Rubino et al. (1979)	0.0051 (0 - 0.009)		

[1] Values in parentheses represent the range of uncertainty around the estimates of K_L and K_M. These are computed on a study by study basis and calculations for each study are discussed in the text.

Table 10

Estimated asbestos related cancer mortality from a one year exposure to various fiber concentrations

Asbestos fiber concentration (f/ml)	Cancer mortality /100,000 exposed			
	Lung	Mesothelioma	Gastrointestinal[1]	Total
	Age at first exposure: 20			
0.1	7.2	9.5	.7	16.2
0.2	14.3	18.9	1.4	34.6
0.5	35.8	47.3	3.6	86.7
2.0	142.8	188.7	14.3	345.8
	Age at first exposure: 30			
0.1	7.3	4.9	.7	12.9
0.2	14.5	9.8	1.4	25.7
0.5	36.3	24.4	3.6	64.3
2.0	144.9	97.4	14.5	256.8
	Age at first exposure: 40			
0.1	7.1	2.1	.7	9.9
0.2	14.1	4.3	1.4	19.8
0.5	35.3	10.7	3.5	49.5
2.0	140.9	42.6	14.1	197.6
	Age at first exposure: 50			
0.1	6.1	0.7	.6	7.4
0.2	12.2	1.5	1.2	14.9
0.5	30.4	3.7	3.0	37.0
2.0	121.7	14.7	12.2	148.6
	Age at first exposure : 60			
0.1	4.0	0.2	.4	4.6
0.2	8.0	0.3	.8	9.1
0.5	19.9	0.9	2.0	22.8
2.0	79.6	3.4	8.0	91.0

[1] Estimated as 10% of lung cancer risk rather than calculated using dose-response information.

Table II

Estimated Asbestos Related Cancer Mortality per 100,000 by Number of Years Exposed and Exposure Level [1]

Asbestos fiber concentration (f/ml)	Cancer mortality /100,000 exposed			
	Lung	Mesothelioma	Gastrointestinal[2]	Total
	1 year exposure			
0.1	7.2	6.9	0.7	14.8
0.2	14.4	13.8	1.4	29.6
0.5	36.1	34.6	3.6	74.3
2.0	144	138	14.4	296.4
4.0	288	275	28.8	591.8
5.0	360	344	36.0	740.0
10.0	715	684	71.5	1470.5
	20 year exposure			
0.1	139	73	13.9	225.9
0.2	278	146	27.8	451.8
0.5	692	362	69.2	1123.2
2.0	2713	1408	271.3	4392.3
4.0	5278	2706	527.8	8511.8
5.0	6509	3317	650.9	10476.9
10.0	12177	6024	1217.7	13996.7
	45 years exposure			
0.1	231	82	23.1	336.1
0.2	460	164	46.0	670.0
0.5	1143	407	114.3	1664.3
2.0	4416	1554	441.6	6411.6
4.0	8441	2924	844.1	12209.1
5.0	10318	3547	1031.8	14896.8
10.0	18515	6141	1851.5	26507.5

[1] Assumes exposure begins at age 25. Risks are calculated using U.S. male lung cancer background rates for 1977.

[2] Estimated as 10% of lung cancer risk rather than calculated using dose-response information.

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F. Quantifying the Excess Risk From Asbestosis

Many studies have found the nonmalignant lung disease, asbestosis among asbestos-exposed workers. In fact, early occupational health standards governing asbestos exposure primarily sought to reduce the incidence of asbestosis. Asbestosis is a type of pulmonary fibrosis diagnosed on the basis of a history of exposure to asbestos; it is characterized by radiologic changes to the lung, breathlessness, impaired lung function, and other clinical features of fibrosing lung disease. Asbestosis can be manifested in a range of degrees of severity and can result in disability and death.

An early response by the lung to asbestos exposure is formation of plaques, which are opaque patches visible on chest X-rays. The presence of plaques might indicate increased risk of future development of asbestosis, but this is not certain. Although the disease significance of pleural plaques is not clear, the presence of the plaques is not normal.

Berry et al. (1979, Ex. 84–20) defines "possible asbestosis" as a lung condition based upon signs of early asbestosis. He classifies "possible asbestosis" on the finding of basal rales or crepitations, radiological changes of varying degree, a falling gas transfer factor, and restrictive changes in lung volume or ventilatory capacity. The definition of asbestosis varies among different investigators. Berry et al.'s definition of possible asbestosis, for example, is not sufficient for the victim to qualify for British Disablement Benefit.

Asbestosis can progress to a disabling condition where active work is no longer possible. Although no single definition of disability exists, various governments have adopted definitions of asbestos disability to administer their worker's compensation laws. Finkelstein explains the system used by the Ontario Workmen's Compensation Board:

> Workers submitting claims to the Compensation Board are examined by the Advisory Committee, which recommends whether or not a Disability Pension be granted. There are no strict criteria for the awarding of a Disability Pension for asbestosis, but some of the factors considered include a history of "adequate" exposure, a history of dyspnea, the presence of crepitations or clubbing, radiographic signs of pulmonary fibrosis and abnormal pulmonary function results (Ex. 84–44, p. 496).

Asbestosis has been known to progress or worsen after cessation of exposure, probably due to irreversible injury and/or the retention of asbestos fibers in the lung. In addition to lung function impairment, asbestosis contributes to increased asbestos-related mortality. Increased resistance created by the lung obstruction can lead to heart failure.

