AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

3-6-84
Vol. 49 No. 45
Pages 8227-8416

federal register

Tuesday
March 6, 1984

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Authority Delegations (Government Agencies)
Defense Department

Air Traffic Control
Federal Aviation Administration

Aviation Safety
Federal Aviation Administration

Communications Equipment
Federal Communications Commission

Flood Insurance
Federal Emergency Management Agency

Income Taxes
Internal Revenue Service

Marketing Agreements
Agricultural Marketing Service

Mine Safety and Health
Mine Safety and Health Administration

Occupational Safety and Health
Occupational Safety and Health Administration

Pesticides and Pests
Environmental Protection Agency

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Selected Subjects

Plants (Agriculture)
Agricultural Marketing Service

Radio Broadcasting
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television Broadcasting
Federal Communications Commission

Trade Practices
Federal Trade Commission

Contents

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

The President
EXECUTIVE ORDERS
8229 International Boundary and Water Commission, U.S. and Mexico (EO 12467)
PROCLAMATIONS
8231 Beta Club Week, National (Proc. 5156)
8227 Women's History Week (Proc. 5155)

Executive Agencies

Agricultural Marketing Service
RULES
8234 Oranges (navel) grown in Ariz. and Calif.
Plant variety protection:
8233 Certification fee increase

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Packers and Stockyards Administration.

Animal and Plant Health Inspection Service
RULES
Livestock and poultry quarantine:
8412 Lethal avian influenza; interim

Civil Aeronautics Board
RULES
Procedural regulations:
8245 Japanese charter authorizations, awarding procedure; correction
NOTICES
Hearings, etc.:
8274 Omniflight Helicopters, Inc.
8274 Tropical Helicopter Airways, Inc.

Commerce Department
See National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
NOTICES
8323 Meetings; Sunshine Act (2 documents)

Defense Department
See also Navy Department.
RULES
Organization, functions, and authority delegations:
8250 Deputy Secretary of Defense; Acting Secretary of Defense

Education Department
NOTICES
8323 Meetings; Sunshine Act

Employment and Training Administration
NOTICES
Labor surplus area classifications; annual list:
8311 Additions

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
8386 Benzene from maleic anhydride and ethylbenzene/styrene plants, and storage vessels; withdrawal
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
8406, 8407 Ethylene dibromide (2 documents)
8262 Ethylene dibromide; correction
NOTICES
Toxic and hazardous substances control:
8282, 8289 Confidential information and data transfer to contractors (2 documents)
8283 Premanufacture notices; monthly status reports

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
8236 Emergency air traffic regulations; update
Air traffic rules, special:
8237 High density traffic airport rule; interim
8235, 8236 Transition areas (2 documents)
PROPOSED RULES
8259 Control zones
NOTICES
Technical standard orders:
8320 Emergency Locator Transmitter (ELT)

Federal Communications Commission
RULES
Communications equipment:
8252 Radio frequency equipment; notification and verification equipment authorization procedures; correction
Radio services, special:
8257 Maritime services; ship radio stations; requirements for spare parts, etc.
Radio stations; table of assignments:
8253 Oregon
Television stations; table of assignments:
8254 Florida
8255 Minnesota
8256 Rhode Island
8257 Tennessee
PROPOSED RULES
Radio stations; table of assignments:
8262, 8263 Wyoming (2 documents)
Television broadcasting:
8268 Remote control operation of AM, FM, and TV broadcast transmitters
Television stations; table of assignments:
8265 California
8266 Florida
8267 Kansas
NOTICES
Hearings, etc.:
8289 American Radio Telephone Service, Inc.

8291 CMM, Inc., et al.
8290 Haskin, Brian, et al.
8292 Peninsula Communications, Inc., et al.
8293 Pro Broadcasters of Colorado, Ltd., et al.
8294 South Carolina Educational Television Commission et al.
Meetings:
8295 North Atlantic Consultative Process
8295 Technical Standards for DBS Service Industry Advisory Committee

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
8251 Connecticut et al.; correction
NOTICES
8296 Emergency food and shelter program; reallocation of monies

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
8277 Alabama-Tennessee Natural Gas Co.
8277 Allegheny Power Systems et al.
8277 ANR Pipeline Co.
8278 Lockhart Power Co.
8279 Locust Ridge Gas Co.
8279 Lone Star Gas Co.
8280 Mid Louisiana Gas Co.
8280 Midwestern Gas Transmission Co.
8280 Pacific Power & Light Co.
8282 Panhandle Eastern Pipe Line Co.
8282 Texas Eastern Transmission Corp.
Natural Gas Policy Act:
8394 Jurisdictional agency determinations

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
8321 Washington County, Oreg.; intent to prepare

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
8296 Dime Savings Bank of New York
8296 First Federal Bank, F.S.B.
8296 First Federal Savings Bank of Montana
8296 Peoples Federal Savings & Loan Association of East Chicago, Ind.
8297 Pioneer Savings Association
8297 United Federal Savings & Loan Association

Federal Procurement Policy Office
NOTICES
8315 Noncompetitive procurement procedures (Policy Letter 84–2)

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
8297 Chemical New York Corp. et al.
8298 Peoples Corp., Inc. of Bishopville, et al.

Federal Trade Commission
RULES
Prohibited trade practices:
8245 Centurion International, Inc., et al.

Fish and Wildlife Service
NOTICES
8304 Agency information collection activities under OMB review
Meetings:
8304 Migratory bird hunting

Food and Drug Administration
PROPOSED RULES
Human drugs:
8260 Antibiotic drugs; clarification of potency standards; informal conference and extension of time
NOTICES
Food for human consumption:
8299 Food Chemicals Codex; monographs; inquiry; correction

General Services Administration
NOTICES
8298 Agency information collection activities under OMB review

Health and Human Services Department
See Food and Drug Administration.

Housing and Urban Development Department
RULES
8258 Acquisition regulations; correction
8246 Non-Federal governmental audit requirements; effective date announcement and correction
NOTICES
8299, 8300 Agency information collection activities under OMB review (3 documents)

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
8246 Motor carrier operating authority deduction
PROPOSED RULES
Income taxes:
8261 Foreign corporations; information returns required; hearing
8260 Mutual savings banks; minimum addition to reserve for losses on loans; hearing

Interstate Commerce Commission
NOTICES
Motor carriers:
8307 Agricultural cooperative transportation; filing notices
Railroad operation, acquisition, construction, etc.:
8308 Bernard J. Cahill-Control-Rahway Valley Co. et al.
8307 Jefferson Warrior Railroad Co., Inc.

Justice Department
See also National Institute of Justice.
NOTICES
Meetings:
8308 Attorney General's Task Force on Family Violence

Pollution control; consent judgments:
8309 City of Twin Falls, Idaho
8308 Inland Foundry Co.

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Wage and Hour Division.
NOTICES
Unemployment compensation, State laws; hearings:
8309 Minnesota

Land Management Bureau
RULES
Public land orders:
8250 New Mexico
NOTICES
Alaska native claims selection:
8301, 8302 Chugach Natives, Inc. (2 documents)
8302 Kuitsarak Inc.
Conveyance of public lands:
8301 Arizona (3 documents)
Oil and gas leases:
8301 California; proposed reinstatement
Sale of public lands:
8303 Oklahoma
8301 Wild and scenic rivers system; Alaska; final river management plans availability

Legal Services Corporation
NOTICES
Grants and contracts; applications:
8313 California

Management and Budget Office
See also Federal Procurement Policy Office
NOTICES
Budget rescissions and deferrals:
8400 Cumulative reports

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetallic mine safety:
8368 Ground control; safety standards
8375 Machinery and equipment; safety standards

Minerals Management Service
NOTICES
Outer Continental Shelf; development and production plans:
8305 Shell Offshore Inc.
8304 Tenneco Oil Exploration & Production

National Institute of Justice
NOTICES
Meetings:
8309 Advisory Board
8309 Advisory Board; cancellation

National Oceanic and Atmospheric Administration
NOTICES
Coastal zone management programs:
8274 California
Meetings:
8275 North Pacific Fishery Management Council
8275 Pacific Fishery Management Council

National Park Service
NOTICES
Historic Places National Register; pending nominations:
8305 California et al.
Meetings:
8307 Delta Region Preservation Commission
8306 Gateway National Recreation Area Advisory Commission

Navy Department
NOTICES
Environmental statements; availability, etc.:
8276 Military Sealift Command, relocation; Washington Navy Yard, Washington, D.C.
Meetings:
8276 Naval Academy, Academic Advisory Board to Superintendent
8276, 8277 Naval Research Advisory Committee (2 documents)

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
8314 Duke Power Co. et al.
8315 Perforating Services, Inc.
Environmental statements; availability, etc.:
8313 Three Mile Island Unit 2 cleanup; extension of time
Meetings:
8314 Reactor Safeguards Advisory Committee

Occupational Safety and Health Administration
PROPOSED RULES
8326 Workplace equipment and materials; testing and certification

Oceans and Atmosphere, National Advisory Committee
NOTICES
8313 Meetings

Packers and Stockyards Administration
RULES
8235 Accounting, recordkeeping and trade practices; correction
NOTICES
Stockyards; posting and deposting:
8274 Madden's Livestock Market, Inc., S. Dak.

Postal Service
RULES
Organization and administration:
8250 Test purchase; service offered for sale by mail directly from mail-order merchants; correction

Research and Special Programs Administration
NOTICES
Hazardous materials; inconsistency rulings, etc.:
8321 Massachusetts Office of Transportation and Construction; extension of time

Securities and Exchange Commission
NOTICES
Hearings, etc.:
8317 Franklin Building Associates, Limited Partnership, et al.
8318 New England Electric System
8318 New England Electric System et al.
Self-regulatory organizations; proposed rule changes:
8319 National Securities Clearing Corp.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
8261 Colorado

Tennessee Valley Authority
NOTICES
8319 Agency information collection activities under OMB review

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration.
NOTICES
8320 Standard time zone boundaries; Burlington Northern Railroad, operating exception

Treasury Department
See also Internal Revenue Service.
NOTICES
8322 Agency information collection activities under OMB review
Notes, Treasury:
8322 H-1989 series

Wage and Hour Division
NOTICES
Committees; establishment, renewals, terminations, etc.:
8312 Special Industry Committee No. 16; appointment for American Samoa

---

Separate Parts in This Issue

Part II
8326 Department of Labor, Occupational Safety and Health Administration

Part III
8368 Department of Labor, Mine Safety and Health Administration

Part IV
8386 Environmental Protection Agency

Part V
8394 Department of Energy, Federal Energy Regulatory Commission

Part VI
8400 Office of Management and Budget

Part VII
8406 Environmental Protection Agency

Part VIII
8412 Animal and Plant Health Inspection Service

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
12467 8229
Proclamations:
5155 8227
5156 8231

7 CFR
180 8233
907 8234

9 CFR
81 8412
201 8235

14 CFR
71 (2 documents) 8235, 8236
91 8236
93 8237
320 8245
Proposed Rules:
71 8259

16 CFR
13 8245

21 CFR
Proposed Rules:
436 8260
440 8260
442 8260
444 8260
446 8260
448 8260
450 8260
452 8260
455 8260

24 CFR
44 8246

26 CFR
1 8246
Proposed Rules:
1 (2 documents) 8260, 8261

29 CFR
Proposed Rules:
1907 8236
1910 8236
1935 8236
1936 8236

30 CFR
Proposed Rules:
55 (2 documents) 8368, 8375
56 (2 documents) 8368, 8375
57 (2 documents) 8368, 8375
58 (2 documents) 8368, 8375
906 8261

32 CFR
369 8250

39 CFR
233 8250

40 CFR
Proposed Rules:
61 8386
180 (2 documents) 8262, 8406

43 CFR
Public Land Orders:
6525 8250

44 CFR
64 8251

47 CFR
2 8252
15 8252
73 (6 documents) 8252–8257
83 8257
Proposed Rules:
73 (6 documents) 8262–8268

48 CFR
Ch. 24 8258

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

Presidential Documents

Title 3—

The President

Proclamation 5155 of March 2, 1984

Women's History Week, 1984

By the President of the United States of America

A Proclamation

In countless ways, both recorded and unrecorded, women have played a vital role in the development of this Nation. The greatness of the United States reflects the accomplishments of American women throughout our history.

Today, whether single or married, with children or other dependents, women continue to assume critically important leadership positions in our Nation's economic, cultural, and social life. They are contributing substantially to the character and growth of the economy and permanently influencing the development of our political, commercial, judicial, and legal institutions.

Although women have always constituted a significant portion of America's labor force and, in fact, represent nearly half of it today, more and more of them are serving in demanding and rewarding professional jobs. Women are university presidents, astronauts, military officers, corporate officials, labor leaders, business owners, and members of innumerable other professions. They serve in State and local governments as well as in the Federal government and the United States Congress. They are members of the President's Cabinet, the diplomatic corps, and, making more history in 1981, a woman is now a Justice of the Supreme Court of the United States.

Women who work in the traditional roles of mothers and homemakers continue to be a wellspring of our Nation's strength, helping us to maintain our social and spiritual values. They have fostered unity and stability in our families, which are the cornerstone of American life. They serve as the backbone of our volunteer movement, which certainly is one of the most powerful forces for good anywhere on the earth. The vision of women has made them leaders in many causes which have brought important social reform in such areas as abolition, health care, child labor laws, temperance, voting rights, and improvement of industrial labor conditions.

It is appropriate that all Americans recognize the outstanding achievements of women and celebrate their continuing contributions to our Nation and its heritage.

The Congress, by H.J. Res. 422, has designated the week beginning March 4, 1984, as "Women's History Week" and has requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 4, 1984, as Women's History Week. I encourage all individuals, governmental agencies, and private institutions and associations throughout the country to observe this occasion by participating in appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of March, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-6121
Filed 3-2-84; 4:32 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12467 of March 2, 1984

International Boundary and Water Commission, United States and Mexico

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), it is hereby ordered as follows:

Section 1. The International Boundary and Water Commission, United States and Mexico (hereinafter referred to as "the Commission"), in which the United States participates pursuant to 22 U.S.C. 277 *et seq.*, and *inter alia*, the 1889 International Boundary Convention (26 Stat. 1512, 9 Bevans 877), and the 1944 Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (59 Stat. 1219, 9 Bevans 1166), is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation shall not be deemed to abridge in any respect the privileges, exemptions or immunities which the Commission may have acquired or may acquire by international agreement or by Congressional action.

Sec. 2. This designation shall not extend to the United States Section of the Commission in respect of matters within its exclusive control, supervision or jurisdiction, or within the sole discretion of the United States Commissioner, pursuant to international agreements in force with the United Mexican States, statute or other authority.

Ronald Reagan

THE WHITE HOUSE,
March 2, 1984.

[FR Doc. 84-6122
Filed 3-2-84; 4:33 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5156 of March 5, 1984

National Beta Club Week, 1984

By the President of the United States of America

A Proclamation

On a cold January day 50 years ago in Landrum, South Carolina, 15 quiet citizens led by John West Harris founded the Beta Club and dedicated themselves to the promotion of leadership, honesty, achievement, and community service among high school students throughout the United States. The motto that was adopted by that infant club was: "Let us lead by serving others."

The six words in that motto tell a proud story. The Beta Club grew from "three handfuls" of citizens to a current membership of 200,000 high school students, alumni numbering over 1.5 million, and 4,500 chapters in 36 states.

From its small beginnings, the Beta Club sought to recognize high school students who displayed leadership abilities, personal integrity, academic achievement and a demonstrated willingness to serve one's fellow citizens.

The original Beta Club members were opportunity innovators. They literally had the brashness to create and run the risk of failure. They had the toughness to experiment and were honest enough to learn from experience. Above all, they were willing to be judged on what they contributed to the well being of others.

The best growth generators are those persons who have the inner moral fiber to accept new ideas, concepts, machines and technology. The Beta Club founders had the ability to convince others that productive change was necessary in revitalizing high school youth to widen their spiritual and intellectual horizons. In recognizing the outstanding achievements of the Beta Club, we pay homage to a vital part of our Nation's heritage.

In recognition of the accomplishments of the Beta Club for its significant accomplishments toward the development of the youth of our Nation, the Congress, by Senate Joint Resolution 184, has designated the week beginning March 4, 1984 as "National Beta Club Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 4, 1984, as National Beta Club Week, and call upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-6230
Filed 2-5-84; 12:10 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 180

Plant Variety Protection Act: Increase of Certification Fee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Plant Variety Protection Act of 1970 authorizes the Secretary of Agriculture to prescribe, charge, and collect reasonable fees incurred in the issuance of plant variety protection certificates. The Secretary is amending the regulations to increase the rates for the certification services to make the administration of the Act substantially self-supporting at the earliest date and adjust fees to reflect costs for different services.

DATES: Interim rule effective March 6, 1984. Comments must be received on or before May 7, 1984.

ADDRESS: Written comments may be mailed to Kenneth H. Evans, Commissioner; Plant Variety Protection Office; Warehouse Division; Agricultural Marketing Service; U.S. Department of Agriculture; Room 500, National Agricultural Library Building; Beltsville, Maryland 20705. Comments will be available for public inspection at this location during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Evans (301/344–2518).

SUPPLEMENTARY INFORMATION: The Plant Variety Protection Act of 1970 (7 U.S.C. 2321 *et seq.*, "Act") provides for the assessment and collection of fees for expenses incurred by the Department of Agriculture for the issuance of plant variety protection certificates and related certification services. The legislative history indicates that the Act was intended to be self-supporting with the fees substantially covering all costs, including administration. Although the cost of administration has increased over the years, the fees have been increased once, November 1982, since they were set in 1972. However, the 1982 increase did not cover the total cost of issuing Plant Variety Protection Certificates. Therefore, the Department proposes this rule to increase total fees for processing an application to $2,000 and to adjust the schedule of fees to better reflect costs incurred by the Department.

When the certification fees were initially set in 1972, no operating experience existed upon which to base the costs. The Department anticipated that substantial startup costs would be incurred in the development of background information on various varieties of crops and in the preparation of information for computer storage. Moreover, since 1972, program costs have continued to rise. There have been significant increases in conformity with the Federal Pay Comparability Act of 1970; and the grade level, as well as the pay scale of examiners performing services, has shifted to a higher level due to longevity and progressive performance for promotion to the journeyman examiner level.

The 1982-fee increase was put into effect to place fees more in line with costs. However, the office was making major changes to improve efficiency; and it was not possible to precisely determine the costs for future services. With changes in procedures and improved efficiency, more appropriate charges have been calculated.

On September 23, 1983, the Plant Variety Protection Board (Board) met and received information that the costs incurred by the Department in processing a single application for a plant variety certificate had been lowered from $3,600 to $2,000 and that costs for individual services had been calculated. Based on that information, the Board recommended to the Secretary that the fees be adjusted to more nearly reflect the time cost incurred, but to keep the total fee per application at the $1,500 level established in 1982. The Department acknowledges the Board's recommendation; however, the equitable distribution of costs should include fees to fully fund the program. Therefore, the Department proposes increasing the fee to $2,000 per certificate. The fee adjustment is being implemented as an interim final rule with a comment period to put the administration of the Plant Variety Protection Act on a full fee basis as soon as possible to conform with the intent of the Act. The September 23, 1983, final rule, published in the **Federal Register**, Volume 48, No. 186, page 43286, made the November 1982 fee increase final, explained that fees and costs were being reviewed, and indicated that a future fee increase was probable.

An alternative to increasing fees would be to decrease the cost of processing applications. The Board recently studied operations of the Plant Variety Protection Office and made recommendations for improved efficiency in issuing certificates. The Plant Variety Protection Office is implementing the suggestions and has reduced costs from $3,600 to approximately $2,000; however, efficiency improvements will not lower costs to the present fee level of $1,500.

Another alternative to increasing fees would be to significantly delay the processing of applications. This would substantially increase the backlog of applications awaiting processing and could result in protecting ineligible varieties under the protection applied for status. It would also increase the financial liability of the Government by requiring the processing of applications at less than cost which is contrary to the legislative intent of the Act. Other alternatives include reducing the amount of supervision and review of plant examiner's work by the Commissioner and eliminating the placing of information on new varieties in the computer file. Either of the latter alternatives would increase the probability of issuing certificates on ineligible applications which would seriously affect the integrity of the program. Moreover, all of the above discussed alternatives would merely delay the expenditure of necessary funds thereby increasing the average costs of processing future applications.

Accordingly, the Administrator has determined upon good cause shown that the notice and other public procedures with respect to this action are impracticable, unnecessary, and contrary to the public interest. Good cause is found for publishing this interim

final rule at this time with opportunity for public comments after publication.

The Department also proposes amending the definition of the Plant Variety Protection Office to reflect the correct division designation for the Office.

Regulatory Impact Analysis:

This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been determined to be "non-major." It will not result in an annual effect on the economy of $100 million or more; a major increase in production costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant effect on competition, employment, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) the fee represents a minimal increase in the costs of developing and producing a new variety for the commercial market; and (ii) competitive effects are offset under this voluntary program since charges are based on volume; i.e., the cost to users increases in proportion to the number of applications submitted.

Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in duplicate to the Plant Variety Protection Office and should bear a reference to the date and page number of this issue of the **Federal Register.** Comments submitted pursuant to this document will be made available for public inspection in the Plant Variety Protection Office in Beltsville, Maryland, during regular business hours.

List of Subjects in 7 CFR Part 180

Plant Variety Protection Act, AMS, Administrative practices and procedures, Fees, Courts, Labeling, Plants (Agricultural).

PART 180—[AMENDED]

Accordingly, the Department amends Part 180, Code of Federal Regulations as follows:

Authority: (84 Stat. 1542) (7 U.S.C. 2321 *et seq.*)

§ 180.1 [Amended]

Section 180.1 is amended by revising paragraph (a)(17) to read as follows:

(a) * * *

(17) "Office" or "Plant Variety Protection Office" means the Plant Variety Protection Office, Warehouse Division, AMS, USDA.

* * * * *

Section 180.5 is amended by revising paragraph (c) to read as follows:

§ 180.5 General requirements.

* * * * *

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Warehouse Division, AMS, USDA, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705.)

* * * * *

§ 180.175 [Amended]

Section 180.175 is amended by revising paragraph (a) through (m) to read as follows:

* * * * *

(a) Filing application and notifying public of filing	$200
(b) Search or examination	1,600
(c) Allowance and issuance of certificates and notifying public of issuance	200
(d) Revive an abandoned application	200
(e) Reproductions of records, drawings, certificates, exhibits or printed material (copy per page of material)	1
(f) Authentication (each document)	1
(g) Correcting or reissuance of a certificate	200
(h) Recording assignments	5
(i) Copies of 8×10 photographs in color	25
(j) Additional fee for reconsideration	200
(k) Additional fee for late payment	25
(l) Additional fee for late replenishment of seed	25
(m) Appeal to Secretary (refundable if appeal overturns Commissioner's decision)	2,000

* * * * *

Done at Washington, D.C.: February 29, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-6013 Filed 3-5-84; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 907

[Naval Orange Reg. 596]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 9–15, 1984. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 9, 1984.