Because of the many possible definitions of asbestosis given by different groups, the quantification of a single risk associated with asbestosis is difficult. It is clear that material impairment from asbestosis occurs prior to the onset of its disabling stage. Quantitative studies exist, primarily for the disabling forms of the disease; specifically, two separate studies provide information to develop a dose-response relationship between asbestos exposure and incidence of asbestosis (Ex. 84–20 and 84–44).

Two definitions will be helpful in interpreting the data concerning asbestosis. *Incidence* is the rate at which new cases of asbestosis develop in a given period of time. It is a direct measure of the risk of developing the disease. On the other hand, *prevalence* measures the number of cases alive in a population at a given period of time. Numerically, it equals the sum of all the incidence cases in the past minus all the deaths that have occurred in people who had developed the disease. Prevalence can be reflective of existing risk for asbestosis in a population; prevalence however, can be high for other reasons, such as increased survival. Moreover, incidence establishes a time sequence whereas prevalence looks at both cause and effect simultaneously. The best estimates of risk of asbestosis have been calculated from incidence data of two studies, Berry and Lewinsohn (Ex. 84–254) and Finkelstein (Ex. 84–44). OSHA has also examined prevalence rates to support a quantitative assessment of risk for asbestos, and these data will be discussed first.

Berry et al. (1979, Ex. 84–20) studied a group of 379 men who worked at an asbestos textile factory for at least 10 years. Dust measurements were available and were correlated to each job performed for each year under study. Health effects were correlated to cumulative exposure. Table 12 shows the observed prevalence of crepitations, "possible asbestosis", and certified asbestos for data from Berry et al., as taken from the fitted curve in Figure 4 of their paper. Possible asbestosis was diagnosed by the factory medical officer if he thought that a man was developing signs or symptoms of early asbestosis; 50% of the men diagnosed with possible asbestosis received certification within the 3.5 years following this diagnosis. The results in Table 12 represent a group of workers employed after 1950, who had a relatively short duration of follow-up (maximum interval from first exposure was 23 years). A higher percentage of asbestosis would most likely have been observed if the follow-up period in the study had been extended.

The observations of Berry et al. presented in Table 12 are probably underestimates of risk. First, the risk shown in Table 12 does not give the probability of developing disease after exposure has ended, but rather, reports the disease found at one point in time. Second, the data includes some workers who may not have been followed long enough for asbestosis to appear.

TABLE 12

PREVALENCE OF CREPITATIONS, POSSIBLE ASBESTOSIS AND CERTIFIED ASBESTOSIS FOR CUMULATIVE EXPOSURES TO ASBESTOS FROM BERRY et al. (1979)

Percent with condition	Cumulative exposure, fiber/cc - years		
	Crepitations	Possible Asbestosis	Certified Asbestosis
1	37	46	63
5	65	84	100
10	86	118	130
15	100	134	148

These data of Berry et al. demonstrate several features of the nature of the asbestosis risk. The data show a continuum of clinical response over the range of doses; that is, these clinical observations support the existence of a dose-response relationship. Second, these observations also support the existence of a low, or possibly no, threshold for asbestosis, since there is increased risk at cumulative exposures as low as 37 fiber/cc-years.

Berry and Lewinsohn (1979, Ex. 84–254) have reported the incidence of asbestosis in this same asbestos textile factory. These data are presented in Table 13. A dose-response relationship is apparent for the incidence data, but it is not quite as consistent for the prevalence data.

Table 13
Incidence of Possible Asbestosis by Cumulative Exposure
Berry and Lewinsohn

Cumulative Exposure (fiber/cc-years)	% Incidence First employment Before 1951	After 1950
0-49	-	0.4
50-99	3	1
100-149	2.6	2
150-199	3.9	
200-249	6.2	
300-349	4.6	

Finkelstein (1982, Ex. 84–44) looked at the development of compensable (certified) asbestosis among 201 workers at an asbestos-cement factory in Ontario. A dose-response relationship was developed using estimated cumulative exposures based on plant dust measurements and using medical information from the Ontario Workmen's Compensation Board. Table 14 shows the incidence of certified asbestosis cases as a function of cumulative exposure from the Finkelstein study.

TABLE 14

INCIDENCE OF CERTIFIED ASBESTOSIS AS A FUNCTION OF CUMULATIVE EXPOSURE FINKELSTEIN (1982)

Cumulative exposure fiber-years/cc	% Incidence
0-49	0.5
50-99	3.4
100-149	6.5
150-199	7.9
200-249	14.3

Finkelstein's (1982) observations may overstate the incidence of asbestosis because at autopsy, there was histologic evidence of silicosis as well as asbestosis in many men. Finkelstein states that "we have, nevertheless, chosen to call their disease 'asbestosis' as we believe that is the pathologic process of most significance. Most of the parenchymal radiographic abnormalities were small irregular opacities and the mortality pattern among the men was consistent with the toxic effects of asbestos." On the other hand, Finkelstein's study may have understated asbestosis risk by examining only certified disability from asbestosis, which is an advanced stage of asbestosis.

OSHA's estimates of risk were derived from a simple linear regression of the incidence on the midpoints of the cumulative exposure data of Berry and Lewinsohn (Table 13) and Finkelstein (Table 14). A linear relationship was assumed, at least to the point estimation of 0.5 fibers/cc for 45 years (or 22.5 fiber years/cc). This assumption is consistent with the fact that early stages of diseases are observed at low exposures. A similar conclusion is drawn in the report of the British Advisory Committee on Asbestos (Ex. 84–216, volume 2, p. 38). "The present authors come down in favor of a dose response relationship without a threshold for chrysotile within the range experienced in industry."