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

SUPPLEMENTARY INFORMATION:

Findings.

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on February 28, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

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

handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. § 907.896 is added as follows:

§ 907.896 Navel Orange Regulation 596.

The quantities of navel oranges grown in California and Arizona which may be handled during the period March 9, 1984 through March 15, 1984, are established as follows:

(a) *District 1:* 1,600,000 cartons;
(b) *District 2:* Unlimited cartons;
(c) *District 3:* Unlimited cartons;
(d) *District 4:* Unlimited cartons.

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

Dated: February 29, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–5924 Filed 3–5–84; 8:45 am]

BILLING CODE 3410–02–M

Packers and Stockyards Administration

9 CFR Part 201

Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects an inadvertent error in a document published February 17, 1984 (49 FR 6080) relating to accounting, recordkeeping, and trade practices regulations.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis (202) 447–7363.

SUPPLEMENTARY INFORMATION: In FR Vol. 49, No. 34 for issue of Friday, February 17, 1984, appearing on page 6083, make the following correction.

§ 201.43 [Corrected]

Section 201.43(c) is corrected to read as follows:

* * * * *

(c) *Purchaser to promptly reimburse agents.* Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent uses his own funds to pay for livestock purchased on order, transmit or deliver to such agent the full amount of the purchase price before the close of the next business day following receipt of notification of the payment of such purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock. Any such agreement shall be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent.

Done at Washington, D.C., this 29th day of February 1984.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 84–5760 Filed 3–5–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AGL–21]

Designation of Transition Area; Baldwin, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a new controlled airspace area near Baldwin, Michigan, to accommodate a new VOR/DME–A instrument approach into Baldwin Municipal Airport, established on the basis of a request from the Baldwin Municipal Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above the surface to 700′ above the surface. The development of the proposed instrument procedure requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 57313 of the **Federal Register** dated December 29, 1983, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a new 700-foot controlled airspace transition area near Baldwin, Michigan. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. On the contrary, Whirlpool Corporation of Benton Harbor, Michigan, submitted a letter of testimony strongly supporting the proposal to establish this transition area.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 10, 1984, as follows:

§ 71.171 [Amended]

Baldwin, MI.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Baldwin Municipal Airport (latitude 43°52′35″ N., longitude 85°50′25″ W.) and within 5 miles either side of the White Cloud VORTAC 344° radial, extending from the 5-mile radius to the White Cloud VORTAC, excluding that airspace overlying the Roben-Hood, Michigan, transition area.

(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))

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. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); 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 Des Plaines, Illinois, on February 24, 1984.

James M. Dermody,

Acting Director, Great Lakes Region.

[FR Doc. 84-5888 Filed 3-5-84; 8:45 am]

BILLING CODE 4910-13-M

[Airspace Docket No. 83-AGL-25]

Alteration of Transition Area; Newark, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to establish a separate transition area for Newark, Ohio, and to alter the airspace designated for Newark Heath Airport (formerly Licking County Airport) and Buckeye Executive Airport, to accommodate existing requirements at both airports.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: This action describes the designated airspace requirements associated with Newark Heath Airport and Buckeye Executive Airport. It returns a small area southwest of Buckeye Executive Airport and a larger area northwest of Newark Heath Airport to a noncontrolled status below 1200 feet above the surface. At the same time, it expands the transition area from 8 to 8.5 miles east of Newark Heath Airport. Also, this action removes the Newark Heath transition area description from the Columbus, Ohio, transition area and establishes a separate transition area in order to simplify both descriptions.

Minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 57310 of the **Federal Register** dated December 29, 1983, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Newark, Ohio. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 10, 1984, as follows:

§ 71.181 [Amended]

Newark, OH.

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Newark Heath Airport, Newark, Ohio (latitude 40°01'29" N., longitude 82°27'44" W.); within 1.5 miles either side of the 324° bearing from Newark Heath Airport, extending to 11 miles northwest of the airport; within a 6 mile radius of Buckeye Executive Airport, Hebron, Ohio (latitude 39°57'42" N., longitude 82°32'28" W.); within 6 miles either side of the 351° bearing from the airport, extending to 12.5 miles north of the airport.

(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))

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. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); 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 Des Plaines, Illinois, on February 24, 1984.

James M. Dermody,

Acting Director, Great Lakes Region.

[FR Doc. 84-5889 Filed 3-5-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Admininstration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAM's) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAM's. It adds, to Notice 91-100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE/TIME: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022A, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch, Office of the Associate Administrator for Air Traffic, Federal Aviation Administration, 800

Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et seq.* In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regluations to all persons who may not have received the NOTAM's concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAM's under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAM's respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the air traffic control system, the NOTAM's concerning these regulations are available at operating air traffic facilities and regional air traffic division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91-100 follow the adoption of SFAR Nos. 44 through 44-6, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the air traffic control system. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, 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."**

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAM's under that section.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

In consideration of the foregoing, section 2 of Notice 91-100 is hereby amended by adding the following Notice to Airmen following the words "Cancel FDC NOTAM 3/1299."

FDC 4/002 Cancel FDC NOTAM 1/2646 Emergency Flight Rules, FDC NOTAM 3/1917 Emergency Flight Rules, and FDC NOTAM 3/1919 Emergency Flight Rules.

Issued in Washington, D.C., on February 28, 1984.

R. J. Van Vuren,

Associate Administrator for Air Traffic.

[FR Doc. 84-5887 Filed 3-5-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 93

[Docket No. 22471; Amdt. 93-46]

High Density Traffic

AGENCY: Federal Aviation Administration (FAA), Transportation (DOT).

ACTION: Interim final rule; requests for comments.

SUMMARY: This amendment revises the "High Density Traffic Airport Rule" or "High Density Rule" insofar as it applies to O'Hare International, Kennedy International, and LaGuardia Airports. The amendment increases the hours in which limitations at O'Hare Airport are applicable and increases the number of operations permitted at the airport. The amendment slightly increases the number of operations allowed at LaGuardia and Kennedy Airports. The distribution of the operations among the various classes of users are also

amended. This amendment results from a review of capacity at the affected airports, air traffic and airport data, and experience levels of air traffic control personnel. This amendment is being issued as an interim action and will be reviewed again in the fall of 1984, with further action becoming effective January 1, 1985.

DATES: *Effective Date:* April 1, 1984.

Comments concerning this amendment must be submitted by March 10, 1984.

A public hearing will be held on March 13, 1984.

ADDRESSES: Send comments on the issues presented in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 22471, 800 Independence Avenue, SW., Washington, D.C. 20591

or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

The public hearing will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., Third Floor Auditorium, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Deputy Chief Counsel, AGC-2, Telephone: (202) 426-3775

or

Harold Becker, Airspace and Air Traffic Rules Branch, AAT-230, Telephone: (202) 426-3759

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this regulatory action by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22471." The postcard will be date/time stamped and returned to the commenter. All communications received between the specified opening and closing dates for comments will be considered by the Administrator before taking action on any further rulemaking. Also, this rule may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

In addition to seeking comments on this amendment, the FAA will hold a public hearing to allow additional public input. The hearing will be held on March 13, 1984, at the Federal Aviation Administration, 800 Independence Avenue, SW., Third Floor Auditorium. This meeting will maximize the ability of those affected by the amendment to participate in the rulemaking.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591; or by calling (202) 426-8058. Communications must identify the amendment number of the document.

Meeting Procedures

Persons who plan to attend the hearing should be aware of the following procedures to be followed:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation.

(b) The hearing will begin at 9:00 a.m. (local time). There will be no admission fee or other charge to attend and participate. All sessions will be open to all persons on a space available basis. The presiding officer may accelerate the meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) All meeting sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the presiding officer. Participants submitting handout materials must present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Hearing Schedule

The schedule for the meeting is as follows:

March 13, Washington, D.C.

9:00 to 9:15—Presentation of Meeting Procedures.

9:15 to 10:00—FAA Presentation of Amendment.

10:15 to 12:15—Public Presentation and Discussion.

1:30 to 5:00—Public Presentation and Discussion.

Background

Federal Aviation Regulations (FAR) Amendment No. 93-13, effective April 27, 1969 (33 FR 17896, December 3, 1968), designated Kennedy, O'Hare, LaGuardia, Washington National, and Newark Airports as high density airports and prescribed special air traffic rules, known as the "High Density Rule," that apply to operations at those airports. The High Density Rule (FAR Part 93, Subpart K) was imposed on a trial basis with the general support of the air carriers in response to rapidly growing problems of congestion and delays at those airports. The rule established limitations (quotas) on the number of Instrument Flight Rule (IFR) reservations per hour that would be accepted at those airports and allocated the hourly reservations among the three classes of users: air carriers except air taxis, scheduled air taxis (commuter airlines), and all other operators—primarily general aviation operators but also charter operators. In 1973, the High Density Rule was made permanent, subject to continuing FAA review (38 FR 29463, October 25, 1973).

The hourly quotas were set at the predominant IFR capacity for each airport, as determined by the FAA. The predominant IFR capacity is the airport's capacity under the circumstances and configurations most frequently encountered when weather conditions preclude Visual Flight Rule (VFR) operation. In accordance with the policy announced by the FAA at the time the High Density Rule was adopted, the rule has been periodically reviewed to ascertain whether a continuing need for the quotas existed and whether the

quotas should be modified to reflect changing circumstances. In the course of these reviews the quotas at Kennedy and O'Hare Airports were removed, except for a peak period from 3:00 p.m. to 7:59 p.m., local time. In addition, the entire quota at Newark was suspended indefinitely, and the procedures applicable to Washington National Airport were modified.

As a result of the 1981 strike by air traffic controllers, the quotas at O'Hare and LaGuardia Airports are currently established under an Interim Operations Plan (Special Federal Aviation Regulation (SFAR)) No. 44–5 as amended (see 14 CFR Part 91), rather than the High Density Rule (the Interim Operations Plan restrictions at Kennedy were lifted last summer). The Interim Operations Plan was adopted to ensure safety of the air traffic system at its abruptly reduced capacity. Pending restoration of system capacity, the plan has required reduction in operations at congested airports, including those covered by the High Density Rule. The limitations imposed by the Interim Operations Plan are more stringent than the High Density Rule quotas. Complementary flow control has been used extensively to minimize airborne delays when congestion does develop. The Interim Operations Plan is currently being phased out on an individual airport basis as the air traffic system capacity at an airport is restored. All Interim Operations Plan restrictions have been lifted except at Denver Stapleton Airport (restrictions scheduled to be removed on April 1, 1984), Los Angeles International Airport (restrictions scheduled to be removed on August 26, 1984), O'Hare Airport and LaGuardia Airport. At LaGuardia Airport (where Interim Operations Plan restrictions were originally planned to be removed on March 15) and at O'Hare Airport the Interim Operations Plan will be removed on April 1 to be consistent with the effective date of this amendment.

On September 7, 1981, United Air Lines, Inc., filed a petition for rulemaking in accordance with the provisions of § 11.25 of the FAR requesting that O'Hare Airport be deleted from the list of airports subject to the High Density Rule. The FAA published a summary of the petition in the **Federal Register** on December 28, 1981 (46 FR 62663), and also invited comment on United Air Lines' petition in connection with the applicability of the rule at John F. Kennedy International Airport and LaGuardia Airport. Forty-two comments were received from air carriers, industry associations, State airport and governmental authorities, and local community associations. Most of the comments favored termination of the High Density Rule insofar as it applies to O'Hare Airport. Many of the comments also favored removal of the rule at the other airports subject to the rule. After review and analysis of the United Air Lines petition and the comments received thereon, the FAA determined that, except as it applies to the Washington National Airport, further comments should be sought on removal of the restrictions of the High Density Rule.

Accordingly, the FAA issued Notice of Proposed Rulemaking No. 83–2 on March 28, 1983, which was published in the **Federal Register** on March 31, 1983 (48 FR 13434). In Notice No. 83–2, the FAA proposed to rescind the High Density Rule insofar as it applied to O'Hare International Airport, John F. Kennedy International Airport, LaGuardia Airport, and Newark Airport. Public hearings on Notice No. 83–2 were held in Chicago and New York City.

Rationale for the Rule

Since the agency issued the Notice of Proposed Rulemaking in March of last year, the entire air traffic system, including recent increases in aircraft operations, has been monitored closely. The Notice stated that the agency believed that new airspace management programs under development would more efficiently manage and equitably distribute air traffic delays in the air and on the ground. The notice further stated that the existing rule may impose artificial restraints on the industry while the system is capable of handling increased traffic.

While these statements remain valid, the agency believes that the regulatory limitations of the High Density Rule must remain in effect for a time to maintain a safe and efficient airspace system. Use of this proven mechanism is essential while the current controller work force develops the necessary experience to handle the higher demands upon the system that may result from alternative regulatory methods of control.

If the Interim Operations Plan and the High Density Rule are withdrawn, there may be shifting of hundreds of operations within minimum time periods. Although the air traffic system is fully capable of handling the hourly total of these operations if spread throughout each hour and the entire day, the existing carrier scheduling practices if magnified by a large increase in traffic (if all limitations were eliminated) could place unnecessary burdens on the system and could result in major air traffic delays and diversions to unplanned airports.

Under the rule being adopted, the safety of the air traffic system will not be lessened. Air traffic procedures, including flow control, will ensure that aircraft will remain on the ground until they can be accommodated. Without a rule, ground delay, which could seriously impact ground facilities including gate and ramp congestion, would increase.

Large numbers of aircraft even if held at the departure airport, however, still could severely impact the efficiency of the air traffic system. An unrestricted increase in the number of aircraft held by air traffic control in the air is also not in the interest of air traffic safety and efficiency. As stated earlier in this document, existing air traffic procedures ensure that only the aircraft that can be safely and efficiently handled are accommodated. The ATC system, under the Interim Operations Plan currently in effect and flow control procedures at airports where the plan is not in effect, assures that aircraft are kept on the ground to the extent necessary to prevent an unsafe condition from developing due to air congestion at the destination airport. The agency must ensure that those involved in handling traffic focus on the actual movement of aircraft.

These temporary limitations must reflect the true capacity of the airports including the newer, more advanced equipment and facilities at those airports. The agency has and will continue to implement programs which provide for more efficient utilization of the airspace. Although those programs allow for an increase in capacity, they will not provide for the handling of an unlimited number of aircraft operations into an airport that can only accommodate a limited number.

The agency's concern is not only on the total number of operations at a particular airport but also on the concentration of a majority of those operations within a short period of time which is exacerbated by certain "hubbing" practices. Under the Interim Operations Plan, operations were spread out over a large portion of the day. Even with the Interim Operations Plan in effect, however, the following exemplifies airline scheduling practices:

O'HARE

Time period	Number of operations scheduled
11:00 a.m. to 11:30 a.m.	32
11:30 a.m. to 12:00 noon	75
15:45 to 16:15	78
16:15 to 16:45	33
18:15 to 18:45	52
18:45 to 19:15	94

The agency recognizes that schedules listed in the Official Airline Guide do not always reflect actual time of departure or arrival. The scheduling set out above, however, is reflective of overall aircraft activity at O'Hare Airport.

Compliance with the High Density Rule must reflect the actual time of aircraft operation (arrival or departure). The agency expects that scheduling practices will be consistent with this rule. If overall scheduling is consistent with the actual aircraft operations, the agency will continue to use airline schedules to determine whether there is compliance with the rule. If, however, actual arrival and departure times consistently vary from published schedules, the agency will base compliance with the rule on actual arrival and departure times.

The limitations contained in this amendment are necessary for the safe and efficient utilization of the nation's airspace. The agency recognizes, however, that it is possible that alternative methods of accomplishing the same result may exist. The agency believes that those individuals in all segments of the industry and the public with vast expertise in aircraft scheduling and aircraft management should be given an opportunity to assist the agency in reviewing this issue. Therefore, the agency is requesting comments on this rule and will hold a public hearing.

In setting these restrictions, it is necessary to ensure that the impact on scheduled air carrier/commuter operations must be minimized. To accomplish this, the agency will closely monitor operations under the High Density Rule. All operations, including charters, general aviation, and extra sections, will be required to operate within the parameters of the rule. Appropriate action will be taken against any operator not operating in conformity with these regulations.

Rule Review

The agency will continue to examine other ways of responding to demands to ensure a safe and efficient system while providing maximum flexibility to users. The agency will reexamine within the next 6–9 months the capability of the air traffic control system to handle the unusual demands that a less constrained system may create, such as significant airborne holding and multiple requests by operators for release from gates. This will be examined in connection with airport capacity and the experience levels of air traffic control personnel. At the completion of that review the FAA plans to eliminate all unwarranted restrictions, effective Janaury 1, 1985.

The Rule

LaGuardia Airport and Kennedy International Airport

The agency has concluded that the High Density Rule must remain in effect at both LaGuardia and Kennedy Airports. Both airports are limited in their ability to handle increased traffic. Continuous delays at either airport would significantly affect the efficiency of the entire air traffic system.

The agency recognizes that the distribution of operations to the classes of users in the High Density Rule was set at a time when the air carrier and commuter industries were significantly different than they are today.

As a result of airport and system improvements, LaGuardia Airport is able to accommodate eight additional operations per hour. In determining the number of operations to be permitted at any airport, the agency performs an engineering analysis of each airport. The analysis considers a number of factors including all possible runway configurations under a variety of weather conditions. Also evaluated are types of aircraft utilizing the airport and ground capability as well as historical data.

Therefore, the total hourly number of slots to be available for allocation by air carriers and commuters will be 62. The agency will allocate those hourly slots as follows:

Air carriers	48
Commuters	14
Other	6
Total	68

This distribution will ensure that both commuters and air carriers will be able to increase operations above their current levels. The slot limitation applicable to the "other" class is not changed. This recognizes the ability of those operators to obtain additional VFR and IFR authorization, the need to minimize disruption of scheduled operations, and the availability of alternative airports for these operators. The increase in commuter slots to 14 recognizes the change in the number and nature of their operations since promulgation of the original High Density Rule. The agency recognizes that commuter operators have a high number of seasonal operations during the summer months at LaGuardia. The agency will review experience under the rule along with all available information to determine whether additional operations can be accommodated for the summer months. Comments are invited on this issue.

As explained earlier in this document, there is a tendency of carriers to bunch flights in certain half hours. The number of operations can be increased if those slots are more evenly distributed through each hour, thus, reducing the need to impose aircraft departure delays. Thus, the agency is increasing the allowable level of operations at LaGuardia to 68 per hour (48 for air carriers, 14 for commuters and 6 for "other"); however, the following limitations apply:

(1) There may be no more than 36 (26 for air carriers, 7 for commuters and 3 for "other") operations in any one 30-minute period.

(2) There may be no more than 68 (48 for air carriers, 14 for commuters and 6 for "other") operations in any two consecutive 30-minute periods.

The Port Authority, in its comments, suggested that further discussions be held between itself, the agency, and operators at the airport. The agency would like the views of the Port Authority, as well as those of other parties on these issues. In this connection, the FAA intends to meet with these parties to discuss their views in order to assure that the issues are fully developed and considered. It is anticipated that these discussions will take place during the next few weeks. Therefore, if any further adjustment need be made to this rule as it applies to LaGuardia and Kennedy Airports those adjustments will be completed so that a final rule will be effective as to both airports before April 1, 1984. The Agency particularly invites comments on the addition of a 30-minute limitation. This limitation was added to increase the overall number of hourly operations. If this limitation is withdrawn, the number of operations would have to be reduced by approximately 10%.

The current high density limitations at Kennedy Airport, which are applicable from 3:00 p.m. through 7:59 p.m. (local time), are as follows:

Air carriers	[1] 70
Commuters	5

Other	5

[1] The allocation for air carriers is 80 per hour from 5:00 p.m. through 7:59 p.m. (local time).

The agency, at this time, will not extend the hours of operation of the High Density Rule at Kennedy Airport. As is the case for the other high density airports, the slots available to the commuters and air carriers must be redistributed to reflect the changes in the industry since the rule was promulgated. In addition, some adjustments are necessary to reflect current scheduling practices and existing schedules. Therefore, the agency has set the appropriate hourly limitations at Kennedy as follows:

	Air carriers	Commuters	Other
1500	69	15	2
1600	74	12	2
1700	80	13	0
1800	75	10	2
1900	63	12	2

This adjustment reflects an increase in allowable commuter operations during the high density hours. In focusing on the hourly slot limitation, it should be noted that in accordance with 14 CFR 93.123 slots not utilized by air carriers may be utilized by commuters. In addition, operations can be moved to the nonhigh density hours. This adjustment also reflects a change in the allowable hourly operations conducted by "other" operators. Experience shows that these nonscheduled operations can be accommodated by the air traffic system under most weather conditions. In fact, larger numbers are accommodated during many hours. Since they are nonscheduled and since the unique nature of scheduled operations at Kennedy are such that demand varies from day to day, the current number of these operations should not be significantly affected. The agency may adjust these limitations after all comments have been reviewed.

Comments are invited on this issue. As is the case with LaGuardia Airport, the agency solicits comments from all affected parties. All parties are reminded that, as is the case at all high density airports, the limitations at Kennedy will be strictly enforced.

O'Hare International Airport

One hundred eleven comments, including those made or submitted at the pubic hearings, were received on the proposal to rescind the High Density Rule insofar as it applies to O'Hare International Airport. A majority of those comments favored rescinding the rule although a large number opposed the proposed action. The comments submitted basically reflect the comments made on the petition for rulemaking filed by United Air Lines. A summary of that petition was published in the **Federal Register** on December 28, 1981 (46 FR 82664), and the comments received were discussed in Notice No. 83-2.

Comments that supported the proposal to rescind the High Density Rule stated that the rule is outdated and no longer needed in view of the increase in capacity at O'Hare Airport and advancements in the ATC System since the High Density Rule was adopted in 1968, i.e., improved ATC programs and procedures predict and help reduce airborne delay, air traffic flow control management procedures now use ATC computers to predict airport congestion and effect flow control measures to minimize costly fuel consumption, and measures, such as en route metering and terminal spacing programs, gate holds, and preferential routings that have been implemented. In addition, airport improvements have increased ground capacity.

Commenters who favored rescission also stated that the rule is not needed for the safety of aircraft and efficient utilization of the navigable airspace. They also noted that the rule was never intended to correct any safety problem, and that air carriers now take steps to solve congestion/delays themselves in response to economic incentives. These commenters believe the High Density Rule does not reflect the true capacity of O'Hare Airport, inhibits the economic development of the regions and cities served by the airport, and masks problems which should be dealt with by alternative solutions, such as increased groundside capacity and installation of newer, more advanced equipment and facilities.

Representatives of three communities in the area surrounding the airport and a number of residents of the area opposed rescission of the rule because they believed it would result in additional noise in their homes, which they state is already unacceptable.

The noise analysis presented in the Finding of No Significant Impact (FONSI) filed in the docket determined that the change in area impacted by noise in 1985, compared with 1980, would most likely be reduced by 0.8 percent. In the "worst-case" situation, assuming an increase of 100 operations per day, the area impacted would be increased by 0.7 percent. This latter change falls well within the FAA's guidelines for an insignificant change in noise impact (less than 17 percent increase in impacted land area, or 1 decibel in cumulative noise level).

The above evaluation was made using the Civil Aeronautics Board (CAB) Noise Screening Test (14 CFR Part 312, Appendix I). One commenter stated that the new Area Equivalent Method, developed jointly by FAA and CAB, should have been used for determining the change in noise impact, inasmuch as the earlier CAB Noise Screening Test was too insensitive to detect changes in noise impact created by specific types of aircraft. In response to this comment, FAA recalculated the "worst-case" situation, using the new procedure. The increase in impacted area within the 65 dB average day-night sound level contour for the "worst-case" comparison was 1.5 percent, using the Area Equivalent Method. This increase remains well within the accepted criterion of a 17 percent increase in impacted land area for the threshold of significance, and represents an increase in cumulative noise level of 0.1 dB.

Another commenter asked if it were possible for the FAA to issue a "Finding of Significant Impact," i.e., a non-FONSI. Under appropriate conditions, the FAA routinely issues what could be termed a Finding of Significant Impact but the correct title for such a document is an Environmental Impact Statement (EIS). An EIS is issued in compliance with Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in regulations issued by the Council on Environmental Quality (40 CFR Part 1500) and FAA Order 1050.IC. These procedures provide guidance for preparing EIS's and FONSI's.

One commenter noted that airport noise reduction has actually been accelerated more by fleet replacement and modernization, mandated by FAR Part 91, Subpart E, than by limited access restrictions. The newest technology aircraft are further accelerating noise reductions, as more and more models are designed to meet the Stage 3 noise standards of FAR Part 36. Thus, more airplanes can operate into O'Hare International Airport today, with less noise impact, than was possible when the rule was adopted in 1969. The commenter further noted that if fleet modernization is to continue with the resultant noise reduction benefits, aircraft operators must be rewarded for their investment in new, quieter airplanes by granting them an opportunity for increased airport access.

Notice No. 83-2 stated that: "While the City of Chicago strongly supports United's petition, the State of Illinois and a number of local communities

surrounding O'Hare Airport objected to the removal of O'Hare Airport from the restrictions of the High Density Rule until an environmental impact assessment has been completed. However, these commenters subsequently agreed to the repeal of the High Density Rule insofar as it applies to O'Hare Airport." In its comments to Notice No. 83-2, one of the local communities stated that it signed the agreement to waive its right to object to the rescission of the rule so that suburban community interests would be recognized and considered in present and future development plans for O'Hare Airport and its operations. Nevertheless, it stated that this should not be construed to mean it favored rescission. Two of the three local governments that commented on the proposal were parties to the Consent Decree which was executed by the City of Chicago, the State of Illinois, the FAA and 17 suburban communities in the O'Hare Airport area. The City of Chicago, "to make sure that the record is clear" on the relationship between the proposed repeal of the rule and the proposed Phase II Development Program at O'Hare Airport, commented that, in accordance with the Consent Decree, the environmental assessment which it provides to the FAA and the public in support of Phase II projects will assume repeal of the High Density Airport Rule. The City further stated that the Draft Environmental Impact Statement (DEIS) which it has submitted for public hearings complies with the requirements of the Consent Decree. The City also stated that removal of the rule, in and of itself, will not allow significant increases in capacity because of other physical constraints at O'Hare Airport; that any significant increases in capacity will result primarily from the Phase II development program. Therefore, they included an analysis of the environmental impact of certain capacity increases in the DEIS for the development.

Several commenters recommended that consideration of the proposal be deferred until the ATC system has been returned to pre-strike status and/or it is actually capable of accommodating increased flight operations at major hub airports. They are concerned that there are still not enough experienced air traffic controllers to adequately staff all control positions on a continuing basis at some of the busier airports, and that if the rule is rescinded, it will tend to encourage the aviation community to placed undue pressure on the FAA to prematurely handle increases in air traffic at the affected airports. To the extent that the commenter is concerned with safety issues, the FAA does not agree that it can be pressured into increasing air traffic beyond that which the ATC system can safely and handle efficiently.

To the extent that the commenters are concerned that increasing the number of operations allowed by the rule may result in airport delays and congestion after the Interim Operations Plan is terminated, it should be noted that neither the High Density Rule nor the agency's other air traffic control programs will eliminate all delays or congestion. Although the High Density Rule may reduce delays and congestion, the old limitations, which are being changed by this rule, impose undue restraints on the aviation community and the public since the system is capable of handling increased traffic. The ATC flow control program, which is utilized at all airports including the four airports subject to the High Density Rule, would be available to the extent necessary to dissipate airport delays and congestion which occur despite the high density limitations.

As a result of the airport and air traffic system changes since the rule was first promulgated, capacity at O'Hare can be increased. However, that increase in capacity cannot be unlimited. After the new limitations being adopted here have been in place for 6-9 months, they will be further reviewed. Incorporation of the new limitations during the hours of 3:00 p.m.-7:59 p.m., while leaving the remainder of the day without limitations, would result in many of the same problems that this rule is intended to eliminate. For this reason, the hours during which the rule is applicable are being expanded. The extension of the rule to additional hours should not affect any carrier. Data show that under the Interim Operations Plan, as well as prior to its implementation, the total of air carrier and commuter operations did not exceed the maximum allowed by any hour. In fact, during most hours there are a significant number of slots available for allocation.

As explained above, the agency is also increasing the number of operations allowed under the rule. The new hours of operations are 6:45 a.m. through 9:15 p.m. The new (except as described below) hourly limitations are as follows:

Air Carriers	120
Commuters	25
Other	10

The distribution reflects a change in character of commuter and air carrier operations since the High Density Rule was first promulgated. In addition, as a result of a change in the definition of commuters (explained later in this document) a number of operations currently using air carrier slots will have to use commuter slots under the revised rule, thus, increasing the demand for commuter slots.

The number of commuter operations during certain hours of the day at O'Hare have historically been greater than in other hours. To compensate for this (particularly since these hours are ones in which air carrier demand is not as great), the rule being adopted increases the number of commuter operations in the 6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m., and 8:45 p.m. hours by 15 while reducing the air carrier limitations in those hours by 15. In addition, the number of commuter operations allowed in the 3:45 p.m. hour is increased by 5 while the number of air carrier operations in that hour is reduced by 5.

The agency solicits additional comments on this increase and distribution of slots and will discuss this with all affected parties. The agency would particularly like comments on whether the slots available for allocation among air carriers and commuters should vary from hour to hour (the total hourly limitation would not change) to allow for better overall scheduling flexibility. It must be noted that this rule would allow for an increase of approximately 450 operations above those currently conducted by air carriers and commuters at O'Hare Airport.

As explained earlier in this document, the number of operations can only be increased to the extent that they are by this rule if those operations are more evenly distributed throughout each hour. Thus, the agency is increasing the allowable level of operations to 155 per hour, as described above; however, the following limitations apply:

(1) There shall not be more than 80 (62 for air carriers, 13 for commuters, 5 for "other") operations in any one 30-minute period beginning at 6:45 a.m. (local time) and continuing for 30-minute periods until 9:15 p.m.

(2) There shall not be more than 155 (120 for air carriers, 25 for commuters, 10 for "other") operations in any two consecutive 30-minute periods. This limitation is necessary to eliminate many of the problems of the concentration of operations previously identified.

(3) For the hours in which commuter operations are increased (6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m. and 8:45 p.m.), there shall not be more than 155 (105 for air carriers, 40 for commuters, 10 for "other") operations in any two

consecutive 30-minute periods. The maximum number of operations allowed in any 30-minute period within these hours is 80 (55 for air carriers, 20 for commuters, 5 for "other"). [In the 3:45 p.m. hour, there should not be more than 155 operations (115 for air carriers, 30 for commuters and 10 for "other".) The maximum number of operations allowed in any 30-minute period within this hour is 80 (60 for air carriers, 15 for commuters and 5 for "other.")]

(4) For those 60-minute periods which include one 30-minute period in which commuter operations are increased and one 30-minute period without the commuter increase (8:15–9:15 a.m., 11:15–12:15 p.m., 12:15–1:15 p.m., and 7:15–8:15 p.m.) there shall not be more than 155 operations (113 for air carriers, 32 for commuters and 10 for "other".)

The agency would like the views of all parties on these restrictions. As is the case at Kennedy and LaGuardia airports, the FAA intends to meet with these parties to discuss their views in order to assure that the issues are fully developed and considered.

The following illustrates the requirement for O'Hare:

Examples

Example I

If the total number of operations is scheduled as follows:

	Air carriers	Commuters
5:45 to 6:15 p.m	65	13

Then, to ensure that operations do not exceed the total operations allowable in two consecutive 30-minute periods (120 for air carriers, 25 for commuters, 10 for "other"), the 30-minute periods immediately preceding and following 5:45–6:15 p.m. would be limited as follows:

	Air carriers	Commuters
5:15 to 5:45 p.m	55	12
6:15 to 6:45 p.m	55	12

Under this example the total number of air carrier operations in the 5:15–6:15 p.m. hour would not exceed 120 for air carriers and 25 for commuters and that number is not exceeded in any two consecutive 30-minute periods (during the 5:15–6:15 p.m. period the total is 120 for air carriers and 25 for commuters and during the 5:45–6:45 p.m. period the total is 120 for air carriers and 25 for commuters). To further exemplify these requirements, if the air carrier totals in the 5:45–6:15 p.m. period were 63, then the number of slots allowed in both 5:15–5:45 p.m. and 6:15–6:45 p.m. periods would be 57.

Example II

If the total number of operations is scheduled as follows:

	Air carriers	Commuters
8:45 to 9:45 a.m	62	13

The two 60-minute periods which must be examined to determine compliance (under this example) with the rule are 8:15–9:15 a.m. and 8:45 and 9:45 a.m.

Since 8:15 to 9:15 a.m. includes one 30-minute period in which commuter operations have been increased (8:15 to 8:45 a.m.), the total operations allowed during that 60-minute period are:

Air Carriers, 113.
Commuters, 32.

Therefore, to ensure that operations do not exceed the total operations allowable in the two consecutive 30-minute periods (8:15–8:45 a.m. and 8:45 to 9:15 a.m.) the maximum operations allowed in the 8:15 to 9:15 a.m. period would be:

	Air carriers	Commuters
8:15 to 8:45 a.m	51	19
8:45 to 9:15 a.m	62	23
Total	113	42

For the 8:45 to 9:45 a.m. hour, the maximum totals are 120 for the air carriers and 25 for the commuters. Therefore, the maximum operations allowed in the 8:45–9:45 a.m. period are as follows:

	Air carriers	Commuters
8:45 to 9:15 a.m	62	13
9:15 to 9:45 a.m	58	12
Total	120	25

Attached to this document is a chart which sets forth the 30- and 60-minute limitations at O'Hare.

Newark Airport

Notice No. 83–2 proposed to rescind the High Density Rule insofar at it applies to Newark Airport since the limitation under IFR or VFR at Newark has been suspended for a number of years. In response to this proposal, the Port Authority of New York and New Jersey stated: "The FAA should retain the right to quickly reimpose quotas because of the dynamic aviation situation which faces the New York-Newark area." Other commenters urged rescission of the rule as proposed. As noted in Notice No. 83–2, the rule was suspended at Newark Airport in 1970, almost 13 years ago, and as stated by one commenter, Newark remains far from approaching a saturation level—either groundside or airside—and the situation at Newark is not unlike the situation that exists at many airports that are not subject to the High Density Rule.

While the agency recognizes that current levels of operations are below capacity, overall operations at Newark have increased significantly during the past year. Continued increases once again could affect airspace efficiency. For this reason, this portion of the rule is not rescinded although the limitations contained in the rule for operations at Newark remain suspended.

Changes Applicable at Each Covered Airport

In order to ensure that the rule applies in an equitable manner, some additional adjustments must be made to the rule as it applies at the covered high density airports. Firstly, the definitions of air carriers and air taxis which apply at Washington National Airport are extended to all airports. Under this definition, operations conducted by scheduled operators in aircraft having a certificated maximum passenger seating capacity of 56 or more must be conducted using air carrier slots. Operations conducted with aircraft having a certificated maximum passenger seating capacity of less than 56 seats must be conducted using commuter slots. Some operators with both size aircraft will have to use both air carrier and commuter slots. In addition, the term "commuter" is inserted in lieu of the term "air taxi" which is currently used in the High Density Rule. This reflects the change in the industry since the rule was first promulgated. It also is consistent with the redistribution of slots among the classes of users. Secondly, the limitations on additional IFR operations which currently apply at Washington National Airport (14 CFR 93.123(c)) are extended to all scheduled operations at the covered airports. In addition, these limitations are also extended to VFR operations. Under these restrictions, "scheduled operations" may not take off or arrive at a high density airport without slot approval obtained in accordance with Section 93.123 whether

the operation is VFR or IFT. This will ensure that only those operations with appropriate approval will be conducted at the airports. This will greatly reduce the number of aircraft operating at the airports without authority and will lessen delays for scheduled operations.

In order to conduct a nonscheduled operation at a high density airport, the operator must obtain a reservation from the Airport Reservation Office. The procedures for such reservations are contained in Advisory Circular No. 90-43. The agency is reviewing that Advisory Circular in order to revise it to be consistent with this rule.

Regulatory Evaluation

Because the Interim Operations Plan currently restricts operations at O'Hare International and LaGuardia Airports to levels below those contained in this amendment and no changes are proposed in the level of operations at the other airports subject to the High Density Rule, it will have no immediate overall economic impact on the public.

When the restrictions imposed by the Interim Operations Plan are removed, it is anticipated that operations will rise until the new higher hourly operations quotas for O'Hare International established by this amendment are reached. Since the High Density Rule was first implemented, improvements in facilities and ATC procedures have increased airport and air traffic system capacity at O'Hare International and LaGuardia Airports to levels proposed in this amendment. Therefore, this amendment will have no net adverse economic impact on the public. Rather, by enabling maximum utilization of current capacity and, therefore, more efficient use of scarce resources, it may, in fact, have a net positive long-range economic impact on the public.

Regulatory Flexibility Determination

This amendment does not impose any new requirements on small entities. It increases the number of hourly operations which may be performed by air carriers and commuters at O'Hare International and commuters at LaGuardia and Kennedy. Small operators will be permitted to operate more flights. They also may incur more delays. Small communities should benefit from added service. Overall, the FAA has determined that the amendment will not have a significant economic impact on a substantial number of small entities. The FAA has prepared and included in the regulatory docket a regulatory flexibility assessment for this amendment.

List of Subjects in 14 CFR 93

Aviation safety, Air traffic control.

The Amendment

PART 93—[AMENDED]

Accordingly, Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is amended as follows, effective April 1, 1984:

Subpart K—High Density Traffic Airports

1. By removing the words "air taxi" wherever they appear in this subpart and inserting in lieu thereof the word "commuter."

2. By revising the chart in § 93.123(a) to read as follows:

§ 93.123 High density traffic airports.

* * * * *

IFR Operations per Hour

AIRPORT

Class of user	LaGuardia [4]	Newark	O'Hare [2] [3]	Washington National [1]
Air carriers	48	40	120	37
Commuters	14	10	25	11
Other	6	10	10	12

JOHN F. KENNEDY

	Air carriers	Commuters	Other
1500	69	15	2
1600	74	12	2
1700	80	13	0
1800	75	10	2
1900	63	12	2

[1] Washington National Airport operations are subject to modifications per Section 93.124.

[2] The hour period in effect at O'Hare begins at 6:45 a.m. and continues in 30-minute increments until 9:15 p.m.

[3] Operations at O'Hare International Airport shall not—

(a) Except as provided in paragraph (c) of the note, exceed 62 for air carriers and 13 for commuters and 5 for "other" during any 30-minute period beginning at 6:45 a.m. and continuing every 30 minutes thereafter.

(b) Except as provided in paragraph (c) of the note, exceed more than 120 for air carriers, 25 for commuters, and 10 for "other" in any two consecutive 30-minute periods.

(c) For the hours beginning at 6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m. and 8:45 p.m., the hourly limitations shall be 105 for air carriers, 40 for commuters and 10 for "other," and the 30-minute limitations shall be 55 for air carriers, 20 for commuters and 5 for "other." For the hour beginning at 3:45 p.m., the hourly limitations shall be 115 for air carriers, 30 for commuters and 10 for "others", and the 30-minute limitations shall be 60 for air carriers, 15 for commuters and 5 for "other."

[4] Operations at LaGuardia Airport shall not—

(a) Exceed 26 for air carriers, 7 for commuters and 3 for "other" during any 30-minute period.

(b) Exceed 48 for air carriers, 14 for commuters, and 6 for "other" in any two consecutive 30-minute periods.

* * * * *

3. By removing § 93.123(b)(2) and marking it [Reserved].

4. By removing the words "For operations at Washington National Airport" in paragraph § 93.123(c) and substituting "For purpose of this subpart" in lieu thereof.

§ 93.129 [Amended]

5. By removing the words "Washington National Airport" in the first sentence of § 93.129(a) and substituting "a high density airport" in lieu thereof.

6. By revising the first sentence of § 93.129(b) to read as follows:

* * * * *

(b) VFR. The operator of an aircraft may take off and land the aircraft under VFR at a designated high density traffic airport without regard to the maximum number of operations allocated for that airport if the operation is not a scheduled operation to or from a high density airport and he obtains a departure or arrival reservation, as appropriate, from ATC.

* * * * *

7. By revising § 93.129(c) to read as follows:

* * * * *

(c) For the purpose of this section a "scheduled operation to or from the high density airport" is any operation regularly conducted by an air carrier or commuter between a high density airport and another point regularly served by that operator unless the service is conducted pursuant to irregular charter or hiring of aircraft or is a nonpassenger flight.

8. By removing the words "Washington National Airport" in § 93.129(d) and substituting "a high density airport" in lieu thereof.

9. By revising § 93.133 to read as follows:

§ 93.133. Exceptions.

Except as provided in § 93.130, the provisions of §§ 93.123 and 93.125 do not apply to—

(a) The Newark Airport, Newark, New Jersey;

(b) The Kennedy International Airport, New York, New York, except during the hours from 3:00 p.m. through 7:59 p.m., local time; and

(c) O'Hare International Airport from 9:15 p.m. to 6:44 a.m., local time.

(Secs. 103, 307, 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348, 1354(a) and 1421(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.49 of the Federal Aviation Regulations (14 CFR 11.49))

Note.—For the reasons set forth in the preamble to this amendment: (1) The FAA has determined that the amendment does not involve a major rule under Executive Order 12291 and (2) is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this rule will not

have a significant economic impact on a substantial number of small entities. A copy of the draft regulatory evaluation prepared for this action can be obtained from the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on March 1, 1984.

Michael J. Fenello,

Acting Administrator.

Attachment to Amendment No. 93–46

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

O'Hare Airport

The following chart sets forth the maximum number of operations allowed in any one or two 30-minute time period(s) at O'Hare International Airport as a result of this amendment. Both limitations must be complied with to be consistent with the rule.

Hours	Air carrier	Commuter	Other
6:45 to 7:15 a.m	105	40	10
6:45 to 7:45 a.m	55	20	5
7:15 to 7:45 a.m	55	20	5
7:15 to 8:15 a.m	105	40	10
7:45 to 8:45 a.m	105	40	10
7:45 to 8:15 a.m	55	20	5
8:15 to 8:45 a.m	55	20	5
8:15 to 9:15 a.m	113	32	10
8:45 to 9:45 a.m	120	25	10
8:45 to 9:15 a.m	62	13	5
9:15 to 9:45 a.m	62	13	5
9:15 to 10:15 a.m	120	25	10
9:45 to 10:45 a.m	120	25	10
9:45 to 10:15 a.m	62	13	5
10:15 to 10:45 a.m	62	13	5
10:15 to 11:15 a.m	120	25	10
10:45 to 11:45 a.m	120	25	10
10:45 to 11:15 a.m	62	13	5
11:15 to 11:45 a.m	62	13	5
11:15 to 12:15 p.m	113	32	10
11:45 to 12:45 p.m	105	40	10
11:45 to 12:15 p.m	55	20	5
12:15 to 12:45 p.m	55	20	5
12:15 to 1:15 p.m	113	32	10
12:45 to 1:45 p.m	120	25	10
12:45 to 1:15 p.m	62	13	5
1:15 to 1:45 p.m	62	13	5
1:15 to 2:15 p.m	120	25	10
1:45 to 2:45 p.m	120	25	10
1:45 to 2:15 p.m	62	13	5
2:15 to 2:45 p.m	62	13	5
2:15 to 3:15 p.m	120	25	10
2:45 to 3:45 p.m	120	25	10
2:45 to 3:15 p.m	62	13	5
3:15 to 3:45 p.m	62	13	5
3:15 to 4:15 p.m	118	27	10
3:45 to 4:45 p.m	115	30	10
3:45 to 4:15 p.m	60	15	5
4:15 to 4:45 p.m	60	15	5
4:15 to 5:15 p.m	118	27	10
4:45 to 5:45 p.m	120	25	10
4:45 to 5:15 p.m	62	15	5
5:15 to 5:45 p.m	62	15	5
5:15 to 6:15 p.m	118	27	10
5:45 to 6:45 p.m	120	25	10
5:45 to 6:15 p.m	62	13	5
6:15 to 6:45 p.m	62	13	5
6:15 to 7:15 p.m	120	25	10
6:45 to 7:45 p.m	120	25	10
6:45 to 7:15 p.m	65	13	5
7:15 to 7:45 p.m	65	13	5
7:15 to 8:15 p.m	113	32	10
7:45 to 8:45 p.m	105	40	10
7:45 to 8:15 p.m	55	20	5
8:15 to 8:45 p.m	55	20	5
8:15 to 9:15 p.m	105	40	10
8:45 to 9:15 p.m	55	20	5

[FR Doc. 84–6046 Filed 3–2–84; 11:24 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Erratum to PR–263; Procedural Reg. Amdt. 2 to Part 320; Docket 41723]

Procedures for Awarding Japanese Charter Authorizations; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Final rule, correction.

SUMMARY: This erratum notice corrects the effective date of the recent amendment to the Japan charter rule. Because of an oversight, the incorrect date was stated. The correct date is February 23, 1984.

DATE: Corrected effective date: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, (202) 673–5442; Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PR–263, 49 FR 5732, February 15, 1984, the Board amended its rules governing the allocation of charter flights to Japan. As noted in the final rule, the Board requested the U.S. Court of Appeals to permit this rule to become effective pending the Court's review of a pending lawsuit on this subject by Airlift International. The Court granted permission for the rule to become effective in a order dated February 23, 1984.

The language in the preamble stated that the rule would be effective upon publication in the **Federal Register.** Because of inadvertent error, the rule was published in the **Federal Register** before the Court order was issued. The publication date and the effective date should have been February 23, 1984. This erratum changes the effective date.

This correction will not injure any person. The practical effect of this change is merely to lengthen the turn-in period for unwanted authorizations this year.

Dated: February 28, 1984.