TABLE 15

ESTIMATES OF LIFETIME ASBESTOSIS INCIDENCES

Exposure level, fiber/cc	% Incidence		
		Berry: first employed:	
	Finkelstein	Before 1951	After 1950
0.5	1.24	0.45	0.35
1	2.49	0.89	0.69
2	4.97	1.79	1.38
5	12.43	4.46	1.38
10	24.86	8.93	6.93
Slope	0.055	0.020	0.015
R^2	0.975	.901	.994

The results of each of the regression analyses and predictions of incidence for several dose concentrations are given in Table 15. At this time OSHA makes no attempt to extrapolate the data using this model below the 0.5 fiber/cc level or above 10 fiber/cc level. The estimates from the 3 cohorts differ by an approximate factor of 3. This may be indicative of some of the methodological issues raised earlier. It is possible that the estimates made from Berry and Lewinsohn's data may be underestimates. The maximum duration of follow-up in that study was 23 years, with an average follow-up of 16 years. Observations from Finkelstein's data (his Table 1) demonstrate that only 41% (23/56 cases) of total incidence was experienced in the first 24 years since first exposure. That is, 59% of the asbestosis incidence was not expressed until at least 25 years from first exposure. Thus, it is likely that the low incidence rates in the Berry and Lewinsohn study (and therefore, the low estimate predicted by OSHA) are reflective of the short follow-up period for this group of workers.

OSHA believes that the best estimates of the incidence of asbestosis are those derived from the Finkelstein data. They indicate that among workers exposed for a lifetime exposure to 2 f/cc of asbestos, approximately 5% will develop asbestosis. Reducing this level to 0.5 f/cc would reduce incidence to 1.24%. It should be noted that these risk estimates represent incidence of disabling asbestosis. First signs of adverse pulmonary effects are reported to occur at lower levels.

G. Other Quantitative Risk Assessments

Since 1979, several scientists and scientific committees have estimated risk associated with asbestos exposure. (Exs. 84–1, 84–2, 84–216, 84–256.) The risk assessments are in approximate agreement. They all use epidemiological studies conducted in the occupational environment to generate quantitative estimates. Animal studies are used to only support and justify methodological procedures and assumptions qualitatively. For lung cancer, scientists generally accept the linear model relating increased asbestos exposure to risk and generally accept the lack of a threshold. As stated by the British Advisory Committee on Asbestos: "For lung cancer, the available data in man, all of which are derived from industry, show an increase in risk with increasing dose of dust, and we find no evidence within the range of dust levels studied for a threshold of dose below which there is no evidence of risk" (Ex. 84–216, p. 55). In general, all the risk assessments use cumulative exposure as the measure of exposure for all cancer risk estimates (cumulative exposure equaling intensity times duration of exposure).

Given the uncertainties inherent in quantitative risk assessment, as well as the inevitable variations in findings among the many epidemiologic studies, OSHA believes that the different quantitative risk estimates agree relatively well. The variations that do exist can be explained by the assumptions made or by simple methodological differences. Some variations may be due to differences in the work environment used in the assessments.

For example, Crump's assessment, given as testimony to the Ontario Royal Commission on Asbestos in August 1981, contains quantitative estimates of risk for several studies, including smoking-specific risk estimates. Crump does not give a best estimate of risk or an overall risk estimate. His estimates of risk are based upon an assumption that worker exposure that would result from a standard set at a 2 fiber/cc limit is actually much lower than 2 fibers/cc. That is, his risk estimate under a 2.0 fibers/cc standard assumes that average worker exposure would be only 1.0 fibers/cc (p. 49). He reduces this level by a factor of two to account for differences between personal and static sampling (p. 50). Thus, Crump's estimates for a 2 fiber/cc standard will be four times lower than those estimates made by OSHA for average worker exposures of 2 fiber/cc. Such differences in assumptions should be kept in mind when comparing risk assessments by different authors (Crump's estimate at 2 f/cc would be compared to OSHA's estimate at 0.5 f/cc). OSHA has presented the risk as if the working population were exposed to an average concentration of 2, 1, 0.5 and 0.1 fibers/cc reflecting OSHA's belief that a standard of 2 f/cc does not preclude worker exposure at that level; in fact exposures may even exceed 2 fibers/cc for short periods and still produce an 8-hour TWA below 2 f/cc.

The report of the British Advisory Committee on Asbestos contains one of the first quantitative risk assessments performed for asbestos. This was updated in 1983 by Acheson and Gardner (Ex. 84–243). The report describes risks for lung cancer, mesothelioma, other asbestos related cancers and asbestosis and it contains a rather thorough description of the health hazards associated with asbestos exposure. The British report's risk estimates for lung cancer do not differ in a major way from OSHA's estimates. For example, with regard to exposure to chrysotile, the Acheson and Gardner update states that "We concluded that, for example, an excess mortality from asbestos-related disease of 2 percent might be associated with any point in a range of from 5 fibers/ml to 0.4 fibers/ml and that bearing in the mind the very considerable uncertainties a figure towards the lower end of the array [0.4 f/ml] might represent an appropriate compromise." (Ex. 84–243, p. 14). As a comparison from Table 11, OSHA's best estimate of risk is that an exposure to 0.5 fibers/cc (ml) would result in a 1.2 percent increase in deaths from lung cancer (or 1143 excess deaths per 100,000).

VI. Technical and Economic Feasibility

Based on an evaluation of evidence contained in the record, OSHA finds that the provisions required by the ETS are technically and economically feasible. OSHA has examined the various industries and work operations impacted by the standard and their ability to comply with the provisions of the ETS. Because the ETS requires prompt reduction of risk, OSHA

assessed the industry's ability to implement the required controls immediately.

The ETS allows considerable flexibility in achieving the PEL. As a result, three options are available to lower the asbestos fiber concentrations to which workers are exposed: (1) Engineering controls such as automatic bag opening devices, specialized vacuum equipment and increased ventilation; (2) work practices, such as wet treatment of the asbestos material and increased clean-up of the work place, and (3) use of approved respirators. Due to the emergency nature of this action which requires immediate response to reduce worker exposure, OSHA assumes that respirators will be the initial method used to comply with the ETS. A full discussion of the technological and economic feasibility of the alternative methods for each industry and for the various PELs under consideration for revising the permanent standard will accompany the proposal which will be published separately.

OSHA believes that, consistent with the estimates of current exposure levels, engineering controls are currently in place and work practices, in operation which, if applied conscientiously, would immediately result in concentrations at least as low as 0.5 in many industries (Ex. 84–262; Ex. 84–263; Ex. 84–9 and Ex. 84–295). For purposes of assessing the technological and economic feasibility, however, OSHA assumed a worst-case scenario in which each industry segment would have to implement a respirator program in order to achieve immediate reduction in worker exposure levels below the estimated current concentrations. Furthermore, for purposes of worst-case analysis, OSHA assumed that none of these industries has any respirator program except for the shipbuilding and construction segments. OSHA makes this assumption because OSHA estimates that most workers in industries other than shipbuilding and construction are exposed to eight-hour time-weighted averages less than 2 f/cc, and the OSHA standard issued in 1972 only requires a respirator program when engineering controls and work practices cannot bring exposures to 2 f/cc. To the extent that some firms do have an existing respirator program, the costs are overestimated.

A. Technical Feasibility

The following table presents the assumptions OSHA made regarding the respirator program elements required by each industry to obtain a PEL of 0.5 f/cc. The types of respirators needed for each industry sector were determined using the respirator selection table in the ETS with reference to the estimated current exposure conditions. OSHA assumed that the least costly approved respirator would be selected. For example, where industries have exposures less than ten times the PEL, OSHA anticipated that disposable respirators would be purchased, because of their lower short-term costs. When exposures exceeded ten times the PEL, OSHA assumed that some plants would either use air line respirators, or full facepiece respirators, depending upon the operation. To the extent that firms choose a higher-cost respirator to increase the protection factor or durability, respirator costs may be understated. Furthermore, OSHA has not included in the cost analysis a consideration for lost worker productivity due to wearing respirators. Costs may be understated by whatever amount productivity is reduced. Other anticipated respirator program elements required to determine costs for the ETS are listed below. These elements are derived from the existing provisions found in the Asbestos Standard, 29 CFR 1910.1001 and the standards for respirators, 29 CFR 1910.134.

All of the required respirators and filters are readily available and can be purchased through local distributors. Since the program relies mostly on disposable respirators, OSHA considers that there will be no supply constraints. As the worst-case (or high) estimate, OSHA assumes that approximately 50,000 workers will wear respirators because of the ETS who did not previously wear respirators. OSHA has concluded that the use of respirators will be effective in providing improved worker protection during the period of the ETS. In addition to encouraging generally more widespread use of respiratory protective measures, the ETS will stimulate a heightened understanding of the health hazards from asbestos exposure and will result in more effective use programs and strategies. Issues involving the appropriateness of respirator use as a long-term solution to controlling asbestos exposures are raised in the section 6(b) rulemaking proceeding (see Ex. 84–345, 84–346, 84–347, 84–348).

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TABLE 16
Anticipated Respirator Program Elements Required to Meet PEL

Industry Segment	Anticipated Type of Respirators Used to Meet the PEL	Other Program Elements
Primary Manufacturing A/C Pipe & Sheet Friction Materials	1 disposable/workday/worker 2 air-line/plant (for high concentration situations)[a]	Full admin. costs[b] Fit Test[c] Training[d]
Asbestos Paper Gaskets	1 disposable/worker/day for portions exposed at 0.75	50% admin. costs Fit Test Training
Floor Tile	(Nothing for PEL of 0.5)	
Paints, Coatings and Sealants	1 disposable/worker/day for 75% of workers	75% admin. costs Fit Test Training
Textiles Wet Process	1 disposable/worker/day	Full admin. costs Fit Test Training
Dry Process	1 disposable/worker/day	Full admin. costs Fit Test Training
Secondary Fabricators Cement Sheets, Paper Products, Packing and Gaskets	1 disposable/worker/day 2 air-line/plant for high concentration situations	1% admin. costs Fit Test Training
Textiles	1 disposable/worker/day	1% admin. costs Fit Test Training
Automotive Aftermarket Rebuilding and Refacing	1 disposable/worker/day 1 air-line/plant	1% admin. costs Fit Test Training

Respirator Program Requirements (Cont.)