[FR Doc. 84–5871 Filed 3–5–84; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3131]

Centurion International, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires three Texas manufacturers-sellers of mobile homes and related services, among other things, to timely honor and fully satisfy valid warranty and service contract claims. The order prohibits the companies from disclaiming any implied warranties; excluding in any warranty or service contract incidental or consequential damages arising from any consumer injury without disclosing that some states do not allow for such exclusions; failing to disclose in their warranties that certain states may provide legal rights beyond those contained in the warranty; and failing to include in their warranties, procedures a consumer must follow in order to obtain performance on warranty obligations. Additionally, the companies are required to provide consumer redress to those persons who were entitled to but did not receive performance under a warranty or service contract issued or sold by the companies, or under a warranty implied by state law.

DATE: Complaint and Order issued Feb. 22, 1984.[1]

FOR FURTHER INFORMATION CONTACT: George E. Schulman, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024. (213) 209–7575.

SUPPLEMENTARY INFORMATION: On Friday, Dec. 23, 1983, there was published in the **Federal Register,** 48 FR 56771, a proposed consent agreement with analysis In the Matter of Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the

[1] Copies of the Complaint and the Decision and Order filed with the original document.

issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–50 Maintain means of communication; 13.533–75 Warranties. Subpart—Failing To Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048–35 Magnuson-Moss Warranty Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–55 Magnuson-Moss Warranty Act.

List of Subjects in 16 CFR Part 13

Mobile homes, Trade practices, Warranties.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Emily H. Rock,

Secretary.

[FR Doc. 84–6036 Filed 3–5–84; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 44

[Docket No. R–83–1131; FR–1813]

Non-Federal Governmental Audit Requirements; Announcement of Effective Date and Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Announcement of effective date for interim rule and correction of docket number.

SUMMARY: Section 7(o) of the Department of Housing and Urban Development Act requires HUD to wait thirty calendar days of continuous session of Congress before it makes a published rule effective. This notice announces the effective date for a recently published Interim Rule on Non-Federal Governmental Audit Requirements. Thirty calendar days of continuous session of Congress have expired in the present Congress since the rule was published. It also corrects the Docket Number which was listed incorrectly in the heading of the published interim rule.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Steven A. Switzer, Assistant Inspector General for Audit, Office of Inspector General, Department of Housing and Urban Development, Room 8282, 451 Seventh Street, SW., Washington, D.C., 20410. Telephone (202) 755–6342. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The effective date provision of the interim rule published in the **Federal Register** on December 30, 1983 (48 FR 57483), which set forth general audit requirements for State and local governmental entities that receive Federal assistance from HUD, stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication. It announced that future notice of the rule's effectiveness would be published in the **Federal Register.** Thirty calendar days of continuous session of Congress have expired in the present Congress since this rule was published.

This notice also corrects the docket number which was listed incorrectly in the heading of the interim rule.

Accordingly, the purpose of this notice is as follows:

1. The effective date for 24 CFR Part 44, Non-Federal Governmental Audit Requirements, Interim Rule published December 30, 1983 (48 FR 57483), is March 5, 1984.

2. On page 57483, in FR Doc. 83–34446, at top of middle column, in the heading, the Docket No. R–83–1132; FR–1813 is corrected to read Docket No. R–83–1131; FR–1813.

Authority: Section 7(d), Department of HUD Act, (49 U.S.C. 3535(d)).

Dated: March 1, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84–5961 Filed 3–5–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7947]

Income Tax; Taxable Years Beginning After December 31, 1953; Deduction for Motor Carrier Operating Authorities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to a deduction which is to be taken ratably over a 60-month period for the adjusted basis of motor carrier operating authorities held by taxpayers on July 1, 1980. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981, the Highway Revenue Act of 1982, and the Technical Corrections Act of 1982. These regulations provide guidance to taxpayers who, on July 1, 1980, held one or more motor carrier operating authorities, or later acquired such an authority pursuant to a binding contract in effect on July 1, 1980.

DATES: The regulations are effective for taxable years ending after June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 1983, the **Federal Register** (48 FR 25224) published proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform the regulations to section 266 of the Economic Recovery Tax Act of 1981 (95 Stat. 265), section 517 of the Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982 (96 Stat. 2097)), and section 102(n) of the Technical Corrections Act of 1982 (96 Stat. 2365). After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

This Treasury decision is issued under the authority contained in section 266 of the Economic Recovery Tax Act of 1981, section 517 of the Highway Revenue Act of 1982, and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Changes in Regulations in Response to Comments

Several clarifying changes have been made to the proposed regulations in response to comments received.

The preamble to the notice of proposed rulemaking provided that in accordance with the Technical Corrections Act of 1982, the deduction for motor carrier operating authorities may carry over in corporate acquisitions to which section 381 applies. The last sentence of § 1.9200–1(b) has been revised to specifically allow the

deduction to be claimed by the acquiring corporation in such transactions. One commentator recommended that this rule be extended to provide that if an operating authority is acquired after July 1, 1980 in a transaction to which section 351 or 355 applies, the acquirer would be allowed to claim the deduction. However, in light of the specific reference in the Technical Corrections Act to section 381 transactions, sufficient statutory authority for extending this rule does not exist.

The final regulations have been clarified in § 1.9200–1(d) to provide that freight forwarders are not included in the definition of the terms "motor common carrier" and "motor contract carrier." Thus, the deduction allowed under § 1.9200–1 may not be claimed with respect to operating authorities issued to freight forwarders.

A minor clarification has been added to the last sentence of § 1.9200–1(e)(2)(iv) of the proposed regulations, relating to the portion of stock basis which may be allocated to the basis of an operating authority when a qualified acquiring party acquires the stock of a corporation indirectly holding the authority. The final regulations indicate that one way that the authority could have been transferred to the acquired corporation so that the qualified acquiring party would have received direct ownership of the authority upon the liquidation of the acquired corporation, would have been by liquidating the subsidiary that directly holds the authority.

The formula in § 1.9200–1(e)(2)(vi) has been revised to indicate that the decrease in the qualified acquiring party's stock basis should be based only on the additional amount of basis which is allocated to an authority under § 1.9200–1(e)(2)(i), and not the total amount of basis in the authority after the allocation.

Section 1.9200–1(e)(2)(v) of the proposed regulations provided that intangible assets of the acquired corporation, such as goodwill and going concern value, must be taken into account when allocating the qualified acquiring party's stock basis to the operating authority under paragraphs (e)(2(iii) or (iv) of § 1.9200–1. The examples contained in § 1.9200–1(g) have been revised in order to take into account the value of goodwill when allocating basis among the assets of the acquired corporation.

An example has been added to § 1.9200–1(g) to illustrate how basis is to be allocated under a section 334(b)(2) liquidation if the amount a qualified acquiring party paid for the stock of an acquired corporation was less than the fair market value (net of liabilities) of the assets acquired in order to reflect a potential tax liability that would have been triggered in an actual liquidation under section 334(b)(2) (*e.g.* recapture under section 1245). The example indicates that the deemed basis which is to be allocated among the assets of the acquired corporation includes the potential tax liability. In order to take into account the potential tax liability such amount must be based on the same fair market values that are used to determine the amount of the stock basis allocable to the operating authority.

Finally, the proposed regulations under § 1.9200–2(a) have been revised to provide more guidance concerning the information which must be included on the statement to be filed in support of the deduction, and the time such statement must be filed. The final regulations require any taxpayer who has claimed a deduction under § 1.9200–1 to file the statement by June 4, 1984, unless it has already done so. In addition, paragraph (b) of § 1.9200–2 has been revised to indicate that a taxpayer eligible to claim a deduction under § 1.9200–1 who has filed returns without claiming the deduction, may file amended returns or claims for refund for the taxable year in which the taxpayer elects to begin the 60-month period, and for subsequent taxable years.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 533 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this regulation is Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR 1.1501–1—1.1564–1

Income taxes, Controlled group of corporations, Consolidated returns.

26 CFR 1.9200–1—1.9200–2

Income taxes, Motor carrier operating authorities.

Adoption of amendments to the regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The following new §§ 1.9200–1 and 1.9200–2 are added to read as follows:

§ 1.9200–1 Deduction for motor carrier operating authority.

(a) *In general.* Section 266 of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34, 95 Stat. 265) provides that, for purposes of chapter 1 of the Internal Revenue Code of 1954, an ordinary deduction shall be allowed in computing the taxable income of all taxpayers who either held one or more motor carrier operating authorities on July 1, 1980, or later acquired a motor carrier operating authority pursuant to a binding contract in effect on July 1, 1980. The deduction for each motor carrier operating authority is to be allowed ratably over a 60-month period and is equal to the adjusted basis of the motor carrier operating authority on July 1, 1980. Except as provided in this section, no deduction is allowable for any diminution in value of any motor carrier operating authority caused by administrative or legislative actions to decrease restrictions on entry into the interstate motor carrier business.

(b) *Person entitled to claim deduction.* In general, the deduction provided by this section for a particular motor carrier operating authority may be claimed only by the taxpayer which held the authority on July 1, 1980. However, if another person acquired the motor carrier operating authority after July 1, 1980, pursuant to a binding contract in effect on that date, the deduction for such authority may be claimed only by the acquirer and may not be claimed by the taxpayer which held the authority on July 1, 1980. A taxpayer, otherwise entitled to claim a deduction under this

section, who sells a motor carrier operating authority after July 1, 1980 may not claim an amortization deduction for such authority for any month which begins after the date of such sale. In addition, acquisition of a motor carrier operating authority after July 1, 1980, if not pursuant to a binding contract in effect on July 1, 1980, will not entitle the acquirer to a deduction under this section, unless the operating authority is acquired pursuant to a transaction to which section 381 applies.

(c) *Allowance of deduction*—(1) *Determination of period for deduction.*—(i) *General rule.* Except as provided in paragraph (c)(1)(ii) of this section, the 60-month period for taking the deduction provided by this section for a particular motor carrier operating authority begins with the month of July 1980, or, if later, the month in which the motor carrier operating authority was acquired pursuant to a binding contract in effect on July 1, 1980.

(ii) *Election.* In lieu of beginning the 60-month period as provided in paragraph (c)(1)(ii) of this section, the taxpayer may elect to begin the 60-month period with the first month of the taxpayer's first taxable year beginning after July 1, 1980. This election, if made, shall apply to the deduction for all motor carrier operating authorities either held by the taxpayer on July 1, 1980, or later acquired by the taxpayer by the end of the first month of the first taxable year beginning after July 1, 1980, pursuant to a binding contract in effect on July 1, 1980. Any such election will not apply to the determination of the period for amortizing the bases of authorities acquired by the taxpayer after the end of the first month of the first taxable year beginning after July 1, 1980.

(2) *Amount of monthly deduction.* In the case of each motor carrier operating authority for which the taxpayer is entitled (under paragraph (b) of this section) to claim a deduction, the deduction for each month during the 60-month period relating to the motor carrier operating authority is equal to the adjusted basis (determined under paragraph (e) of this section) of the motor carrier operating authority divided by 60.

(d) *Definition of motor carrier-operating authority.* For purposes of § 1.9200–2 and this section, the term "motor carrier operating authority" means a certificate or permit held by a motor common carrier or motor contract carrier of property and issued pursuant to the Revised Interstate Commerce Act, 49 U.S.C. § 10921–10933 (Supp. III 1979). The terms "motor common carrier" and "motor contract carrier" shall be defined as in 49 U.S.C. 10102 (Supp. III 1979) and do not include persons meeting the definition of freight forwarder contained in 49 U.S.C. 10102 (Supp. III 1979).

(e) *Adjusted basis of motor carrier operating authority.*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, the adjusted basis of a motor carrier operating authority for which a deduction is allowed under this section is the adjusted basis of the motor carrier operating authority as determined under sections 1012 and 1016 in the hands of the taxpayer who is entitled to claim the deduction under paragraph (b) of this section.

(2) *Special rule in case of certain stock acquisitions*—(i) *Election by holder.* A corporation entitled to claim a deduction under paragraph (b) of this section for a motor carrier operating authority may elect to allocate a portion of the cost basis of a qualified acquiring party in the stock of an acquired corporation, to the basis of the authority. A qualified acquiring party is a corporation (or a noncorporate person or group of noncorporate persons described in paragraph (e)(2)(ii) of this section) that after June 21, 1952, and on or before July 1, 1980 (or after July 1, 1980 under a binding contract in effect on such date) acquired by purchase, within the meaning of section 334(b)(3) and during a period of not more than 12 months, 80 percent or more of the stock (as described in section 334(b)(2)(B)) of a corporation (the acquired corporation) which held the authority directly or indirectly on the date which is the end of the period of 12 months or less within which such 80 percent of the acquired corporation's stock was purchased. The election to allocate basis in an acquired corporation's stock to the basis in an authority may be made only if 80 percent of all classes of the acquired corporation's stock (other than nonvoting stock which is limited and preferred as to dividends) was acquired by purchase (within the meaning of section 334(b)(3)) during a period of not more than 12 months, as described in section 334(b)(2)(B). If the qualified acquiring party is a corporation, the taxpayer holding the authority on July 1, 1980, may elect the basis allocation of this paragraph only if it is a member of the affiliated group (as defined in section 1504(a)) of which the qualified acquiring party is a member. If there is more than one acquisition of stock that might permit an election to allocate basis under this paragraph (e)(2)(i), the taxpayer may elect to allocate to the authority only the basis in the acquired corporation's stock held by the qualified acquiring party which became a qualified acquiring party as a result of the last of such acquisitions.

(ii) *Certain noncorporate persons treated as qualified parties.* For purposes of paragraphs (e)(2) (i)–(vi) of this section, the term "qualified acquiring party" shall include a noncorporate person or group of noncorporate persons which, after June 21, 1952 and on or before July 1, 1980, acquired in one purchase, stock in a corporation (the acquired corporation) which at the time of acquisition held, directly or indirectly, a motor carrier operating authority. In order to be treated as a qualified acquiring party under this paragraph, a noncorporate person or group of noncorporate persons must have held stock constituting control (within the meaning of section 368(c)) of the acquired corporation on July 1, 1980. A group of noncorporate persons consists of two or more noncorporate persons who, acting together on the same date, made the required purchase of stock in the acquired corporation.

(iii) *Portion of stock basis allocable to basis of authority when stock of direct holder of authority is acquired.* If the qualified acquiring party acquired the stock of a corporation directly holding the authority, the portion of the stock basis allocable to the basis of the authority is the amount that would have been properly allocable under section 334(b)(2) if the qualified acquiring party were a corporation that had received the authority in a distribution of all the acquired corporation's assets in a complete liquidation of the acquired corporation immediately after the acquisition of the acquired corporation's stock. If the acquired corporation's stock was acquired on more than one date, the date on which the liquidation is deemed to have occurred shall be the date which is the date of the last acquisition by purchase of stock of the acquired corporation within the 12-month period described in section 334(b)(2)(B).

(iv) *Portion of stock basis allocable to basis of authority when stock of indirect holder of authority is acquired.* If the qualified acquiring party acquired the stock of a corporation indirectly holding the authority (such as by owning all of the stock of a subsidiary that directly holds the authority), a portion of the qualified acquiring party's cost basis in the stock of the acquired corporation may be allocated to the basis in the operating authority. The portion allocable is the amount that would have been properly allocable under section 334(b)(2) if, immediately before the liquidation of the acquired corporation on the date of the last acquisition by

purchase of stock of the acquired corporation within the 12-month period described in section 334(b)(2)(B), the authority had been transferred in such a way (such as by liquidating the subsidiary that directly holds the authority) that the qualified acquiring party would have received direct ownership of the authority upon the liquidation of the acquired corporation immediately after the acquisition.

(v) *Other assets to be accounted for.* For purposes of paragraphs (e)(2) (iii) or (iv) of this section, in determining the portion of stock basis properly allocable to the operating authority under section 334(b)(2), the portion of the qualified acquiring party's basis in the acquired corporation's stock that would have been allocable following the liquidation to other assets of the acquired corporation, including intangible assets such as goodwill and going concern value, must be taken into account.

(vi) *Adjustments to basis in acquired corporation's stock and other assets.* If a taxpayer makes the election provided by paragraph (e)(2)(i) of this section, the qualified acquiring party's basis in the stock of the acquired corporation shall be decreased, effective as of July 1, 1980, by the amount determined by the following formula:

$$\frac{\text{basis in acquired corporation's stock}}{\text{basis in acquired corporation's stock plus unsecured liabilities of acquired corporation}} \times \text{amount allocated to basis in authority under section 334(b)(2) minus acquired corporation's basis in authority.}$$

In addition, if the aggregate basis of the assets of the acquired corporation other than the authority as of July 1, 1980 (reduced by the liabilities secured by such assets) exceeds the qualified acquiring party's basis in the stock of the acquired corporation remaining after application of the preceding sentence, then the bases of such assets shall be reduced proportionately so that their aggregate basis as of such date (minus secured liabilities) is equal to such remaining stock basis. If the acquired corporation held the authority indirectly, appropriate basis reductions shall be made to reflect the transfers deemed to have occurred under paragraph (e)(iv) of this section.

(vii) *Pre-TEFRA law applies.* References made in this section to section 334 of the Code relate to such section as it existed before amendment by the Tax Equity and Fiscal Responsibility Act of 1982.

(f) *Adjustment to basis of motor carrier operating authority.* A taxpayer's basis in a motor carrier operating authority must be reduced by the amount of any amortization deductions allowable to the taxpayer under this section.

(g) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1) (i). Corporation X acquired all the stock of corporation Y for $130,000 in 1970. Y's assets at the time of acquisition consisted of a motor carrier operating authority valued at $180,000 in which it has a basis of $60,000, trucks with a fair market value of $70,000 and an aggregate basis of $30,000, and goodwill valued at $30,000. Y has $50,000 of liabilities secured by the trucks and $100,000 of unsecured liabilities. Both X and Y use a June 30 fiscal year for tax purposes.

(ii) Y is the only taxpayer eligible to claim a deduction under § 1.9200–1(b). If X sold its Y stock to Z in October 1980 (other than pursuant to a binding contract in effect on July 1, 1980), Y would continue to be the only taxpayer eligible to claim the deduction. However, if Y sold the operating authority to W in February 1981, neither Y nor W would be eligible to claim the monthly deduction for the remainder of the 60-month period. Also, Y would realize gain or loss on the sale after reducing its basis in the authority by any amortization claimed for the period prior to the sale.

(iii) Y must begin the 60-month period in July 1980 unless it elects under paragraph (c)(1)(ii) of this section to begin the 60-month period with the first month of the first taxable year beginning after July 1, 1980, which in Y's case would be July 1981.

(iv) Y's allowable monthly deduction is equal to its adjusted basis in the operating authority of $60,000, divided by 60, or $1,000. However, Y may elect under § 1.9200–1(e)(2) to allocate to its basis in the authority a portion of X's basis in Y stock, since X is a qualified acquiring party under paragraph (e)(2)(i) of this section and Y is a member of an affiliated group of which X is a member. Assuming Y makes the election, Y may allocate to the basis of the authority the amount of X's basis in Y stock that would have been allocable under section 334(b)(2) if X had received the authority in a distribution of all of Y's assets in a complete liquidation of Y immediately after X acquired Y's stock.

Therefore, for purposes of the allocation, X's $,30,000 cost basis in Y stock is deemed to be increased by Y's $100,000 of unsecured liabilities to $230,000. Of the $230,000 deemed basis, $180,000 is allocated to the authority, $30,000 to goodwill, and $20,000 to the trucks. Y's allowable monthly amortization deduction would be $180,000 divided by 60, or $3,000. X's $130,000 cost basis in its Y stock must be decreased to $62,174 as provided in paragraph (e)(2)(vi) of this section. Y's $30,000 aggregate basis in its trucks remains unchanged.

Example (2). Assume the same facts as in Example (1), except that Y's aggregate basis in the trucks is $120,000. If Y makes the election under § 1.9200–1(e)(2), the same allocation as in Example (1) would occur. However, in addition to the decrease in X's basis in its Y stock to $62,174, the $120,000 aggregate basis in the trucks must be reduced to $112,174 (so that the $112,174 basis minus secured liabilities of $50,000 is equal to X's $62,174 remaining stock basis).

Example (3). Assume the same facts as in Example (1), excet that X pays a negotiated purchase price of $120,000 for the Y stock, in order to take into account an anticipated tax liability of $10,000, relating to potential section 1245 recapture. If Y makes the election under § 1.9200–1(e)(2), then for purposes of allocating X's basis in Y stock, X's cost basis is deemed to be increased by Y's $100,000 of unsecured liabilities as well as the $10,000 of potential tax liability resulting from section 1245 recapture, to $230,000. The $10,000 of potential recapture tax is treated as a general liability and the deemed basis is allocated among Y's assets as in *Example (1).* In order to take into account the potential recapture tax liability, such amount must be based on the same fair market values that are used to determine the amount of the stock basis allocable to the operating authority.

§ 1.9200–2 Manner of taking deduction.

(a) *In general.* The deduction provided by § 1.9200–1 shall be taken by multiplying the amount of the monthly deduction determined under § 1.9200–1 (c)(2) for each motor carrier operating authority by the number of months in the taxable year for which the deduction is allowable, and entering the resulting amount at the appropriate place on the taxpayer's return for each year in which the deduction is properly claimed. Additionally, any taxpayer who has claimed the deduction provided by § 1.9200–1 must (unless it has already filed a statement containing the required information) attach a statement to the next income tax return of the taxpayer which has a filing due date on or after June 4, 1984. The statement shall provide, in addition to the taxpayer's name, address, and taxpayer identification number, the following information for each motor carrier operating authority for which a deduction was claimed:

(1) the taxable year of the taxpayer for which the deduction was first claimed;

(2) whether the taxpayer's deduction was determined using the adjusted basis of the authority under section 1012 or an allocated stock basis under § 1.9200–1 (e) (2); and

(3) if an allocation of stock basis has been made under § 1.9200–1(e)(2), the calculations made in determining the amount of basis to be allocated to the authority.

(b) *Filing and amendment of returns.* A taxpayer who has filed its return for the taxable year that includes July 1, 1980, claiming the deduction allowed under § 1.9200–1, may amend its return for such year in order to elect under

§ 1.9200–1(c)(1)(ii) to begin the 60-month period in the subsequent taxable year. A taxpayer eligible to take the deduction under § 1.9200–1 who has filed its returns for both the taxable year that includes July 1, 1980, and the following taxable year without claiming the deduction, may claim the deduction by filing amended returns or claims for refund for the taxable year in which the taxpayer elects to begin the 60-month period, and for subsequent taxable years. If a taxpayer first claims the deduction on an amended return under the preceding sentence, the statement required by paragraph (a) of this section must be attached to such amended return.

(c) *Deduction taken for operating authority other than under § 1.9200–1.* If a deduction other than the deduction allowed under § 1.9200–1 was taken in any taxable year for the reduction in value of a motor carrier operating authority caused by administrative or legislative actions to decrease restrictions on entry into the interstate motor carrier business, the taxpayer should file an amended return for such taxable year which computes taxable income without regard to such deduction.

(Approved by the Office of Management and Budget under control number 1545–0767.)