Industry Segment	Anticipated Type of Respirators Used to Meet the PEL	Other Program Elements
Brake Repair	Nothing	
Gasoline Stations	Nothing	
Shipbuilding/Repair		20% of admin. costs
Shipbuilding	Nothing	Fit Test
Ship Repair	1 disposable/worker/day for 20% of total workforce	Training
Construction		10% admin. costs
Installation	1 disposable/worker/day	Fit Test
A/C Pipe		Training
A/C Sheet		
Roofing Felts	Nothing	
Demolition/Renovation	1 HEPA full face for 25% of the workforce	25% admin. costs Fit Test Training
Repair & Maintenance	Nothing	

[a]OSHA assumes that certain jobs such as cleaning of vacuum equipment will produce exposure levels greater than 10 times the PEL. Consequently, OSHA assumes 2 air line respirators will be required per plant except for small operations which will require only one air-line respirator per plant.

[b]Administrative costs represent the salary of one full time professional at $30,000 per annum and one full time clerk at $15,000 per annum. OSHA has adjusted administrative costs to represent expected reasonable time spent administering a respirator program in each industry. In the secondary fabrication and automotive aftermarket sectors, for example, OSHA anticipates that supervisors will spend 15 minutes a day distributing and monitoring the use of disposable respirators. These sectors have far less of a management burden than large firms, and thus, administrative costs are calculated at 1 percent of the full administrative amount. OSHA believes that administrative costs have been overstated in most segments in order to present a worst case scenerio.

[c]OSHA assumes that every employee must be fit tested for respirator use at a cost of $21 per employee.

[d]OSHA has allowed 3 hours for respirator and asbestos training. OSHA considers that this is very liberal, especially in industry segments characterized by small plants and by the use of disposable respirators. Costs for this element are therefore overstated to present the worst-case scenario.

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OSHA also examined the feasibility of analytical methods for measuring asbestos air concentrations at the 0.5 f/cc limit established by the ETS. OSHA's existing standard requires that all measurements of airborne concentrations of asbestos fibers be made by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) with phase contrast illumination (29 CFR 1910.1001(e)). After reviewing the relevant evidence made available since the 1975 proposal, OSHA finds that phase contrast microscopy is a feasible and effective method for measuring airborne asbestos fibers to determine compliance with the permissible exposure levels set by the Emergency Temporary Standard.

The most important issue raised by comments to the 1975 notice is whether phase contrast microscopy analysis is capable of reliably measuring airborne concentrations of 0.5 fibers/cc and less. OSHA acknowledges that asbestos airborne measurement procedures using phase contrast microscopy, as with any industrial hygiene analytical procedure, inherently contains several error sources. These errors have been statistically evaluated by Leidel et al. (Ex. 84–62), and, in 1979, by the Air Monitoring Committee of the Asbestos Information Association/North America, referred to herein as AIA (Ex. 86–002) both using round-robin sample exchange data. Chatfield also examined this question (Ex. 84–319). In the Leidel et al. and the AIA evaluations, the error, measured as a coefficient of variation (CV), was found to be related to the number of particles counted from the filter. For 100 fibers counted Leidel, et al. found a CV of 0.12, whereas the AIA report found a CV of 0.35 [1] or errors associated with interlaboratory-intrafilter variability.

Based upon these studies, taken at their face value, it appears that the phase contrast microscope analysis is capable of reasonably reliable measurements at 0.5 fibers/cc. As stated in the AIA report (Ex. 86–002, p. AB–2), "The calculated results indicate that the 95% confidence limits on a measured 8-hour TWA can be relatively constant with a wide, but usable, range down to concentrations approaching 0.5 fibers/cc [less than] 5M."

The AIA report shows a higher error than does the Leidel et al. report. One possible reason for this difference may be that the AIA report assessed the variability in measurements as they are being made today by the many laboratories who are making the measurements. For example, only 27 of the 46 laboratories participated in the PAT program and no counting guidelines were given, whereas, the Leidel et al. report included only a small number of laboratories operated by Johns Mansville Company, that probably used very similar procedures and conducted similar training.

In late 1982, Chatfield prepared a report entitled "Measurement of Asbestos Fibre Concentrations in Workplace Atmospheres" for the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario (Ex. 84–319). Chatfield analyzed intra-and inter-laboratory variability and arrived at conclusions somewhat similar to those of AIA and Leidel. Chatfield also recommended methods by which the accuracy and precision of phase contrast microscopic analytical techniques could be improved. Significantly, he noted "in view of the number and frequency of measurements required, there is currently no fully developed alternative method [to phase contrast microscopy] which could be immediately implemented."

OSHA notes that the authorities cited above believe that it may be possible to reduce phase contrast microscopy errors if improved and standardized procedures are followed, perhaps by adding requirements to the standard. It does not appear, however, that improvements of this nature can be quickly made in the immediate format of this ETS. Therefore, based on the evidence before it at the time of issuance of this emergency standard, OSHA believes that it is generally not possible to measure asbestos concentrations below 0.5 f/cc reliably and reproducibly using phase contrast microscopy under current laboratory practices. OSHA finds that the phase contrast microscopy method can be feasibly used to measure asbestos air concentrations down to 0.5 f/cc.

[1] The AIA report also reports a separate CV for overall variability in the sample evaluation step plus "random variability in the sample collection step." This "random variability of sample collection" as described in this study may be a measure of the true difference in air concentrations from one location to the next and may not be a measure of random variability. A more carefully designed sampling strategy with precise control of instrumentation placement, air currents, and dust generation is necessary to eliminate differences in airborne dust concentrations from one location to another

B. Economic Feasibility

The industry costs based on the program elements described in Table 16 are presented in Table 17. For the ETS, the costs of asbestos training are included with respirator training. Costs for warning signs are not included, since, for the purposes of the ETS, these signs could be hand-made at very low costs. OSHA did not analyze costs associated with the alternate benefits scenario (See Table 4) since that scenario was constructed to show a lower range of benefits but does not represent an estimate of current industry practice.

The costs are overstated to the extent that some firms already have a current respirator program and to the extent that careful application of existing engineering controls and work practices would reduce concentrations to the PEL in some firms and thereby make respirator use unnecessary. Furthermore, the costs assume that dust masks and filters will have to be replaced every 8-hour day. Some of this cost (i.e., the disposable respirators, filters and administrative overhead) can be in fact spread over the period during which the ETS is in effect.

Finally, the costs assigned to the Shipbuilding/Repair and Construction-Demolition/Renovation segments represent cost which reflect increased compliance with current obligations (e.g. increased respirator use to meet the current standard as a result of the ETS training requirements) and are not directly attributable to the ETS.

Note.—OSHA anticipates that the ETS will spur many employes who previously were not in compliance to expend the necessary resources in order to come into compliance with the ETS.

The total cost is estimated at $35,565,402 for 6 months. This translates into an average cost per employee of $708. Average 6 month costs per worker presented on an industry basis in Table 17 range from $251 in the automotive aftermarket segment to $973 in the construction segment. These costs are not a large portion of industry shipments as presented in Table 18. Moreover, firms in these industries will be able to pass the costs forward because asbestos substitutes in most industries are not immediately available. For all these reasons, OSHA finds that the ETS is economically feasible.

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Table 17

Estimated Costs of Respirator Program for ETS with PEL of 0.5

Industry Segment	Total Costs ($) 1 - year	6 - months	6-mo. average Cost/employee
Primary Manufacturing	6,404,965	4,143,242	481
Secondary Fabricators	13,547,224	9,435,532	548
Automotive Aftermarket	1,620,197	1,027,864	251
Shipbuilding/repair	626,266	324,526	533
Construction	36,329,740	19,634,238	973
Total	58,528,412	34,565,402	708

Table 18

ETS Compliance Costs Compared to Sales by Industry Segment

Industry Segment	Cost/Sales
Primary Manufacturing	.003
A/C Pipe & Sheet	.002
Frictin Materials	.008
Asbestos Paper	.003
Paints, Coatings and Sealants	.005
Gaskets, Seals and Packings	.001
Textiles	.014
Secondary Fabricators	.011
Cement Sheets	.072
Paper Products	.011
Packings and Gaskets	.010
Textiles	.014
Automotive Aftermarket	
Rebuilding and Refacing	.0004
Shipbuilding/Repair	.0001
Construction	.0004

Note: Sales values are for 1977 and 1978. Values for Primary Manufacturing and Secondary Fabricators were taken from 84-003; values for the Automotive Aftermarket were taken from U.S. Industrial Outlook, 1983; and values for Shipbuilding/Repair and Construction were taken from the 1982/83 Statistical Abstract. The value for Construction was adjusted by substracting the value for Highway & Streets and Residential and adding the value for Demolition/Wrecking.

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VII. Environmental Impact, Requirements of Executive Order 12291, and the Regulatory Flexibility Act

The National Environmental Policy Act (NEPA) of 1969 (U.S.C. 4321 et seq.), as implemented by the guidelines (40 CFR Part 1500) of the Council on Environmental Quality (CEQ), requires that federal agencies assess their regulatory actions to determine if there is a potential for a significant impact on the quality of the human environment and, if necessary, to prepare an environmental impact statement.

In accordance with these requirements and DOL NEPA regulations (29 CFR Part 11 [Subpart B, 11.10 (a) (4)]) OSHA had determined that because of the emergency nature of this standard, no environmental impact statement will be perpared for the ETS. The courts have held that NEPA does not require advance preparation of an environmental impact statement for an OSHA ETS (*Dry Color Manufacturing Assocation* v. *U.S. Department of Labor* 486 F.2d 98, 107 (3rd Cir. 1973)). OSHA will assess, however, the environmental effects of the proposed permanent regulation of asbestos. The results of this study will be available for review and comment prior to the hearings on the proposed permanent standard and will be an appropriate issue for discussion at the public hearing.

In the interim, OSHA welcomes any comments on any environmental effects that might occur as a result of promulgation of a rule on asbetos.

Pursuant to the authority of Section 8(a)(1) of Executive Order 12291 OSHA has not prepared a Regulatory Impact Analysis of this ETS. Preparation of such an analysis was not practicable for OSHA to perform in time to issue this ETS to respond to the grave dangers faced by asbestos exposed workers. OSHA, however, is completing a Preliminary Regulatory Impact Analysis of the proposal to revise the permanent standard which will be made public at the time the proposal is published.

The Regulatory Flexibility Act requires an agency to prepare a Regulatory Flexibility Analysis only for those rules for which a notice of proposed rulemaking is published. OSHA's issuance of an ETS therefore is not covered by the Regulatory Flexibility Act because the OSHA Act provides that ETS's be issued without regard to notice, public comment and other requirements in the Administrative Procedure Act. The proposal to revise the permanent asbestos standard, however is subject to the requirements of the Regulatory Flexibility Act and OSHA will evaluate the proposal to ascertain whether analysis under the Regulatory Flexibility Act is required.