Par. 2. Section 1.1502–32 is amended by removing the word "and" at the end of paragraph (d)(1)(i)(*b*), by adding ", and" in lieu of the period at the end of paragraph (d)(1)(i)(*c*), and by adding a new paragraph (d)(1)(i)(*d*) to read as follows:

§ 1.1502–32 Investment adjustment.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(*c*) * * *, and

(*d*) In computing the earnings and profits of a member holding one or more motor carrier operating authorities who makes the election under § 1.9200–1(e)(2), the annual amortization deduction allowed under § 1.9200–1 shall not be taken into account.

This Treasury decision is issued under the authority contained in section 266 of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34; 95 Stat. 265), section 517 of the Highway Revenue Act of 1982 (Pub. L. 97–424; 96 Stat. 2097), and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 16, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–5935 Filed 3–5–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 369

[DOD Directive 5105.2]

Delegation of Authority to Deputy Secretary of Defense

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Deputy Secretary of Defense granting him full power and authority to act for the Secretary of Defense. It is being incorporated into this title in compliance with 5 U.S.C. (a)(1) and 1 CFR 305.76–2.

EFFECTIVE DATE: The Secretary of Defense signed this rule on February 3, 1984, and it is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Office of the Deputy Assistant Secretary of Defense (Administration), Organizational and Management Planning, Washington, D.C. 20301, telephone: 202–695–4281.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–15869 appearing in the **Federal Register** on May 23, 1980 (45 FR 34880), the Office of the Secretary of Defense published Part 369; in FR Doc. 81–5847, appearing in the **Federal Register** on February 24, 1981, the first revision was published; and in FR Doc. 83–2496, appearing in the **Federal Register** on January 28, 1983, the second revision was published. This revision of Part 369 delegates authority to the present Deputy Secretary of Defense.

List of Subjects in 32 CFR Part 369

Authority delegations (governing agencies).

Accordingly 32 CFR, Chapter I, is amended by revising Part 369 to read as follows:

PART 369—DELEGATION OF AUTHORITY TO DEPUTY SECRETARY OF DEFENSE

Sec.
369.1 Reissuance.
369.2 Purpose.

Authority: 10 U.S.C. 133.

§ 369.1 Reissuance.

This Rule is reissued and updated.

§ 369.2 Purpose.

(a) In accordance with title 10, United States Code, Section 133(d), I hereby delegate to Deputy Secretary of Defense William H. Taft IV full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act pursuant to law.

(b) The all-inclusive authority delegated herein may not be redelegated in toto; however, the Deputy Secretary is authorized to make specific redelegations, as required.

March 1, 1984

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–5974 Filed 3–5–84; 8:45 am]

BILLING CODE 3810–01–M

POSTAL SERVICE

39 CFR Part 233

Regulations Implementing Postal Service Authority To Purchase Articles or Services Offered for Sale by Mail Directly From Mail Order Merchants

Correction

In FR Doc. 84–5199 beginning on page 7230 in the issue of Tuesday, February 28, 1984, make the following correction:

§ 233.6 [Corrected]

On page 7230, third column, § 233.6(a), second line, "3004(e)" should have read "3005(e)".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6525

[NM–52805]

Withdrawal of Lands in Support of Ute Mountain Exchange; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 8,445.31 acres of public land in San Juan County, for use of the Bureau of Land Management in aid of a proposed land

exchange with Public Service Company of New Mexico (PNM). This action will close the land to surface entry and mining, but not to mineral leasing. The withdrawal will remain in effect for 5 years.

EFFECTIVE DATE: February 29, 1984.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office 505–988–6659.

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 hereby ordered as follows:

1. Subject to valid existing rights, the following described public land which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, and reserved for use of the Bureau of Land Management in aid of a proposed land exchange with the Public Service Company of New Mexico.

New Mexico Principal Meridian

T. 24 N., R. 11 W.,
Sec. 21, S½;
Sec. 22, S½;
Sec. 27;
Sec. 28;
Sec. 33, N½;
Sec. 34, N½;
T. 23 N., R. 12 W.,
Sec. 19, lots 5 to 20, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
T. 23 N., R. 13 W.,
Sec. 13, W½, and SE¼;
Sec. 14;
Sec. 15, NW¼;
Sec. 20, SE¼SE¼;
Sec. 22, S½SW¼;
Secs. 23, 24, 26 and 28.

The areas described aggregate 8,445.31 acres in San Juan County, New Mexico.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Inquiries concerning the lands shall be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: February 29, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-5916 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6590]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, correction.

SUMMARY: This rule corrects the list of eligible communities published in the Federal Register February 10, 1984, Vol. 49 FR 5116 which were prematurely published as eligible participating communities in the National Flood Insurance Program (NFIP). It also withdraws the suspension for all communities listed and reestablishes the communities' eligibility. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

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

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

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entires to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Region I				
Connecticut:				
Fairfield	Bethel, town of	090001B	February 15, 1984 suspension withdrawn	Apr. 5, 1974, and Feb. 18, 1977.
Do	New Fairfield, town of	090188A	do	Jan. 31, 1975.
Region II				
New Jersey:				
Monmouth	Middletown, township of	340313B	do	July 19, 1974, and July 9, 1976.
Sussex	Vernon, township of	340561A	do	Apr. 11, 1975.
Do	Wantage, township of	340562A	do	July 11, 1975.
Region III				
Maryland: Kent	Chestertown, town of	240046B	do	July 26, 1974, and Jan. 16, 1976.
Pennsylvania: Bucks	Langhorne Mannor, borough of	422336A	do	Feb. 14, 1975.
Region IV				
Florida:				
Martin	Ocean Breeze Park, town of	120163C	do	Aug. 2, 1974, and Apr. 2, 1976.
Sarasota	Sarasota, city of	125091B	do	July 30, 1971.
Kentucky:				
Carter	Unincorporated areas	210050B	do	Dec. 13, 1974, and Dec. 23, 1977.
Floyd	Martin, city of	210071B	do	May 24, 1974, Feb. 27, 1976, and June 10, 1977.
Region V				
Illinois: Jefferson	Mt. Vernon, city of	390404B	do	June 7, 1974, and June 11, 1976.
Ohio: Monroe	Unincorporated areas	390404B	do	Feb. 14, 1975 and Feb. 10, 1978.
Region VI				
Oklahoma: Oklahoma	do	400466B	do	July 13, 1982.
Texas:				
Bell	do	480706B	do	Jan. 10, 1975, amd Apr. 8, 1977.
Willacy	do	480664B	do	May 16, 1977.
Region VIII				
Colorado: Montrose	do	080124B	do	Aug. 30, 1974, and Aug. 30, 1977.
Region X				
Idaho: Payette	do	160198B	do	May 17, 1977.
Washington: Snohomish	Marysville, city of	530168	do	Mar. 15, 1974.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: February 27, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-5932 Filed 3-5-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, and 73

[Gen. Docket No. 83-10]

Notification and Verification Equipment Authorization Procedures; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects certain inconsistencies noted after the adoption of the Final Rule (Report and Order) in this proceeding concerning the expansion of the notification and verification equipment authorization procedures. It also corrects typographical errors discovered in the **Federal Register** printing.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653-6288.

Errata

In the matter of amendment of the regulations to expand the notification and verification equipment authorization procedures; Gen. Docket No. 83-10.

Released: March 2, 1984.

On January 26, 1984, the Commission released a Report and Order in the above captioned proceeding.[1] Following the release of that item, a few inconsistencies were noted in the adopted regulations, including one regulation adopted under Gen. Docket 82-242.[2] These are corrected in Appendix A of this document. It was also noted that the printing of the Report and Order in Gen. Docket 83-10 in the **Federal Register** contained additional errors. Those errors are corrected in Appendix B.

[1] Gen. Docket 83-10, Report and Order, adopted January 10, 1984, FCC 84-21, 49 FR 3991 published February 1, 1984.

[2] Gen. Docket 82-242, Report and Order, adopted January 13, 1983, released January 21, 1983, FCC 83-3, 48 FR 3614 published January 26, 1983.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 2—[AMENDED]

A. Title 47 of the Code of Federal Regulations, Part 2, is amended by revising paragraphs (b) and (c) introductory text of § 2.977 to read as follows:

§ 2.977 Changes in notified equipment.

* * * * *

(b) Changes in the electrical and mechanical construction of equipment requiring an application for, and grant of, notification are permissive, providing that the changes do not cause the equipment to exceed the standards applicable to that equipment.

(c) Permissive changes to transmitters notified for operation under Part 73 of this Chapter include the following:

* * * * *

PART 15—[AMENDED]

B. Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

§ 15.4 [Amended]

1. Section 15.4 is amended by changing the paragraph designation for the definition of a "Scanning receiver" from paragraph (t) to paragraph (v). The definition of "Power line carrier system", which was originally designated as paragraph (t), is retained.

2. Section 15.4 is amended by revising newly designated paragraph (v) to read as follows:

§ 15.4 General definitions.

* * * * *

(v) *Scanning receiver.* For the purpose of this rule part, this is a receiver which automatically switches between four or more frequencies in the range of 30 to 890 MHz and which is capable of stopping at and receiving a radio signal detected on the frequency. Receivers designed solely for the reception of the broadcast services under Part 73 of the regulations or for operation as part of a licensed station are exempted from this definition.

3. Section 15.69 is amended by revising paragraph (b) to read as follows:

§ 15.69 Equipment authorization for a receiver.

* * * * *

(b) The necessary form of equipment authorization is listed below:

Type of receiver	Equipment authorization required
1. TV broadcast receiver	Verification.
2. FM broadcast receiver	Do.
3. CB receiver	Certification
4. Receiver using superregenerative circuitry.	Do.
5. Receiver associated with a low power communications device operating under Section 15.201 *et seq.*	Certification.
6. Scanning receiver	Do.
7. All other receivers subject to Part 15, Subpart C.	Notification.

* * * * *

4. Section 15.72 is amended by revising paragraphs (a)(4) and (b)(3) to read as follows:

§ 15.72 Date when an equipment authorization is required.

(a) * * *

(4) A television receiver marketed after March 5, 1984, shall continue to comply with the requirements of this Section except that receiver shall be subject to verification instead of certification.

(b) * * *

(3) A receiver marketed after March 5, 1984, shall be subject to the form of equipment authorization specified in § 15.69.

PART 73—[AMENDED]

C. Title 47 of the Code of Federal Regulations, Part 73, is amended by revising paragraph (e)(7) of § 73.1690 to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(e) * * *

(7) Installation or replacement of an FM subsidiary communications generator provided the generator can be connected to a type accepted or notified transmitter without requiring any mechanical or electrical changes in the transmitter FM exciter circuits.

PART 74—[AMENDED]

§ 74.655 [Amended]

D. Title 47 of the Code of Federal Regulations, Part 74, is amended by removing paragraph (f) of § 74.655 and labelling that paragraph as [Reserved].

Appendix B

PART 15—[AMENDED]

The amendments to Title 47 of the Code of Federal Regulations, Part 15, as published in the **Federal Register** on February 1, 1984 (49 FR 3997 and 3998), are corrected as follows:

§ 15.72 [Amended]

1. A new title is added to § 15.72 to read "*Date when an equipment authorization is required.*"

2. Paragraph (a) of § 15.77 reads as follows:

§ 15.77 Report of measurements: TV receiver.

* * * * *

(a) Specific identification of the receiver that was measured including the name and address of the manufacturer, the name of the company responsible for ensuring compliance under verification (if different), the trade name (if any), the model number, and the serial number (if any).

* * * * *

3. The first sentence of § 15.236 is revised to read as follows:

§ 15.236 Labelling and identification requirements for a cordless telephone.

Both the base station and portable handset of a cordless telephone system shall be identified and labelled pursuant to §§ 2.925, 2.926, 2.979 and 2.1045 of Part 2 of this Chapter.* * *

* * * * *

[FR Doc. 84-6006 Filed 3-5-84; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-491; RM-4420]

FM Broadcast Station in Baker, Oregon; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a first Class C channel to Baker, Oregon, as that community's second FM allocation, in response to a petition filed by James T. Frakes.

EFFECTIVE DATE: May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 48 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Baker, Oregon) MM Docket No. 83-491, RM-4420.

Adopted: February 21, 1984.

Released: March 1, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 48 FR 27577, published June 15, 1983, issued in response to a petition filed by James T. Frakes ("petitioner"), proposing the assignment of Class C Channel 284 to Baker, Oregon, as that community's second FM assignment. Supporting comments were filed by petitioner reiterating his intention to apply for the channel, if assigned. An opposition to the proposal was filed by Oregon Trail Broadcasting ("OTB"), licensee of co-owned Stations KBKR(AM) and KBKR-FM (Channel 237A), in Baker, Oregon. No reply comments were received.

2. In its opposition, OTB does not disagree with petitioner's proposal to add an additional assignment at Baker, but rather contends that the need for a Class C assignment to that community is questionable and has not been demonstrated.

3. Moreover, OTB argues at great length against the Class C proposal on such issues as the appropriate class of channel, intermixture, and economic impact.

4. While recognizing that the Commission has revised its FM policies,[1] OTB nevertheless claims that the general provisions of § 73.206, pertaining to the appropriate class of channel to be assigned to a particular community, were never rescinded.

5. Further, OTB asserts that our revised assignment policies were intended to eliminate intermixture only in instances where otherwise to retain the restriction would stifle the provision of new service. OTB claims that none of the traditional factors which justified intermixture of classes of channels is present in this instance since Baker already has two full-time aural outlets, and an abundance of Class A channels available for assignment.

6. Additionally, OTB argues, in repealing the so-called "Berwick Doctrine," 53 R.R. 2d 681 (1983), the Commission thereby removed from the application stage the opportunity to present economic impact questions. Therefore, OTB contends that such matters, of necessity, must be resolved at the rule making level.

7. Furthermore, petitioner has failed to indicate whether any "white area" would result from this proposal. On the basis of the foregoing, OTB submits that since numerous Class A channels are available to Baker, it would be more appropriate pursuant to section 307(b) of the Communications Act of 1934, as amended, to assign a Class A channel to Baker, Oregon.

8. At the outset, it should be noted that the *Second Report and Order*, see footnote 2, *supra*, eliminated any consideration of such issues as intermixture, economic impact, "Berwick," and the need for a first aural service showings in noncomparative cases. Therefore, to the extent that OTB bases its argument on those issues, they merit no further consideration. As for the argument that section 73.206 designates that only Class A channels can be assigned to communities of Baker's size, the *Second Report, supra*, clearly enunciated our intention to eliminate the choice of a channel based on a given community's size. See *Brewer, Maine*, 52 R.R. 2d 422 (1982). Section 73.206 is merely a description of the classes of channel and was never intended to mandate the class of channel to be assigned.

[1] See, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

9. The focal point of OTB's opposition to the proposed Class C assignment appears to be its concern of economic harm to its existing co-owned stations. However, that argument is not a sufficient justification for denial of this proposal. For, as we have held on other occasions, if the community's status is not questionable, and a proponent believes that there is a need for an additional service, the Commission has no reason to question such judgment. See, *Chadron, Nebraska*, 52 R.R. 2d 1480 (1982), and *Sacramento, California*, 50 R.R. 2d 951 (1982).

10. If OTB is, in fact, seeking economic protection with respect to its existing co-owned stations, that is a matter which can best be addressed at the application stage rather than in a rule making proceeding. See, *Kankakee and Crete, Illinois, et al.*, 48 FR 53178, published September 22, 1983; *Chadron, Nebraska, supra*, and cases cited therein.

11. In view of the above considerations, and having found no policy objections to the proposal, we believe the public interest would be served by a grant of petitioner's request since it could provide a first competitive local service to the community and a third nighttime voice for the expression of diverse viewpoints and programming.

§ 73.202 [Amended]

12. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 7, 1984, the FM Table of Assignments, section 73.202(b) of the Commission's Rules is amended with respect to the community listed below as follows:

City	Channel No.
Baker, Oregon	237A, and 284

13. It is further ordered, that this proceeding is terminated.

14. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

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

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–6028 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–498; RM–4306]

TV Broadcast Station in Miami, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Assignment of UHF TV Channel 35 to Miami, Florida, in response to a petition filed by Harry C. Powell, Jr. The assignment could provide a ninth commercial television service to Miami.

EFFECTIVE DATE: May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order—Proceeding Terminated

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Miami, Florida) MM Docket No. 83–498, RM–4306.

Adopted: February 21, 1984.

Released: February 28, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 27569, published June 16, 1983, issued in response to a petition for rule making filed by Harry C. Powell, Jr. ("petitioner"), proposing the assignment of UHF Television Channel 35 to Miami, Florida, as its ninth commercial TV service. In response to the *Notice*, petitioner filed comments and restated his intention to apply for Channel 35 at Miami. Supporting comments were also filed by Adib Eden and Isabel Norniella. 39 Broadcasting Ltd., permittee of Station WDZC (Channel 39), Miami, submitted a late-filed comment.

2. Miami (population 346,934) [1] is the county seat of Dade County (population 1,625,979) and is located in southeastern Florida. It has ten TV channel assignments.

3. In view of the fact that the assignment could provide a ninth commercial television service to Miami, we believe that the public interest would be served by assigning UHF Television Channel 35 to that community. As indicated in the *Notice*,

[1] Population data are taken from the 1980 U.S. Census.

the proposed assignment requires a site restriction of 7.8 miles southwest of the city to avoid a short-spacing conflict with Station WDZL, Channel 39, Miami, in order to conform to the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. The late filed comment by 39 Broadcasting Ltd. states that it is contemplating an application for a move 1.2 miles southwest of its current location. A Channel 35 assignment could accommodate such a move without causing a short spacing.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 7, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Miami, Florida	*2, 4, 6, 7−, 10+, *17−, 23−, 33, 35, 39, and 45+.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-6029 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-93; RM-4268]

TV Broadcast Station in Alexandria, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Television Table of Assignments by assigning Channel 42 to Alexandria, Minnesota, in response to a petition filed by Hubbard Broadcasting, Inc. The assignment could provide Alexandria with its third television service.

EFFECTIVE DATE: May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order—Proceeding Terminated

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Alexandria, Minnesota) MM Docket No. 83-93, RM-4268.

Adopted: February 21, 1984.

Released: March 1, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (48 FR 8507, published March 1, 1983) issued in response to a petition for rule making filed by Hubbard Broadcasting, Inc. ("petitioner") proposing to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, to assign UHF Television Channel 42 to Alexandria, Minnesota, as its third television assignment. Comments and other pleadings responsive to the *Notice* were filed by petitioner and by L.E.O. Broadcasting, Inc. ("LEO"). In the *Notice*, we observed that the proposal required the concurrence of the Canadian government. That concurrence has been obtained.

2. LEO, licensee of Television Station KXLI, Channel 41, St. Cloud, Minnesota, opposes the proposed assignment. LEO asserts that, although the proposed assignment meets the minimum spacing requirements between Channels 41 and 42, because of the "close proximity" of St. Cloud and Alexandria, the assignment would result in interference to Channel 41 within its Grade B contour and possibly within its Grade A contour. Next, LEO asserts that the assignment would require that several translator and low power stations change frequencies. LEO further states that, in addition to Channel 42, several other frequencies are available for assignment to Alexandria which would neither result in interference nor require the frequency changes. According to LEO, the proposed assignment would, thus, lead to "needless" expenditures by the Commission and by its licensees and permittees. LEO points out that petitioner has also requested the assignment of Channel 43 to Redwood Falls, Minnesota, in MM Docket No. 83–94 and that a grant of both requests would cluster Channels 41, 42, and 43 within a "relatively limited area." This, states LEO, would be "inefficient spectrum management," inasmuch as other channels are available for assignment to Alexandria. According to LEO, an assignment of Channel 50 to Alexandria in lieu of Channel 42 is preferable because such an assignment would not pose interference or relocation problems.

3. Petitioner asserts that LEO is not entitled to protection against interference beyond the minimum separation requirements. According to petitioner, the assignment of either Channel 42 or Channel 50 to Alexandria would affect the low power and translator stations, but neither are entitled to interference protection. Nevertheless, petitioner does say that it will assist the translator stations in making necessary modifications to their facilities. Petitioner also states that it will apply for whichever channel is assigned to Alexandria.

4. Petitioner correctly states that LEO is not entitled to protection for Station KXLI beyond that provided by the separation requirements of the Commission's Rules. See § 73.612(a) of the Commission's Rules. Section 73.610(c) of the Rules specifically provides that the minimum separation between adjacent UHF television stations is 55 miles. Here, the actual distance between Channel 42 at Alexandria and Station KXLI (Channel 41) at St. Cloud will be 88 miles. Thus, the proposed assignment of Channel 42 to Alexandria can clearly be made consistent with the Rules. LEO refers to no other rule or Commission policy to the contrary.

5. Commission policy is to treat both translator and low power television stations as secondary for purposes of spectrum priority. Accordingly, existing and new full service television stations are accorded protection from interference from secondary facilities. *Low Power Television Service*, 51 R.R. 2d 476 (1982). The Commission's Rules reflect this policy. Station 74.702(b) provides that changes in the existing Television Table of Assisgnments may be made without regard to existing or proposed low power or translator television stations and that, where such changes result in interference to reception of the signal of a full service station, the licensees of the interfering translator or low power stations must eliminate the interference or file applications for changes in their frequency. Likewise, § 74.703(b) places responsibility on translator and low power licensees to correct, at their own expense, any interference to the direct reception of full service television stations operating on the same or adjacent channels. According to § 74.705(a), full service television stations are protected within their

Grade B contours. Thus, it is clear that the proposed assignment of Channel 42 to Alexandria can be made consistent with Commission Rules and policies regardless of the existing translator and low power stations. Petitioner, as noted, has indicated that it is prepared to assist the translator stations which may be displaced. Petitioner may do so at its own option.

6. As noted, the proposed assignment of Channel 42 to Alexandria can be made consistent with Commission Rules and policy. Thus, it is not necessary to consider LEO's suggestion that Channel 50 be assigned to Alexandria instead.

§ 73.606 [Amended]

7. Accordingly, pursuant to authority contained in §§ 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.204(b) of the Commission's Rules, it is ordered, that effective May 7, 1984, the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) is amended as follows for the community listed:

City	Channel No.
Alexandria, Minn.	7, * 24, and 42.

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

9. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-6027 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 82-778; RM-4201; RM-4329]

TV Broadcast Stations in Block Island and Newport, Rhode Island; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 69 to Block Island, Rhode Island, as that community's first local television service, at the request of Venture Research Group. The counterproposal of Response Broadcasting Corporation to assign Channel 69 to Newport, Rhode Island, is denied based on a lack of continuing interest.

EFFECTIVE DATE: May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order—Proceeding Terminated

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Block Island and Newport, Rhode Island) BC Docket No. 82–778, RM–4201, RM–4329.

Adopted: February 21, 1984.

Released: February 28, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Further Notice of Proposed Rule Making*, 48 FR 28488, published June 22, 1983, seeking comments on the assignment of UHF TV Channel 69 to either Block Island, Rhode Island, requested by Venture Research Group ("Venture"), or Newport, Rhode Island, as advanced in a counterproposal filed by Response Broadcasting Corporation ("Response").