VIII. Summary and Explanation of the ETS

The requirements of this emergency temporary standard are set out in a new paragraph, § 1910.1001(k). They are limited to additional provisions to the existing asbestos standard which OSHA considers essential and feasible to protect employees from the grave danger resulting from asbestos exposure until OSHA can promulgate more comprehensive revisions in accordance with section 6(b) of the Act. The major changes in the standard made by the ETS are: (1) The new permissible exposure level; (2) methods of compliance permitted to achieve the new level; and (3) a requirement for the establishment of training programs within 30 days. The following section discusses the major provisions of the ETS, the necessity for including these provisions in the ETS, and some additional provisions to trigger certain requirements at the reduced permissible level of 0.5 f/cc.

1. *Paragraph (k)(1) Scope.* As part of the ETS, OSHA is adding a paragraph on the scope of the standard. The paragraph is intended to make clear that the emergency standard applies to all workplaces where employees may be exposed to asbestos in all industries covered by the current asbestos standard *ie.* general industry, construction and maritime.

2. *Paragraph (k)(2) Permissible level of exposure.* As part of the ETS, OSHA is adding paragraph (k)(2) which sets a new PEL, effective immediately, of 0.5 f/cc on an 8 hour time weighted average basis. This reduced level may be achieved by any feasible combination of engineering controls, work practices and respiratory protection in order to allow employers to institute effective measures to reduce employee exposures immediately.

OSHA chose 0.5 f/cc as the permissible exposure level primarily because it believes that reducing employee exposures to 0.5 f/cc in all industries will greatly reduce the risk of developing asbestos induced cancers, primarily lung cancer, mesothelioma and gastrointestinal cancer. As set out in the discussion on "grave danger" and "benefits", the number of lives OSHA believes may be saved through an immediate reduction of exposure to 0.5 f/cc is substantial.

OSHA also believes that the 0.5 f/cc level is appropriate for several other reasons. First, because an emergency standard must be feasible, and employers must be able to comply with the standard in a short period of time, OSHA has set a level which is likely to be achieved immediately, using equipment and control techniques that are currently available.

Second, OSHA believes, based on the data generated by OSHA's contractor, Research Triangle Institute, that some workplaces, especially in the manufacturing sector, may be close to achieving a 0.5 f/cc level through the more rigorous use of engineering controls, work practices and housekeeping methods which are now in place. OSHA encourages employers to continue their efforts to implement these methods in order to assure that, for the long term, the most comprehensive and effective program of protection from asbestos exposure will be provided.

Third, OSHA believes that reliability of the currently required asbestos measurement methods to measure asbestos exposures less than 0.5 f/cc should be open for discussion during a rulemaking hearing, rather than imposed through an ETS. OSHA has therefore not adopted the 0.1 f/cc level petitioned by the unions but instead is considering adding provisions to the asbestos standard that may improve the reliability of both sampling and analysis in the 6(b) rulemaking for the permanent standard and thus allow lower levels to be reliably measured.

3. *Paragraph (k)(3) Methods of compliance.* The ETS adds a new paragraph (k)(3), which permits employers to reduce the permissible exposure limit from the current 2 f/cc limit to the 0.5 f/cc limit by any feasible combination of engineering controls, work practices and respiratory protection. The current requirement in paragraphs (c)(1) and (c)(2) to first utilize engineering controls and work practices to reduce exposure levels to 2.0 f/cc remains unaffected by this ETS.

Flexibility in choosing compliance strategies for the period of an ETS has been incorporated in most other previously issued emergency standards. The policy reflects OSHA's determination to craft emergency standards that are truly responsive to emergency conditions and which afford immediately available protection to affected workers.

4. *Paragraph (k)(4) Employee information and training.* The ETS adds a paragraph to the asbestos standard requiring the employer to provide a training program within 30 days of publication of the emergency standard for all employees whose exposures are reasonably expected to exceed the PEL of 0.5 f/cc, without regard to the use of

respirators, and to assure that all such employees participate in the program and are informed of specified categories of information. OSHA considers this provision to be "necessary" within the meaning of section 6(c) of the Act, to reduce the grave danger faced by asbestos exposed employees. The absence of a training program requirement in the asbestos standard has been pointed out as one of the serious deficiencies of the current standard. OSHA believes that participation in an adequate training program is essential for the protection of employees because most protective provisions enlist the employee as an active participant. For example, many employees handling asbestos depend on effective work practices. Without training in applying these work practices, employee protection would be inadequate. Where the employee plays a more passive role in his protection such as where engineering controls are relied on, training is also essential, because the employee must know the sources of workplace asbestos contamination, and the health hazards of asbestos exposure, in order to assess his own exposure situation and to help recognize when engineering controls are not operating properly. Certainly where housekeeping plays an important role in control, instruction about housekeeping methods, for example, frequent vacuuming, is essential. Perhaps most importanly, where employee protection depends upon respirator use, OSHA's experience shows that training employees in the use, fitting and limitations of respirators is critical to the effectiveness of respirator protection. Accordingly this requirement applies where airborne concentrations are reasonably expected to exceed 0.5 f/cc, even if employees use respirators to reduce breathing zone concentrations and thereby comply with the ETS.

As set forth in paragraph (k)(4) the employer must inform the employee of the health effects of asbestos exposure; the relationship between asbestos and smoking in producing lung cancer; the operations exposing employees to asbestos fibers and necessary protective steps to minimize exposure; the purpose, proper use, fitting instructions and limitations of respirators, and the contents of all the provisions of the Asbestos Standard at 1910.1001.