2. Block Island (population 620)[1] is located off the coast of Rhode Island, approximately 45 kilometers (29 miles) southeast of Newport. Newport (population 29,259), seat of Newport County, is located on the Rhode Island coast approximately 35 kilometers (22 miles) south of Providence. Neither community has any local television service.

3. The *Further Notice* detailed the proposed station operation of each petitioner and the demographics of their respective communities. Response had failed to state its intention to apply for the channel, if assigned to Newport, and therefore was requested to do so in comments. Venture was asked to reaffirm its intent to file for the channel, if assigned to Block Island. In addition, the parties were asked to submit additional information concerning the comparative factors for each community, such as the extent of broadcast service received from nearby stations, and coverage that each proposal could provide beyond its community of license, and the populations to be served by their respective proposals.

4. Venture submitted comments in response to the *Further Notice* which stated the geographic areas to be served by a Block Island station and the populations therein. It also reiterated its earlier pronouncements as to the need for a local television outlet at Block Island, stating that Block Island receives only one Grade A television signal while Newport receives a Grade A signal from six nearby stations. In addition, Venture restated its intention to apply for the channel if it were assigned to Block Island.

5. No comments were filed by Response. Therefore, there is no need for the Commission to reach a decision on the comparative merits of the two proposals. Absent an expression of continuing interest by a petitioner, the Commission will not assign a television frequency to a community. See, *Williams, Arizona*, 47 FR 27027, published May 14, 1982.

§ 73.606 [Amended]

6. In view of the fact that the assignment of Channel 69 to Block Island could provide that community with its first local television service, the Commission believes that the public interest would be served by granting the request of Venture Research Group. Therefore, pursuant to authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 7, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Block Island, RI	69-

7. It is further ordered, that the counterproposal of Response Broadcasting Corporation to assign Channel 69 to Newport, Rhode Island, is denied.

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

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

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

[1] Population figures are extracted from the 1980 U.S. Census.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-6026 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-467; RM-4333; RM-4485]

TV Broadcast Stations in McMinnville and Lebanon, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 33 to McMinnville, Tennessee, as its first UHF television channel in response to a petition filed by Peggy Ann Rothchild and denies the counterproposal filed by Lebanon Television Inc., to assign Channel 33 to Lebanon, Tennessee.

EFFECTIVE DATE: May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (McMinnville and Lebanon,[1] Tennessee) MM Docket No. 83-467, RM-4333, RM-4485.

Adopted: February 21, 1984.

Released: February 28, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 26467, published June 8, 1983, proposing the assignment of Channel 33 to McMinnville, Tennessee. Peggy Ann Rothchild, petitioner, filed comments reaffirming her interest in the assignment. Lebanon Television, Inc. ("LTI") filed a request to assign Channel 33 to Lebanon, Tennessee, which we have consolidated as a counterproposal herein. William O. Barry ("Barry") filed comments in support of LTI's proposal.

2. In support of its counterproposal, LTI states that Lebanon has no local broadcast television service and that there is a need for a local TV station. LTI affirms that it will apply for Channel 33, if it is assigned. In a recent proceeding (MM Dkt. 83-414) adopted January 6, 1984, the Commission assigned Channel 66 to Lebanon as its first TV channel.

3. LTI and Barry had indicated their support for Channel 66 at Lebanon if Channel 33 could not be assigned there. Barry notes that Channel 58 is available for assignment to McMinnville as an alternative.

4. McMinnville (population 10,683),[2] seat of Warren County (population 32,653) is located approximately 108 kilometers (68 miles) southeast of Nashville, Tennessee. Lebanon (population 11,872) seat of Wilson County (population 56,064) is located approximately 40 kilometers (26 miles) east of Nashville.

5. After consideration of the proposals, the Commission is persuaded that the public interest would be served by assigning Channel 33 to McMinnville, as its first TV channel assignment. A site restriction of 4.3 miles west is necessary. While interest was expressed in assigning Channels 33 and 66 to Lebanon, we found in light of our recent action in Docket 83-414 assigning Channel 66 to Lebanon as its first UHF television assignment, it would be in the public interest to assign Channel 33 to McMinnville so that each community can obtain its first local TV station. No other TV channels are available at McMinnville since Channel 58 was recently assigned to Nashville, Tennessee, in MM Docket 83-470, adopted January 20, 1984. As for Lebanon, we also found that Channel 69 can be assigned with a site restriction of 14.6 miles north of the community. Should there be an interest in assigning that channel, we would entertain a petition for rule making.

§ 73.606 [Amended]

6. Accordingly, pursuant to the authority contained in § 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.238 of the Commission's Rules, it is ordered, That effective May 7, 1984, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended, with respect to the community listed below:

City	Channel No.
McMinnville, Tennessee	33+

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-6025 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

[2] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 83

[PR Docket No. 82-677; FCC 84-54]

Amendment of the Commission's Rules to Delete and Simplify Requirements Governing Spare Parts, etc. for Compulsory Ship Stations in the Maritime Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action addresses petitions for reconsideration of the Report and Order in PR Docket No. 82-677, regarding ship station spare parts. The effect to this action is to retain the rules as adopted in the Report and Order with some modification as suggested by some of the petitions.

EFFECTIVE DATE: April 5, 1984.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 83

Communications equipment, Ship stations, Radio.

Memorandum Opinion and Order

In the Matter of Amendment of Part 83 of the rules to delete and simplify requirements governing spare parts, tools, test equipment, instruction books and circuit diagrams for compulsory ship stations in the maritime mobile service. PR Docket No. 82-677.

Adopted: February 23, 1984.

Released: February 28, 1984.

By the Commission.

1. The Commission released a *Report and Order* in this proceeding on July 22, 1983, FCC 83-333, 48 FR 33903. Nine petitions for reconsideration of the *Report and Order* were timely filed. This document addresses and disposes of these petitions.

2. The petitions raise two basic questions. The first question is whether the old rules should be reinstated. This was raised in a petition filed by David B. Popkin (Popkin), who had commented in

response to the Notice of Proposed Rule Making. Mr. Popkin's petition reiterates the arguments he made during the comment period and essentially requests that the original rules be reinstated.

3. Regarding the Popkin petition, the Commission stated in its *Report and Order* the reasons why the old rules were unsatisfactory. The new rules state generally the requirements for spare parts, tools, test equipment and circuit diagrams. The Commission is not reducing requirements but rather is restating those requirements in general terms. Consequently the Popkin petition will be denied for the reasons originally stated in the *Report and Order* in support of the amended rules.

4. The second issue concerns the wording of the new rule. This issue was raised by the petitions of the American Institute of Merchant Shipping (AIMS) and of seven operators of U.S. registered commercial vessels. These petitions generally favor the rule amendments adopted in this preceeding but object to the language in new § 83.474(a) which states that "[t]he Commission will look to the equipment manufacturer to determine the required spare parts, tools and test equipment * * *" for compliance with the new rules. No oppositions to these petitions were filed.

5. AIMS and the ship operators opposed the idea that equipment manufacturers be permitted to determine the spare parts requirement. They expressed concern that manufacturers may have a commercial incentive to maximize the spare parts requirement. No opposition comments were filed. We are persuaded to revise the rule to require the ship station licensee to compile a list of these material. This list will be available to the Commission at the vessel's inspection. If manufacturers provide recommended lists of spare parts, we may consider those recommendations in determining the adequacy of the licensees' lists.

6. For the reasons stated above IT IS ORDERED, That the petitions for reconsideration are GRANTED, to the extent indicated herein and are otherwise DENIED.

7. IT IS FURTHER ORDERED, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the rules ARE AMENDED in accordance with the attached appendix, effective April 5, 1984.

8. Regarding matters in this document, contact Robert P. DeYoung, (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.474 is revised to read as follows:

§ 83.474 Ship and survival craft station spare parts, tools, instruction books, circuit diagrams and testing equipment.

(a) Each ship station shall be provided with such spare parts, tools, testing equipment, instruction books and circuit diagrams as will enable the radiotelegraph installation and survival craft station to be maintained in efficient working condition while at sea. Each ship station licensee must compile a list of spare parts, tools, test equipment and circuit diagrams it considers necessary for compliance with this requirement. This list must be available at inspection. The Commission may consider equipment manufacturer lists of recommended spare parts, tools, test equipment, and repair circuit diagrams in determining compliance with this sub-section. Spare parts for the survival craft station must be kept with that station. Other items must be located convenient to the radio room.

(b) The testing equipment shall include an instrument or instruments for measuring A.C. volts, D.C. volts and ohms.

2. Section 83.499 is revised to read as follows:

§ 83.499 Ship station tools, instruction books, circuit diagrams and testing equipment.

(a) Each ship station shall be provided with such tools, testing equipment, instruction books and circuit diagrams as will enable the radiotelephone installation to be maintained in efficient working condition while at sea. Each ship station licensee must compile a list of spare parts, tools, test equipment and circuit diagrams it considers necessary for compliance with this requirement. This list must be available at inspection. The Commission may consider equipment manufacturer lists of recommended spare parts, tools, test equipment, and repair circuit diagrams in determining compliance with this subsection. These items must be located convenient to the radio room.

(b) The testing equipment shall include an instrument or instruments for measuring A.C. volts, D.C. volts and ohms.

[FR Doc. 84-6003 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

48 CFR Ch. 24

[Docket No. R-84-1145; FR-1860]

Acquisition Regulations; Correction

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule; correction.

SUMMARY: This document corrects one paragraph of the Department's Acquisition Regulations, published in the **Federal Register** on March 1, 1984 (49 FR 7696). Because the correction involves inserting several words into the paragraph, it is set out in its entirety below.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, telephone (202) 755-5294. (This is not a toll-free number.)

Accordingly, the Department of Housing and Urban Develpment corrects 48 CFR 2401.601-2 (b) to read as follows:

§ 2401.601-2 Office of Procurement and Contracts.

* * * * *

(b) *Government National Mortgage Association (GNMA).* The President, GNMA, exercises statutory procurement authority with respect to requirements related to GNMA's programmatic functions. The HUDAR does not apply to these procurement actions. The President, GNMA, is responsible for issuing and complying with appropriate GNMA procurement guidelines not inconsistent with standards established by the Procurement Executive.

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: March 1, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR. Doc. 84-5982 Filed 3-5-84; 8:45 am]

BILLING CODE 4210-01-M

Proposed Rules

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

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 71

[Airspace Docket No. 84-ASO-9]

Proposed Alteration of Control Zone, Palm Beach, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Palm Beach, Florida, control zone by reducing the length of one arrival extension and designating two addtional arrival extensions. These changes result from relocation of the Palm Beach VORTAC facility from an off-airport to an on-airport site and establishment of new instrument approach procedures. This action will lower the base of controlled airspace, southeast and northwest of the airport, from 700 feet to the surface. the proposed effective date of this action is May 10, 1984.

DATE: Comments must be received on or before: April 15, 1984.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All comunications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will alter the Palm Beach, Florida, control zone. Relocation of the Palm Beach VORTAC to an on-airport site results in the establishment of new instrument approach procedures. These new procedures necessitate the designation of additional controlled airspace for containment of aircraft during Instrument Flight Rule operations. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Control Zone.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the Palm Beach, Florida, control zone under § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Palm Beach, FL—[Revised]

Within a 5-mile radius of Palm Beach International Airport (Lat. 26°40'58"N., Long. 80°05'45"W.); within 3 miles each side of Palm Beach VORTAC 154°, 278° and 307° radials, extending from the 5-mile radius area to 8.5 miles southeast, west and northwest of the VORTAC.

(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, Public Law 97-449, January 12, 1983)

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

Issued in East Point, Georgia, on February 24, 1984.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 84-5890 Filed 3-5-84; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 440, 442, 444, 446, 448, 450, 452, and 455

[Docket No. 83N-0301]

Clarification of Potency Standards for Certain Antibiotic Drugs; Informal Conference and Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; notice of informal conference and extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it will hold an informal conference in Rockville, MD, to receive information and views from interested persons on its proposal to clarify potency standards for certain antibiotic drugs. FDA is also extending the period for submission of written comments on the proposal.

DATES: A written notice of participation should be filed by March 23, 1984. The informal conference will be held on April 2, 1984; written comments by May 2, 1984.

ADDRESSES: Written notice of participation and comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The informal conference will be held in the Parklawn Bldg., Conference Rm. C, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Norton, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA will hold an informal conference on its proposal to amend the antibiotic drug regulations by clarifying the potency standards for certain antibiotic drugs (21 CFR Parts 436, 440, 442, 444, 446, 448, 450, 452, and 455). The proposal was published in the **Federal Register** of December 2, 1983 (48 FR 54364), and corrected December 22, 1983 (48 FR 56603) and December 27, 1983 (48 FR 56965). The effect of the amendments would be to revise certain antibiotic drug regulations (monographs) so as to clarify that the potency standard stated as micrograms or units per milligram (in addition to the potency standard stated in terms of minimum and, in some cases, maximum percentages of the number of milligrams per container) applies to a bulk drug packaged for dispensing.

The proposal gave interested persons an opportunity to submit written comments by January 31, 1984. It also announced that interested persons could submit a request by January 3, 1984, for an informal conference on the proposal, and that if a conference were granted, an extension of the comment period would be provided. One request for an informal conference was received.

FDA believes that an informal conference should be held on the proposal. The conference will be held on April 2, 1984, at 9:30 a.m. (address above) and will be open to the public.

Any persons who wish to present their views at the conference should file a written notice of participation with the Dockets Management Branch (HFA-305) (address above) by March 23, 1984.

The notice of participation and any outer envelope should be prominently marked with Docket No. 83N-0301 and the statement "Informal Conference, Clarification of Potency Standards." The notice of participation should contain the following information:

1. Name, address, and telephone number of the person desiring to make a persentation.
2. Business affiliation, if any.
3. A summary of the presentation.
4. The approximate amount of time requested for the presentation (no more than 30 minutes unless more time can be justified).

The time available for the conference will be allocated among the persons who file written notices of participation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The agency may require consolidation to facilitate the purposes of the conference or to meet time constraints. At the discretion of the agency, participants and, as time permits, any person who attends may be heard on the issues under consideration.

Before the conference, the agency will determine the amount of time allocated to each participant for oral presentation and the approximate time that the presentation is to begin. Each participant will be so informed by telephone.

As noted in the proposal, the agency will extend the period for submission of written comments for 30 days after the informal conference. Accordingly, interested persons may, on or before May 2, 1984, submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submittted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 28, 1984.

Philip L. Paquin,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 84-5929 Filed 3-5-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-152-79]

Minimum Addition to reserve for Losses on Loans of Mutual Savings Banks; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the imposition of a requirement of a minimum addition of reserve for losses on loans of mutual savings banks and other organizations to which section 593 applies.

DATES: The public hearing will be held on Thursday, March 22, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, March 15, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-152-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 593 of the Internal Revenue Code of 1954. The proposed regulations appeared in the

Federal Register for Monday, December 19, 1983 (48 FR 56083).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, March 15, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-5933 Filed 3-5-84; 8:45 am]

BILLING CODE 4830-01-M

---

26 CFR Part 1

[LR-201-82]

Information Returns Required of Certain Foreign Owned Corporations and Information Returns Required of United States Persons With Respect to Certain Foreign Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to information returns required of United States persons with respect to certain foreign corporations, and information returns required of certain foreign-owned corporations with respect to transactions with related corporations.

DATES: The public hearing will be held on Thursday, March 29, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, March 15, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-201-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-556-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 6038 and 6038A of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, December 19, 1983 (48 FR 56076).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral coments at the hearing on the proposed regulations should submit, not later than Thursday, March 15, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-5934 Filed 3-5-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Permanent State Regulatory Program of Colorado

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

ACTION: Proposed rule.

SUMMARY: OSM is proposing to modify the deadline for Colorado (1) to promulgate rules governing the training, examination and certification of blasters and (2) to develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation. On February 6, 1984, Colorado requested a six-month extension of time for the development of a blaster certification program. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

DATE: Comments must be received by April 5, 1984 at the address below, no later than 5:00 p.m.

ADDRESS: Written comments should be mailed or hand delivered to Mr. Bob Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, NW., Albuquerque, New Mexico 87102; Telephone: (505) 766-1486.

Supplementary Information

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Subchapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after

approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Colorado's program, the applicable date is 12 months after publication date of OSM's rule, or March 4, 1984.

On February 6, 1984, Colorado advised OSM that it would be unable to meet the March 4, 1984 deadline and requested an additional six months to develop and adopt a blaster certification program.

The Director of the Colorado Department of Natural Resources, Mined Land Reclamation Division, the regulatory authority for Colorado's program, advised OSM that the State would require the additional time in order to work out an agreement with another State agency that would handle the blaster certification program. He also stated that Colorado would like to promulgate regulations governing a blaster training program concurrently with the promulgation of other modifications to the program which the State intends to make as a result of modifications in the Federal regulations under SMCRA.

OSM is seeking comment on whether the State has shown good cause for its request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: February 29, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84-5965 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/P329; PH-FRL 2531-3]

Ethylene Dibromide; Proposed Tolerances

Correction

In FR Doc. 84-4879 beginning on page 6697 in the issue of Wednesday, February 22, 1984, make the following correction:

On page 6699, in the first column, § 180.397, last paragraph, first line, "(B)" should read "(b)".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-177; RM-4622; RM-4623; RM-4660]

FM Broadcast Station in Casper, Wyoming; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of three Class C channels to Casper, Wyoming, in response to separate petitions filed by Allen Sheets, Charles Joseph Thompson, and by Eagle Broadcasting Company, Inc. The proposed assignments could provide a fifth, sixth and seventh FM service to Casper.

DATES: Comments must be filed on or before April 23, 1984, and reply comments on or before May 8, 1984.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Casper, Wyoming) MM Docket No. 84-177, RM-4622, RM-4623, RM-4660.

Adopted: February 21, 1984.

Released: February 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers three separate petitions proposing new FM channel assignments to Casper, Wyoming. The first was filed by Allen Sheets proposing the assignment of Class C Channel 253 to Casper, Wyoming. The second petition was filed by Charles Joseph Thompson requesting that Class C Channel 267 be assigned to Casper. The third petition was filed by Eagle Broadcasting Company, Inc., requesting the assignment of Class C Channel 273 [1] to Casper. All three petitioners stated an interest in applying for the respective channels, if assigned.

2. The proposed assignments of Channels 253, 267 and 273 to Casper, Wyoming, can be made in compliance with the minimum distance separation requirements, without a site restriction.

§ 73.202 [Amended]

3. In view of the fact that Casper could receive a fifth, sixth and seventh FM assignment, comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following city:

City	Channel No.	
	Present	Proposed
Casper, Wyoming	233, 238, 279, and 295.	233, 238, 253, 267, 273, 279, and 295.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE:

[1] Petitioner originally requested FM Channel 253 but that would conflict with RM-4622, in this same docket. Petitioner is also an applicant for Channel 295 in Casper. There are five other applications for Channel 295 which have been designated for hearing in MM Docket Nos. 83-548-553.

A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 23, 1984, and reply comments on or before April 8, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Channel 253

Edward M. Johnson, Consultant to Allen Sheets, 300 Mulvaney, Knoxville, TN 37915

Channel 267

Edward M. Johnson, Consultant to Charles J. Thompson, 2500 Legion Drive, Knoxville, TN 37915

Channel 273

Lauren A. Colby, Esquire, 532 Pearl Street, Frederick, MD 21701 (Counsel to Eagle Broadcasting Co. Inc.)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–6031 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 73

[MM Docket No. 84–176; RM–4573; RM–4617]

FM Broadcast Stations in Laramie, Wyoming; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channels 288A and 296A to Laramie, Wyoming, in response to petitions filed by Laramie Women's Hispanic Network, Inc. and Allen Sheets.

DATES: Comments must be filed on or before April 23, 1984, and reply comments on or before May 8, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Laramie, Wyoming) MM Docket No. 84–176, RM–4573, RM–4617.

Adopted: February 21, 1984.

Released: February 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration two separate petitions for rule making requesting the assignment of Class A channels to Laramie, Wyoming. The first petition, filed by Laramie Women's Hispanic Network, Inc. ("Laramie") (RM–4573), seeks the assignment of Channel 288A. The second petition, filed by Allen Sheets ("Sheets") (RM–4617), requests the allocation of Channel 296A. Each petitioner stated its intention to apply for the channel, if assigned. Additionally, a separate petition was filed by Charles Joseph Thompson ("Thompson"), requesting the assignment of Channel 288A to Laramie. We have treated Thompson's petition as a supporting comment.

2. Both Channel 288A and 296A may be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

§ 73.202 [Amended]

3. In view of the fact that the proposals could provide a third and fourth local FM broadcast service to Laramie, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules as follows:

City	Channel No.	
	Present	Proposed
Laramie, Wyoming	236 and 275	236, 275, 288A, and 296A.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 23, 1984, and reply comments on or before May 8, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioners as follows:

John R. Wilner, Esquire, Bryan, Cove, McPheeters & McRoberts, 1015 Fifteenth Street, NW., Suite 1000, Washington, D.C. 20005 (Counsel for Laramie Women's Hispanic Network, Inc.)

Edward M. Johnson and Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (Consultant for Allen Sheets)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Insepction of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–6030 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 84-180; RM-4499]

TV Broadcast Station in Porterville, California; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 61 to Porterville, California, as its first television assignment, in response to a petition filed by Stephen J. Mewhort.

DATES: Comments must be filed on or before April 23, 1984, and reply comments on or before May 8, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Porterville, California) MM Docket No. 84-180, RM-4499.

Adopted: February 21, 1984.

Released: February 29, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Stephen J. Mewhort ("petitioner"), requesting the assignment of UHF Television channel 61 [1] to Porterville, California, as that community's first commercial television service. Petitioner submitted information in support of the proposal and stated his intention to apply for the channel, if assigned.

2. Porterville (population 19,707),[2] in Tulare County (population 245,738), is located in south central California approximately 240 kilometers (150 miles) north of Los Angeles.

3. UHF Television Channel 61 can be assigned to Porterville consistent with the minimum distance separation and other technical requirements of the Commission's Rules.

§ 73.606 [Amended]

4. Since the proposed assignment could provide a first commercial television broadcast service to Porterville, we believe the proposal warrants consideration. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Porterville, California		61

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 23, 1984, and reply comments on or before May 8, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915, (consultant to the petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § § 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutues an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communicaitons Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable

[1] Petitioner originally requested Channel 55. On November 21, 1983, petitioner filed an amendment requesting Channel 61 be assigned in place of Channel 55.

[2] Population figures were extracted from the 1980 U.S. Census.

procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rule and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-6032 Filed 3-5-84 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 84-183; RM-4668]

TV Broadcast Station in Bunnell, Florida; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposed the assignment of UHF television Channel 58 to Bunnell, Florida, in response to a petition filed by Wendell Triplett.

DATES: Comments must be filed on or before April 23, 1984, and reply comments on or before May 8, 1984.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Bunnell, Florida) MM Docket No. 84-183, RM-4668.

Adopted: February 21, 1984.

Released: March 1, 1984.

By the Chief, Policy and Rules Division.

1. Wendell Triplett ("petitioner") submitted a petition for rule making on November 3, 1983, requesting the assignment of UHF television Channel 46 to Bunnell, Florida, as a first television assignment. Petitioner stated his intention to apply for the channel, if assigned.

2. Bunnell (population 1,816) [1] seat of Flagler County (population 10,913), is located in northeast Florida, approximately 110 kilometers (68 miles) south of Jacksonville, Florida. It is without local television service.

3. Petitioner describes Bunnell (and Flagler County) as an area expected to undergo explosive population growth in the near future, and at the same time, gain in economic strength. According to the petitioner, a television facility at Bunnell would be an additional catalyst to further accelerate growth of the area.

4. A Channel 46 assignment to Bunnell would be short spaced to a pending rule making for Channel 61 at Gainesville, Florida, requiring a 9 mile east site restriction. Such a restriction, due to the proximity of the coast, would severely limit the possible locations for a Bunnell transmitter site. A staff study indicates that, as an alternative, Channel 58 can be assigned to Bunnell and meet all the spacing requirements without a site restriction. Therefore, we shall propose Channel 58 for Bunnell.

§ 73.606 [Amended]

5. Based on the above information, we believe that the petitioner has made an adequate showing for the need of a television assignment to Bunnell. The proposal could provide the community with an opportunity to develop a first television broadcast service. Comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, with regard to the following city:

City	Channel No.	
	Present	Proposed
Bunnell, Florida		58

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Population figures are taken from the 1980 U.S. Census.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 23, 1984, and reply comments on or before May 8, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Wendell Triplett, 1501 Road 235, Bellefontaine, Ohio 43311.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoke or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as

set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-6035 Filed 3-5-84; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 84-182; RM-4614]

TV Broadcast Station in Liberal, Kansas; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign VHF television Channel 5 to Liberal, Kansas, as that community's first local television broadcast service, in response to a petition filed by James P. Young.

DATE: Comments must be filed by April 23, 1984, and reply comments no later than May 8, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Liberal, Kansas) MM Docket No. 84-182, RM-4614.

Adopted: February 21, 1984. Released: February 29, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by James P. Young ("petitioner"), proposing the assignment of VHF television Channel 5 to Liberal, Kansas, as that community's first local television broadcast service. Petitioner states that he will apply for the channel, if assigned as proposed.

2. Liberal (population 14,911),[1] the seat of Seward County (population 17,071), is located in southwestern Kansas, approximately 350 kilometers (220 miles) northwest of Oklahoma City, Oklahoma. Presently, Liberal is devoid of any local television service.

3. VHF television Channel 5 may be assigned to Liberal consistent with the minimum distance separation requirements of § 73.610 of the Commission's Rules provided the transmitter location is restricted to an area 7.8 miles southwest of the community to avoid short spacing to Station KTVC(TV) (Channel 6) in Ensign, Kansas.[2]

§ 73.606 [Amended]

4. In consideration of the foregoing, we believe the proposal merits consideration since it could provide a first local televison broadcast service to Liberal. Accordingly, the Commission proposes to amend the Television Table of Asignments, § 73.606(b) of the Commission's Rules, to include the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Liberal, Kansas		5+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 23, 1984, and reply comments on or before May 8, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: James Patrick Young, P.O. Box 2525, Crossville, TN 38555 (Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the*

[1] Population figures were extracted from the 1980 U.S. Census.

[2] In another proceeding (RM-4587) the Commission has been asked to change the offset of Channel 6 from minus (−) to plus (+). The mileage separation would not be affected.

Commission's Rules, 46 FR 11459, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel it is is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-6034 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-110; RM-3046; FCC 84-39]

Remote Control Operation of AM, FM, and TV Broadcast Transmitters

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This Notice of Proposed Rulemaking discusses requested revisions in the regulations governing the operation of broadcast transmitters by remote control. The existing rules may unnecessarily restrict the efficient operation of broadcast stations. Should the proposed rule changes be adopted, broadcast licensees could take advantage of recent advances in electronics technology.

DATES: Comments are due May 15, 1984 and reply comments are due June 15, 1984.

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

FOR FURTHER INFORMATION CONTACT: John W. Reiser, Mass Media Bureau, (202) 632-9660.

List of Subjects in 47 CFR Part 73

Radio broadcast, Television.

Notice of Proposed Rule Making

In the matter of amendment of Part 73 concerning remote control operation of AM, FM, and TV broadcast transmitters (MM Docket No. 84-110, RM-3046).

Adopted: February 3, 1984.

Released: March 2, 1984.

By the Commission.

Introduction

1. The Commission has before it a petition for rule making (RM-3046) filed by George Edward Molnar, Jr. ("Molnar"). The petitioner requests the amendment of §§ 73.67, 73.275, 73.575, and 73.676 of the rules. These provisions regulate the equipment and procedures used to operate broadcast transmitting systems by remote control. Comments in response to the petition were filed by the WNDU stations, Walter B. Stansburg, WSJV Television, Inc., KNTV, Southwest Indiana Public Television, Inc., WNIT, Michiana Telecasting Corporation, and the National Association of Broadcasters (NAB).

Molnar Petition

2. The petitioner requests the following specific amendments in the remote control rules for AM, FM, and TV Broadcast stations:

(1) Permit continued transmitter operation for one hour following a failure of control and fail-safe circuits.

(2) Recognize non-wireline circuits (i.e., microwave links) in remote control systems for radio transmitters.

(3) Delete the requirement that TV stations have automatic termination circuits for telemetry failures and conform the TV rules to the radio procedures for manual termination after an observed failure.

(4) Provide uniform remote control equipment and operating procedures for AM, FM, and TV stations.

3. The petitioner states that the rules for AM and FM radio stations and those for television stations have many unnecessary differences. For instance, the rules governing remote control operation of AM or FM transmitters do not provide for the use of microwave circuits, because at the time they were adopted microwave links were not in common use by radio stations. The first remote control regulations for TV stations, adopted nearly 15 years after the radio remote control rules, provide for both wireline and microwave circuits. The radio and television rules also differ in specifying when termination of the use of remote control is required following an uncorrected malfunction of the control and metering functions. Television remote control systems must have circuits that will automatically turn the transmitter off one hour after an uncorrected remote metering failure.[1] On the other hand, radio stations are not required to have a circuit to automatically turn the transmitter off. Instead they must manually discontinue operation if the telemetry is not corrected within one hour after the failure is first observed. Petitioner contends that there is no valid reason for such differences. He states that bringing remote control regulations for all services into conformity will permit licensees to use the best broadcast technology available and provide relief from variations in outmoded and unnecessary technical regulations.

4. Petitioner further requests that the rules be amended to permit continued transmitter operation for one hour after a complete disruption of all cotrol circuitry between the control point and the transmitter site.[2] Petitioner states that wireline control circuits are subject to many interruptions, most of which are beyond the control of the station licensee.[3] He contends that terminating the programming of a station merely because of a control circuit malfunction is not in the public interest because the malfunction usually has no direct effect on the operation of the transmitter. Additionally, Molnar contends that allowing a period of time before required termination would give technicians time to reach the transmitter site and either repair the problem or take local control. Thus interruption of the program would be avoided. In support of his request, the petitioner points out that because of the stability and reliability of most transmitters in use, very few actual adjustments are required during the broadcast day. Consequently, loss of the ability to control the transmitter for one hour should not present any additional regulatory problems. Parties filing comments on the petition advanced the same arguments for amending the rules as did petitioner.

Discussion

5. The present broadcast transmitter remote control rules are clearly ripe for review. These rules have developed over a 30 year period. At first, only low power noncommercial FM stations were permitted to use remote transmitter control as a means of lowering station operating costs. By means of a series of rulemaking proceedings, additional classes of stations by type, power, and antenna were authorized to operate their transmitters by remote control. Finally, in 1971, VHF as well as UHF television stations were permitted to use remote control, but under much more restrictive regulations than those for radio station. During the past 12 years a number of minor revisions have been made to the radio and TV remote control rules for clarification or to achieve consistency with other technical rule changes. Although each of the petitioners' requested amendments have merit, those changes are limited in scope and would be only further adjustments of rules that should be reviewed and considered for revision in their entirety. Accordingly, this proceeding will explore rule changes which go beyond those proposed by petitioner.

6. The rules being proposed would retain only those minimal requirements necessay to ensure that stations comply with certain statutory requirements, efficiently operate within the terms of the station authorization, and avoid interference to other stations and communications services. The revisions proposed delete all references to the type of control and telemetry circuitry for remote control systems. Use of wire lines, microwave, optical fiber, laser beam, infra-red light, broadcast subcarriers, or a yet undeveloped communication circuit could be used for remote control links. Stations may also incorporate their regular program STL circuits into the remote control system.[4]

7. *Transmitter on/off Control.* The present rules require that "* * * control circuits * * * shall provide positive on and off control and shall be such that open circuits, short circuits, grounds or other line faults will not actuate the transmitter and any fault causing loss of such control will automatically place the transmitter in an inoperative position." The ability to turn the transmitter on and off is a basic requirement for the operation of a broadcast station. The transmitter duty operator required under the provisions of Section 318 of the Communications Act of 1934 must be able to make, perform or supervise that control function at any time.[5]

8. However, the present remote control rules appear to be unnecessarily restrictive in that they are narrowly directed to the control apparatus rather than the entire station facility as a system. Many stations have alternative means readily available to accomplish these transmitter operations. For example, the studio to transmitter program lines or other dedicated full-time circuits under the control of the station also can be easily used in conjunction with the normal remote control circuits as a means of positive transmitter on-off control. Thus, the capability of turning the transmitter on and off would still be available when there is a failure of the normal control circuit equipment.

9. Even in the absence of alternative control systems, momentary disruptions in the control circuitry need not require

[1] The *Report and Order* (Docket 18425, Adopted March 17, 1971, 36 FR 5499) establishing TV remote controle rules was an outgrowth of the Commission experience with radio remote control operation. Specifically, radio licensees frequently failed to take prompt remedial action when there was a failure in the telemetry circuits. Thus, the TV remote control rules required equipment that would automatically turn the transmitter off after one hour of uncorrected circuit failure.

[2] The rules presently require that should a failure of the control circuits prevent the operator from actuating any required transmitter control function, the transmitter must automatically turn itself off until the control function is restored or an operator assumes direct control and remains on duty at the transmitter site.

[3] It is not uncommon for these lines to be temporarily interrupted because of vehicles hitting telephone poles, storm damage, accidental cutting of underground cables, etc.

[4] Even though non-wireline circuits are not specifically provided for under the present AM/FM rules, these types of operations are permitted and frequently used.

[5] The on/off function is particularly important with regard to operation under an EBS Emergency Action Notification, and for those daytime and limited time AM stations that would cause objectionable interference if operating during unauthorized hours.

complete system shut down and program interruptions. Many systems include a time delay feature to avoid interruptions, although the present rules do not provide for this feature. The proposed amendments as presented in the Appendix suggest a three minute fail-safe delay. We request comments, however, on the appropriateness of this delay if the station uses alternate transmitter control circuits or automatic time controls to perform transmitter on-off and AM operating mode switches.

10. *Power and Antenna Mode Change Control.* AM stations that are required by the terms of their licenses to change operating power or antenna pattern at a specified time present a particular regulatory concern. Unless these stations operate in strict compliance with the terms of their authorizations, interference to other stations will be caused. Therefore, unless other automatic means are available to make these operating changes at the required times, such stations are required to cease operation when a malfunction in the control system prevents making the change.

11. *Transmitter Operating Adjustment Control.* Television and radio remote control rules differ in the requirements for transmitter adjustment controls. The television rule requires ". . . sufficient number of control circuits to perform all transmitter adjustments normally required on a daily basis to insure strict compliance with the requirements of the rules." The radio remote control rules provide that "[c]ontrol and monitoring equipment shall be installed so as to allow the licensed operator at the remote control point to perform all the functions in a manner required by the Commission's rules." Some of these "required" controls include compensation for line voltage variations, modulation levels and confirmation of antenna tower lighting operation.

12. In keeping with the trends for more reliable and self adjusting transmitting equipment, the proposed rules for radio as well as television stations would require only those controls for adjustments that must be made manually by the duty operator on a *daily* basis, provided that they are not accomplished by automatic means. Loss of the ability to make minor adjustments to the transmitter for a moderate period of time should cause no serious problems. Such minor adjustments include correcting the output power and modulation to compensate for variations in the power utility's adjustments during the day. Many transmitters automatically adjust power and modulation. Television transmitters, in particular, incorporate many automatic adjustment features. Any transmitter adjustment function that is accomplished by automatic means need not be included in the remote control system. Moreover, the proposed amendments indicate the termination of the remote operation is necessary only after a failure of the remote control system prevents the operator from making necessary adjustments to the transmitter.

13. *Operating During Loss of Telemetry.* Next we address the question of the appropriate limit for continued transmitter operation after the loss of transmitter meter indications at the control point. As previously described, the TV regulations require discontinuing remote control operation by having an operator on duty at the transmitter site or having *automatic transmitter termination* no longer than one hour following an uncorrected telemetry failure. The radio rules require only that the operator either assume control at the transmitter site or turn the transmitter off one hour after an uncorrected failure is first observed.[6] This one hour period was afforded so that a technician could travel to the transmitter site to correct the problem or assume on site transmitter operation in response to requests from broadcasters complaining that immediate termination upon telemetry loss caused unnecessary disruption in program service. Station licensees suggested that a one hour period would afford time to either repair the problem or position a duty operator at the transmitter site. Our general experience indicates that the one hour period may provide inadequate time, particularly during evening hours or on weekends, to contact a maintenance technician and repair the problem or to have another operator assume control at the transmitter site. Therefore we are proposing to extend that period to three hours. Comments are requested on the appropriateness of this change for both radio and television stations.

14. In the absense of required periodic meter readings, several hours may pass before a telemetry failure is observed.[7] Thus, the presently required automatic termination system might be triggered before remedial work is possible. Therefore, in lieu of retaining any automatic termination requirement, we are proposing that an alarm at the control point be provided to indicate that the control metering system has failed. A telemetry failure alarm would be much less complex than a timing device and equipment for automatic transmitter termination. Further, such an alarm device would not result in a disruption in the progress service should the operator fail to observe a metering malfunction.

15. *Optional Controls and Metering.* Termination of the use of remote control should not be required if there is a failure in any of the optional control functions such as those used to activate an auxiliary transmitter or antenna. Stations may include optional metering and control functions that actually are not necessary to monitor and adjust the transmitting system. Although the present rules do not address the use of these optional functions, they clearly should be excluded from any required termination or failure alarms of remote control operation.

16. *Other Proposed Changes.* Because of the many recent deregulatory changes in the technical log keeping requirements and deletion of the requirement that modulation level metering be in continuous operation, the staff has received numerous inquiries regarding unattended station operation and location of remote control points. Heretofore, there has been no restriction on the location of remote control points, provided they are protected from access by unauthorized persons. However, the point must be under the control of and accessible to the license at all times. The proposed rules will clarify this matter.

17. In summary the proposed remote control rule amendments include the following changes:

(1) Program or other dedicated circuits to the transmitter site can be incorporated into the remote control system to prevent loss of service if the normal control on-off circuit fails;

(2) The use of remote control would be discontinued if a failure in the telemetry is not repaired within three hours. The required one hour fail-safe for television remote control that is required by the present rules to automatically turn the transmitter off would be deleted.

(3) Required remote control transmitter adjustment would be only those that must be manually made on a daily basis by a duty operator to maintain the transmitter operating power or modulation characteristics. Transmitters having automatic adjustments would not require parallel remote control adjustments. (Whether by remote or direct control, operation of a station must be terminated when the operator is unable to adjust the

[6] The radio rules were based on the premise that the operator would be taking and logging the readings periodically.

[7] *Report and Order*, Docket 82-537, adopted July 14, 1983.

transmitter to conform with the maximum power or modulation limitations.)

(4) AM stations required by the terms of their authorizations to change either the operating power or directional antenna pattern at specified times must terminate operation immediately upon any failure in the remote control system that prevents the changes from being made. An automatic mode switching clock could be provided as a backup means of making the mode changes;

(5) Stations may establish a remote control point at any location under their control and accessible to them at all times in addition to their studio or transmitter locations in addition to the studio and transmitter sites. Stations may have more than one remote control point to meet their operating requirements.

(6) The remote control system and operating requirements for AM, FM, and TV transmitting systems would be uniform in one rule section.

18. Although the proposed rules would give licensees much greater flexibility in the design and operation of their transmitting facilities by remote control than the present rules, and deficiencies in either the design and operation or maintenance of their remote control systems or equipment will not be an accepted reason for any operation in violation of the license terms or other technical regulations. Consistent with other deregulatory proceedings, we do not prescribe any specific schedule of inspection, testing or calibration of remote control circuits. As in making their own system selection, licensees should conduct calibration and preventative maintenance as appropriate for the stations' particular needs.

Administrative

19. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

I. Reason for action

The Commission's existing technical regulations for the equipment and procedures for the operation of broadcast transmitters by remote control are outmoded and excessively complex. Further the technical requirements for radio stations differ considerably from those for television stations. These differences are no longer necessary because of improvements in the reliability and stability of the transmitting equipment. Amending the rules will permit broadcast licensees to up-to-date technology to improve the efficiency and quality of their operations.

II. The Objective

The Commission proposes to completely revise the regulations for the operation of broadcast transmitting systems by remote control by removing possible restrictions to the use of modern electronic technology and unnecessary requirements in the operating procedures for remote control transmitter installations.

III. Legal Basis

Action as proposed is in furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to explore new and improved uses of radio.

IV. Description, Potential Impact and Number of Small Entities Affected

In summary, the proposed action would be expected to improve efficiency and to have a positive effect on almost all parties affected by it, and to have no known significant deleterious effect on small entities. Rather, manufacturers of broadcast transmitting equipment would be able to offer equipment that includes improved automatic control features that the present rules may prohibit. The nearly twelve thousand broadcast station licensees would have a greater choice in selecting equipment and operating procedures best suited to meet their particular needs. Also certain costly equipment and operating procedures would be revised or deleted to improve efficiency and provide a more reliable broadcast service to the public.

V. Recording, Record Keeping, and Other Compliance Requirements

None.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

None.

VII. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

None.

20. The Secretary shall cause a copy of this *Notice of Rulemaking*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with § 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 50 U.S.C. et seq.).

21. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix.

22. Authority for the action taken herein is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

23. Pursuant to the procedures set forth in §§ 1.4, 1.415, and 1.419 of the Commission's Rules, interested parties may file comments on or before May 15, 1984, and reply comments on or before June 15, 1984. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

24. In accordance with § 1.419 of the Commission's Rules, an original and five copies of all comments, reply comments, pleadings, briefs or other documents must be furnished to the Commission. Members of the general public who wish to participate may submit one copy of their comments by reference to the Docket number shown on the first page of this document.

25. All filing in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street NW., Washington, D.C.

26. For the purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it related. See

generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

27. All relevant and timely comments filed in response to this *Notice* will be considered by the Commission. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided the fact of the Commission's reliance on such information is noted in the Report and Order.

28. For further information concerning this proceeding, contact John W. Reiser, Mass Media Bureau, (202) 632-9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

The following amendments to Part 73, Title 47, Code of Federal Regulations are proposed:

§§ 73.66, 73.67, 73.274, 73.275, 73.574, 73.575, 73.676, 73.677, and 73.3548 [Removed]

1. In Part 73, § 73.66 would be removed.

2. In Part 73, § 73.67 would be removed.

3. In Part 73, § 73.274 would be removed.

4. In Part 73, § 73.275 would be removed.

5. In Part 73, § 73.574 would be removed.

6. In Part 73, § 73.575 would be removed.

7. In Part 73, § 73.676 would be removed.

8. In Part 73, § 73.677 would be removed.

9. In Part 73, § 73.3548 would be removed.

10. In part 73, new Section 73.1400 would be added to read as follows:

§ 73.1400 Remote control authorizations.

(a) An AM, FM, or TV stations transmission system may be operated by remote control using the procedures described in § 73.1410 from one or more locations that are under the control of and accessible to the licensee at all times.

(b) No authorization from the FCC is required to operate the transmission system of an FM, TV, or AM station operating with a nondirectional antenna by remote control. Authority to operate an AM station using a directional antenna system by remote control is obtained using the following procedures:

(1) An application for a construction permit to erect a new or make modifications in an existing directional antenna, subject to the sampling system requirements of § 73.68, may request remote control authorization on the permit application FCC Form 301 (FCC Form 340 for noncommercial educational stations).

(2) An existing licensee or permittee having a sampling system in compliance with the provisions of § 73.68(a) must request remote control authorization on FCC Form 301-A, and submit information showing that the directional antenna sampling system has been constructed according to the specifications of § 73.68(a).

(3) An existing station not having an approved directional sampling system in compliance with the provisions of § 73.68(a) must request remote control authorization on FCC Form 301-A, and submit information showing that the directional antenna is in proper adjustment and further showing the stability of the antenna system during the 1-year period specified in Section II of Form 301-A.

(c) If remote control points at places other than the main studio or transmitter site locations are used, written notice giving the address and description of those locations must be sent to the FCC in Washington, D.C., within 3 days after commencing remote control operation from such points. A copy of the notification is to be posted with the station authorization.

11. In Part 73, new § 73.1410 would be added to read as follows:

§ 73.1410 Remote control operation.

Operation of broadcast transmission systems by remote control may be conducted under the following procedures:

(a) *All stations.* (1) Broadcast stations to be operated by remote control must provide the following telemetry, control, and test functions at each control point used.

(i) Means for turning the transmitter on and off at all times.

(ii) Instruments for indicating the operating power of the transmitter(s).

(iii) Means to control or make transmitter output power, modulation, and any other adjustments normally required on a daily basis to ensure operation is in compliance with the technical rules applicable to the particular class of station unless the transmitter is equipped with automatic controls to perform such adjustments.

(iv) Means for determining that required obstruction lighting of the antenna or its supporting structure is malfunctioning.

(v) Monitoring equipment necessary to permit the transmitter duty operator to monitor the off-air program signal. If the station is transmitting subsidiary communications or TV teletext services, the operator must be able to monitor and supervise the transmission of such services.

(vi) Equipment required to comply with the provisions of Subpart G for the Emergency Broadcast System, unless such equipment is provided at a location where other station staff employees are on duty and can receive and transmit emergency action notifications.

(vii) An alarm indicating if there is a failure in the telemetry circuitry providing operating parameters of the transmission system.

Note.—The provisions of paragraph (a)(1)(vii) will apply to stations first using remote control on or after July 1, 1984, and all stations by July 1, 1986.

(2) The equipment at the operating and transmitting positions must be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by the licensee. Remote control points may be at any locations that are under the control of and accessible to the licensee at all times.

(3) Any necessary remote control indicating instruments must conform with specifications prescribed for the regular transmitter, antenna, and monitoring meters. Meters with arbitrary scale divisions may be used with calibration charts or curves showing the relationship between the arbitrary scales and the readings of the corresponding instruments at the transmitter site.