5. *Paragraph (k)(5) Respiratory protection during the ETS.* The ETS adds a new paragraph (k)(5) which includes a table which ties respirator selection to the 0.5 f/cc PEL. Under the ETS, the concentration cut-offs for various kinds of respirators are multiples of the reduced PEL of 0.5 f/cc, rather than multiples of the previous 2 f/cc permissible limit. For example, approved air purifying respirators may be used only where asbestos concentrations are not expected to exceed 5 f/cc (10 x the PEL). Before the ETS, because the PEL was 2 f/cc, such respirators could be used where asbestos concentrations would not have exceeded 20 f/cc (10 x the PEL of 2 f/cc).

Similarly, powered air purifying respirators may be used where asbestos concentrations do not exceed 100 times the PEL, which at the new level of 0.5 f/cc is 50 f/cc. Previously, employers could have used such respirators at concentrations up to 200 f/cc.

It is likely that the main impact of the reduced PEL on respirator choice will be in operations and industries where exposure levels are between 5 f/cc and 20 f/cc. Formerly, employees exposed in this range could use half-mask air purifying respirators; now they must be protected by a powered air purifying respirator or a full facepiece respirator, or they may use a supplied air respirator.

6. *Paragraph (k)(6). Warning signs during the ETS.* The ETS requires that legible signs warning of the health hazards of asbestos be displayed at locations where airborne concentrations of asbestos fibers exceed the reduced exposure limit of 0.5 f/cc. No specific legend is required signs for newly posted during the ETS. OSHA wishes to make as practicable as possible the rapid posting of signs, especially in workplaces where there has been previous non-compliance and in areas where asbestos concentrations were formerly below the 2.0 f/cc PEL.

XI. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the revisions to the asbestos standard made by the ETS. These comments must be postmarked on or before January 3, 1984 and sent to the Docket Officer, Docket No. H-033C, Occupational Safety & Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-6212, Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of the proceeding.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Asbestos, Health, Emergency temporary standard, Cancer.

Authority and Signature

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Pursuant to Sections 6(b), 6(c), 8(c) and 8(g) of the Act, 29 CFR 1910.1001 is amended by adding a new paragraph (k) as set forth below.

(Secs. 6(b), 6(c), 8(c) and 8(g), Pub. L. 91-596, 84 Stat. 1593, 1596, 1599, 1600; 29 U.S.C. 655, 657; Sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911; Secretary of Labor's Order No. 9-83 (48 FR 35736))

Signed at Washington, D.C., this 2nd day of November 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Section 1910.1001 of Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new paragraph (k) reading as follows:

§ 1910.1001 Asbestos.

* * * * *

(k) *Emergency temporary standard effective November 4, 1983.*—(1) *Scope.* This emergency temporary standard is issued pursuant to section 6(c) of the Act and applies to all workplaces where employees may be exposed to asbestos in all industries covered by the Act, including, general industry, construction and maritime. Except to the extent modified by this emergency temporary standard all provisions of § 1910.1001 remain in effect.

(2) *Permissible levels of exposure.* The 8-hour time-weighted average airborne concentration of asbestos fibers to which any employee may be exposed shall not exceed one-half (0.5) fiber, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(3) *Methods of compliance with the emergency temporary standard.* Notwithstanding any other requirements of this section, compliance with the reduced exposure limit of 0.5 f/cc shall be achieved by any feasible combination of engineering controls, work practices, and personal protective equipment and devices.

(4) *Employee information and training.*—(i) As soon as possible, but not later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall institute a training program for all employees exposed to airborne concentrations of asbestos in excess of

0.5 f/cc, without regard to the use of respirators and shall assure their participation in the program during the effective period of this emergency temporary standard.

(ii) The employer shall assure that each such employee is informed of the following:

(A) The health effects associated with asbestos exposure;

(B) The relationship between asbestos and smoking in producing lung cancer;

(C) The nature of operations which could result in exposure to asbestos and necessary protective steps to minimize exposure including, as applicable, engineering controls, work practices, respirators, housekeeping and protective clothing;

(D) The purpose, proper use, fitting instructions and limitations of respirators permitted by the standard; and

(E) A review of all the provisions contained in 1910.1001.

(5) *Respiratory protection during the ETS.* Notwithstanding any other requirement of this section, where respirators are used to achieve the permissible exposure limit of 0.5 f/cc they shall be selected according to Table 1.

(6) *Warning signs during the ETS.* In addition to the requirements of paragraph (g)(1) of this section, legible signs warning of the health hazards of asbestos shall be provided and displayed at each location where airborne concentrations of asbestos fibers may exceed 0.5 f/cc.

TABLE 1

Respiratory Protection

For Airborne Concentrations of Asbestos .

Airborne Concentration of Asbestos (TWA)	Required Respirator[1]
Not in excess of 5 f/cc (10 X PEL)	Reusable or single use air purifying respirator
Not in excess of 50 f/cc (100 X PEL)	Full facepiece air purifying respirator, or a powered air purifying respirator
Greater than 50 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

[1] Respirators specified for high concentrations may be used at lower concentrations of asbestos.

(Secs. 6(b), 6(c), 8(c) and 8(g), Pub. L. 91–596, 84 Stat. 1593, 1598, 1599, 1600; 29 U.S.C. 655, 657; Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911, Secretary of Labor's Order No. 9–83 (48 FR 35736))

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S.J. Res. 189/Pub. L. 98-143

Extending the expiration date of the Export-Import Bank Act of 1945. (Nov. 1, 1983; 97 Stat. 916) Price: $1.50

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