(4) The remote control and monitoring equipment must be calibrated and tested as often as necessary to ensure proper operation.

(i) Each remote control indication of transmission operating parameters must be accurate within 2 percent of the value read on its corresponding indicating instrument at the transmitter site.

(ii) Remote control indicating instruments are to be calibrated against their corresponding primary transmission system instrument.

(5) The circuits from remote control points to the transmitter and the return telemetry circuit must be so designed, installed, and maintained that open circuits, short circuits, grounds, noise impulses, or any other failure of the circuit will not activate the transmitter. Use of remote system must provide for automatically terminating the station

radiations within 3 minutes following a complete failure of the ability to turn the transmitter off by means of any dedicated circuit from the control points.

(6) Except as noted in paragraphs (b) (4) and (5) of this Section, a malfunction of any part of the remote control system, preventing required transmitter adjustments (such as adjusting operating power), and loss of accurate transmitter telemetry shall be cause for discontinuing the use of remote control within 3 hours after the malfunction is first detected.

(b) *AM stations.* (1) Devices used for obtaining remote control meter indications of antenna or common point current must be installed according to the provisions of paragraphs § 73.57 (a) and (b).

(2) Stations using directional antenna systems must have the indications of the antenna monitor available at all times to the operator on duty.

(3) Stations that must change the operating mode of the transmitter or antenna system during the broadcast day to conform to the terms of the station authorization may, in addition to the manual remote control switching, provide an automatic time clock to make the mode switches at the required times. Whenever the transmitter cannot be placed into the specified operating mode at the time required, transmissions of the station must be terminated to avoid interference to other authorized stations.

(4) The carrier wave may be amplitude or phase modulated with telemetry signals for meter indications and other data on the operational conditions of the transmission system provided those signals are not audible on ordinary consumer receivers and do not disrupt or degrade the station's main program signal or the signals of any other broadcast station.

(5) If a malfunction in the remote control system only affects the indications of the antenna or common point ammeter, the operating power may be determined by the indirect method as described in § 73.51(e) for a period not exceeding 60 days pending restoration of the correct metering.

(c) *FM stations.* (1) When a subcarrier is used for telemetry of remote control data from the transmitter to the control point, radiation of the subcarrier is only necessary when the transmitter meter redings are being taken. However, the subcarrier must be available for remote control telemetry at all times.

(2) Noncommercial FM stations licensed to operate with a transmitter output power of 0.01 kW or less are not required to have remote transmitter meters or controls to adjust the output power at the remote control point, by must have a device to indicate when the transmitter is operating.

(d) *TV stations.* (1) The remote control system must be designed to used the signal radiated from the antenna and suitable for continuously and accurately monitoring the waveform and other characteristics of the transmitted visual signal. Indications available must include the percentage of modulation of the signal. A vectorscope or other instrument designed to depict the instantaneous phase and amplitude relationships of color components must also be provided if any portion of the transmissions are in color). The apparatus must be capable of providing both full field displays.

(2) Multiplexing of the aural carrier or the vertical blanking interval may be used for the purpose of transmitting telemetry and alerting signals from the transmitter site to the control point of the television transmitter authorized to operate by remote control, subject to the following conditions:

(i) No observable degradations may be caused to either the visual or aural signals.

(ii) The use of multiplexing must not produce emissions outside the authorized television channel.

(iii) The use of aural subcarriers is subjects to the provisions of § 73.6182(a)(23).

(iv) Use of the vertical blanking interval is subject to the provisions of § 73.682(a)(21).

11. The alphabetical index to Part 73 of the Commission's rules would be amended by removing all references to rule sections numbered §§ 73.67, 73.275, 73.575, and 73.676, and the following listings are to be entered in alphabetical sequence:

Remote control authorization.....73.1400
Remote control operation.....73.1410.

[FR Doc. 84-6005 Filed 3-5-84; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

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

Packers and Stockyards Administration

Posted Stockyard

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock market named below is a stockyard within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owner and to the public by posting notices at the stockyards as required by said section 302, on respective date specified below.

Facility No., Name, and Location of Stockyard

SD-168 Madden's Livestock Market, Inc., Newell, South Dakota

Date of Posting

January 23, 1984.

Done at Washington, D.C., this 28th day of February, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-5926 Filed 3-5-84; 8:45 am]

BILLING CODE 3420-02-M

CIVIL AERONAUTICS BOARD

Fitness Determination of Omniflight Helicopters, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-3-4, Order to Show Cause.

SUMMARY: The Board is proposing to find that Omniflight Helicopters, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responsed: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The Complete text of Order 84-3-4 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-3-4 to that address.

By the Civil Aeronautics Board: March 1, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-5975 Filed 3-5-84; 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination of Tropical Helicopters Airways, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-3-5, Order to Show Cause.

SUMMARY: The Board is proposing to find that Tropical Helicopters Airways, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The Complete text of Order 84-3-5 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-3-5 to that address.

By the Civil Aeronautics Board: March 1, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-5976 Filed 3-5-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Exxon Co., U.S.A. From Objection of the California Coastal Commission (Santa Ynez Unit Development and Production Plan)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Decision by the Secretary of Commerce.

SUMMARY: In accordance with NOAA regulations at 15 CFR 930.130, notice is hereby given of the decision by the Secretary of Commerce (Secretary) in the appeal by Exxon Company, U.S.A. (Exxon) under subparagraphs (A) and (B) of section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3) (A) and (B), from the objection of the California Coastal Commission to Option A of Exxon's oil and gas Development and Production Plan (Plan) for the Santa Ynez Unit, Santa Barbara Channel, California.

On February 18, 1984, the Secretary made the findings supported by the record at this time, and stayed the final decision of the appeal pending: (1) The completion of the federal and state environmental review of Exxon's proposed development and production activities; and (2) action by the state and local governments on the permits required for the activites described in Option B of Exxon's Plan.

Copies of the findings and decision may be requested from: David P. Drake, Attorney Advisor, Office of the Assistant General Counsel for Ocean Services, 2001 Wisconsin Avenue, Rm. 270, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: David Drake at the above address, or phone (202) 634-4245.

SUPPLEMENTARY INFORMATION: For a detailed description of Exxon's appeal, see the notices regarding the appeal published in the Federal Register, August 5, 1983 (46 FR 35692) and August 31, 1983 (48 FR 39483).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: February 24, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-5967 Filed 3-5-84; 8:45 am]

BILLING CODE 3510-08-M

North Pacific Fishery Management Council; Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council's Plan Maintenance Team (PMT) for the Gulf of Alaska Groundfish, as well as the Council's Working Group on Prohibited Species, will hold public meetings as follows:

PMT for Gulf of Alaska Groundfish.—Thursday, March 22, 1984; 8:30 a.m.—review data on the Gulf of Alaska sablefish fishery and the effect on the domestic fishery of allowing an increase in the amount of sablefish which may be retained in U.S.-foreign joint venture fishing operations.

Working Group on Prohibited Species.—Wednesday, March 21, 1984; 8:30 a.m.—discuss analyses of various management strategies to control the by-catch of prohibited species in foreign and domestic groundfish fisheries.

ADDRESS: Both public meetings will take place at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard, East, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Jeff Povolny, Plan Coordinator, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907)-274-4563.

Dated: February 29, 1984.

Roland Finch,

Director, Office of Fisheries Mangement, National Marine Fisheries Service.

[FR Doc. 84-6015 Filed 3-5-84; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Its Scientific and Statistical Committee, Salmon Plan Development Team, Salmon Advisory Subpanel, Foreign Fishing Committee and Budget Committee; Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Public Meetings with Partially-Closed Sessions.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Pacific Fishery Management Council (Council), its Scientific and Statistical Committee (SSC), Salmon Plan Development Team (SPDT), Salmon Advisory Subpanel, Budget, and Foreign Fishing Committee. The Council was established by § 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), and the Council has established a SSC, planning teams, advisors, and committees to assist the Council in carrying out its responsibilities.

DATES: March 13-15, 1984.

ADDRESS: The meeting will be held at the Seattle Marriott Hotel, Sea-Tac, 3201 South 176th St., Seattle, WA 98188.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW Mill Street, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTARY INFORMATION: Agendas: *Council*—(closed session)—March 14, 1984, (8 a.m. to 9 a.m.) in Salons F and G. Discuss the status of international fishery negotiations, the status of current litigation, and personnel matters. Only those Council members and staff having security clearances will be allowed to attend this closed session.

Council (open session)—March 14-15, 1984 (9 a.m to 5 p.m., March 14; 8 a.m. to 5 p.m. March 15) in Salon F and G. The Council will review the status of its programmatic budget, select a new member for its Salmon Plan Development Team and Salmon Advisory Subpanel, hear reports on the status of its groundfish plan amendment, enforcement, and management line problems, review the status of 1984 groundfish landings reporting system, consider experimental and joint venture fishing applications, consider a request from California to review set gillnet issues, review data relevant to the 1984 ocean salmon fishing seasons, and, after hearing comments from the public, the Council's SPDT, SSC, and salmon advisors, adopt options for the 1984 ocean salmon fishing seasons for public review. A public comment period is scheduled for 3 p.m., March 14, 1984.

SSC (open session)—March 13-14, 1984 (10 a.m. to 5 p.m., March 13; 8 a.m. to 5 p.m., March 14) in Seattle-Salon 1. Review report of consultant concerning important criteria for the design of a comprehensive economic survey of the Pacific West Coast commerical and recreational salmon fisheries; review status of salmon fishery based on SPDT report and recommended management options for 1984; review request by California to relocate set gillnet fishing boundaries and other matters that may be referred to the Committee. A public comment period is scheduled at 3:30 p.m. on March 13.

SSC (closed session)—March 13, 1984 (11 a.m. to 11:30 a.m.) in Seattle-Salon 1. Review a recommendation for an appointment to the SPDT and develop recommendations for the Council.

Salmon Plan Development Team—March 13-15, 1984 (10 a.m. to 5 p.m., March 13; 8 a.m. to 5 p.m., March 14-15) in Seattle-Salon 3. Meet as instructed by the Council to modify or prepare management options for the 1984 ocean salmon fishing seasons.

Time for public comment is set for 3 p.m., March 13.

Salmon Advisory Subpanel—March 13-14, 1984 (10 a.m.-5 p.m., March 13; 8 a.m., to 12 noon, March 14) in Seattle-Salon 2. To discuss the Salmon Team's report on information for the 1984 ocean salmon fishing seasons and the Team's management option for 1984 and to develop recommendations to the Council. Conduct a public comment period at 11 a.m., March 13. All sessions of the meeting are open to the public.

Budget Committee (open session)—March 14, 1984 (7:00 a.m.) in Salon F. and G. Review the appropriation for the Council's programmatic budget and prepare a recommendation for the Council.

Foreign Fishing Committee (open session)—March 14, 1984 (7:30 a.m.) in Seattle-Salon 1. Review applications to conduct joint ventures off Washington, Oregon, and California and prepare recommendations for the Council.

Dated: March 1, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-6014 Filed 3-5-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Relocation of the Military Sealift Command Washington Navy Yard—Washington, D.C.; Finding of No Significant Impact

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (§ 1508.13 of Title 40, CFR), the Department of the Navy gives notice that an environmental impact statement is not being prepared for the proposed relocation of the Military Sealift Command offices from the Tamol building, 4228 Wisconsin Avenue, Washington, D.C., to renovated spaces in the Washington Navy Yard, Washington, D.C.

The project involves the renovation of several existing buildings at the Washington Navy Yard (WNY) for use as offices and the installation of necessary supporting utilities. Renovation will be mostly confined to the building interiors and no material change to the available gross floor areas would occur. The purpose of the relocation is to house government offices in government-owned facilities versus leased space in order to maximize long-term cost benefits. Additionally, in the case of the Tamol building the government has been advised that the present lease will not be renewed.

In December of 1982 the Navy made available for public review a Draft Environmental Impact Statement for the "Relocation of Navy Personnel from Leased Space to Government-owned Space in the Washington, D.C. Area." That Draft EIS addressed a potential move of a number of Navy offices currently in leased spaces to a preferred location at the WNY. Although the Navy is not now contemplating moving all offices, the EIS is noted as a reference document for any interested party who desires to review details of the capacity of the WNY to receive Navy offices or personnel. The Final EIS will be completed later in 1984, and will address the environmental impacts upon each of the alternative "receiving" sites, rather than the effects on any jurisdictions from which employees would be potentially relocated. It is further expected that the Final EIS will conclude that there are no unmitigable impacts associated with future development at the Washington Navy Yard.

Preparation of the buildings selected may cause some temporary inconveniences within the Yard due to equipment used, and small amounts of construction related debris may result, but no other pollutants will be generated. There will be no visible effects associated with the renovations themselves since exteriors will remain essentially as is. There will be no violation of historical preservation mandates. Renovation is consistent with existing plans and the addition of about 530 employees into the generic administrative center will have no impact on services (electricity, heat, transportation, sewage-water, etc.) normally provided.

The alternatives examined are no action, which is obviated by the termination of the lease at the Tamol building, or a move to other leased spaces which is not believed to be cost effective over the long term.

The Environmental Assessment of this action indicates that construction and occupancy will not cause significant impacts on the environment. The Environmental Assessment prepared by the Navy addressing this action is on file and may be reviewed by interested parties at both the point of origin, Commanding Officer, Chesapeake Division, Naval Facilities Engineering Command, Washington Navy Yard, Washington, D.C. 20374 (Attn: W.M. Faught, Code 20), telephone (202) 433-3114, or at the Environmental Protection, Safety and Occupational Health Division (OP-45), Office of the Chief of Naval Operations, Building 210, Room 313, Washington Navy Yard, Washington, D.C. 20374, telephone (202) 433-2426. Additionally, a limited number of copies of the Environmental Assessment is available to fill single-copy requests.

Dated: February 29, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-5945 Filed 3-5-84; 8:45 am]

BILLING CODE 3810-AE-M

Academic Advisory Board to the Superintendent, United States Naval Academy; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, will meet on April 18, 1984, in Rickover Hall, Room 301, United States Naval Academy, Annapolis, Maryland. The meeting will commence at 8:30 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving Academy problems. The meeting will be open to the public for observation to the extent that space is available.

For further information concerning this meeting contact: Major Neil S. Fox, USMC, Military Secretary to the Academic Advisory Board, Office of the Academic Dean, United States Naval Academy, Annapolis, Maryland 21402, telephone No. (301) 267-2500.

Dated: February 29, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Office.

[FR Doc. 84-5944 Filed 3-5-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Navy-Supported University Laboratories will meet on April 5, 1984, at the Applied Research Laboratories (ARL), University of Texas, Austin, Texas. The first session of the meeting will commence at 8:30 a.m. and terminate at 1:00 p.m. on April 5, 1984. The second session will commence at 1:00 p.m. and terminate at 4:30 p.m. on April 5, 1984. The first session from 8:30 a.m. to 1:00 p.m. on April 5, 1984 will be open to the public. The remaining session will be closed to the public.

The purpose of the meeting is to review various Navy-sponsored programs conducted by ARL, Austin, Texas. The open session will generally cover a presentation on meeting objectives, laboratory overview, and a tour of the laboratory. The remaining session of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the

Navy has therefore determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, telephone number (202) 696–4870.

Dated: February 28, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–5947 Filed 3–5–84; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provision of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Navy-Supported University Laboratories will meet on March 29, 1984, at the Marine Physical Laboratory, Scripps Institution of Oceanography, San Diego, California. The first session of the meeting will commence at 8:30 a.m. and terminate at 1:00 p.m. on March 29, 1984. The second session will commence at 1:00 p.m. and terminate at 4:30 p.m. on March 29, 1984. The first session from 8:30 a.m. to 1:00 p.m. on March 29, 1984 will be open to the public. The remaining session will be closed to the public.

The purpose of the meeting is to review various Navy-sponsored programs conducted by MPL, Scripps. The open session will generally cover a presentation on meeting objectives, laboratory overview, and a tour of the laboratory. The remaining session of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will be concerned with matters listed in section 552d(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, telephone number (202) 696–4870.

Dated: February 29, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–5946 Filed 3–5–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP80–2–010]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 29, 1984.

Take notice that on February 22, 1984, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing the following revisions to its FERC Gas Tariff:

Fourth Substitute Thirty-Second Revised Sheet No. 3–A
Second Substitute Fifth Revised Sheet No. 5
Second Substitute Fourth Revised Sheet No. 6
Second Substitute Fifth Revised Sheet No. 11
Second Substitute Third Revised Sheet No. 13–B
Second Substitute Fifth Revised Sheet No. 14
Second Substitute Sheet No. 25

Alabama-Tennessee states that these revisions are in compliance with the Commission Staff's request that certain tariff sheet designations be changed.

Alabama-Tennessee states that copies of their filing have been mailed to the purchasers and state commissions on their service list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 12, 1984. 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. 84–5984 Filed 3–5–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER80–592–000, et al., ER80–607–000, and ER80–660–000]

Allegheny Power Systems, et al., Central Louisiana Electric Company, Inc.; Refund Report

February 29, 1984.

Take notice that on February 10, 1984, Central Louisiana Electric Company, Inc. (CLECO) submitted for filing its Refund Report pursuant to a December 21, 1983 Commission Letter Order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 31, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5985 Filed 3–5–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP82–80–014]

ANR Pipeline Co.; Tariff Filing Pursuant to Order Approving Stipulation and Agreement

February 29, 1984.

Take notice that on February 24, 1984, ANR Pipeline Company ("ANR") [1] tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following revised tariff sheets to its F.E.R.C. Gas Tariff to be effective as indicated below:

Sheet No.	Effective date
ORIGINAL VOLUME NO. 1	
Fifth Substitute Seventeenth Revised Sheet No. 7.	Nov. 1, 1982.
First Substitute Eighteenth Revised Sheet No. 7.	May 1, 1983.
Second Substitute Nineteenth Revised Sheet No. 7.	July 1, 1983.
FIRST REVISED VOLUME NO. 2	
Second Substitute First Revised Sheet No. 1AA.	Nov. 1, 1982.
Second Substitute First Revised Sheet No. 1BB.	Do.
Second Substitute First Revised Sheet No. 1CC.	Do.
Second Substitute First Revised Sheet No. 1DD.	Do.
Second Substitute Original Sheet No. 1EE.	Do.
First Revised Sheet No. 2087	Sept. 24, 1983.

[1] Effective January 1, 1984, Michigan Wisconsin Pipe Line Company changed its name to ANR Pipeline Company ("ANR"). Therefore, further references in this notice will be to ANR. ANR will be making a formal filing with the Commission concerning its name change in the near future.

ANR states that this is being made in accordance with the Commission's order dated January 19, 1984, approving the Stipulation and Agreement in Docket Nos. RP82-80, et al.

ANR further states that copies of the filing have beem mailed to its customers, appropriate state commissions and the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 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 March 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 84-5086 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-654-000; ER84-199-000]

Lockhart Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Motion To Withdraw Previous Filing, Terminating Docket, Granting Waiver of Notice, and Establishing Hearing Procedures

Issued: February 29, 1984.

On January 10, 1984, Lockhart Power Company (Lockhart) tendered for filing increased rates for firm power service to its one wholesale customer, the City of Union, South Carolina (Union).[1] Lockhart states that it is seeking the rate increase primarily because Duke Power Company (Duke), which supplied approximately 68% of Lockhart's electric power requirements in 1983, recently filed an increase in rates applicable to Lockhart.[2] As in the case of Duke's filing, Lockhart's proposed rates would increase revenues in two steps. The first step (designated as "interim" rates by Lockhart) represents a test period increase of approximately $633,815 (19.6%), while the second step (designated as "proposed" rates by Lockhart) would produce another $90,535 in revenues. Lockhart requests that its interim and proposed rates be made effective on the dates allowed for Duke's corresponding rate increases,[3] and requests that the notice requirement be waived if necessary.

Lockhart also refers to an earlier motion which it filed on December 1, 1983, to withdraw a prior rate increase submitted by Lockhart in Docket No. ER83-654-000. In addition, Lockhart renews a request contained in its December 1 motion that it be permitted to file the present increase during the twelve-month moratorium that would otherwise be applicable under section 35.17(a) of the Commission's regulations. Lockhart believes that its request is necessary because Lockhart cannot control the timing of Duke's rate increases and cannot recover the costs of such increases without seeking permission to increase its own rates.

Notice of Lockhart's filing was published in the **Federal Register**, with responses due by February 1, 1984. Union filed a timely protest and motion to intervene in which it raises a number of issues[4] and asks that the rate increase be suspended for five months. However, Union does not oppose making that portion of the increase which is directly attributable to Duke's rate increase effective on the same dates as Duke's two-step increase. In this regard, Union asks that Lockhart be directed to refile its rate increase so that the portion that is not related to the Duke increase be stated separately. If the "non-Duke" portion is not separated out, Union asks that both steps of the increase be suspended for five months.

On February 16, 1984, Lockhart responded to Union's pleading. Lockhart does not oppose Union's motion to intervene. However, Lockhart does object to Union's request for segregation and separate evaluation of the portion of the filing that does not relate to the Duke increase. Lockhart argues that: (1) There is no precedent for this kind of bifurcation; (2) Union only proposes the bifurcation in an attempt to artificially establish that more than 10% of the rate increase is excessive; and (3) some of the "non-Duke" items indirectly result from or depend upon the Duke increase. Lockhart also disputes Union's contentions with respect to specific cost of service issues.

Discussion

Union's unopposed motion to intervene serves to make it a party to this proceeding under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 358.214).

We shall initially address Lockhart's outstanding motion to withdraw its earlier rate filing in Docket No. ER83-654-000. Lockhart states that it seeks to withdraw that filing because further proceedings in that docket would be uneconomical in light of the Commission's summary rejection of 42% of the proposed increase.[5] No one has opposed the motion to withdraw and the Commission finds that good cause exists under section 35.17(a) of our regulations to grant the motion. Docket No. ER83-654-000 will therefore be terminated. Furthermore, given the relationship between the Duke and Lockhart filings, we find good cause under section 35.17(a) to permit Lockhart to file the rate increase in Docket No. ER84-199-000 during the twelve months following the withdrawal of the filing in Docket No. ER83-654-000.

Our preliminary examination of Lockhart's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the "proposed" rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust and unreasonable but may not be substantially excessive, as defined in *West Texas*. With respect to both the "interim" and "proposed" rates filed by Lockhart, our preliminary review indicates that they may not produce substantially excessive revenues. Accordingly, a one day suspension is appropriate. We note, however, that by separate order, we are suspending Duke's "proposed" rates for one day and deeming its "interm" rates

---

[1] *See* Attachment A for rate schedule designations.

[2] Duke's rate increase was filed on December 28, 1983, in Docket No. ER84-177-000, and is being considered concurrently by the Commission. Lockhart states that approximately 70% of its increase represents a pass-through of Duke's rate increase.

[3] Duke has requested that its "interim" and "proposed" rates both be made effective on March 2, 1984, after a one day suspension.

[4] The issues identified by Union include: Regulatory expense; cash working capital; capital structure; rate of return; and expenses for energy purchases from Pacolet Hydro.

[5] The rates at issue in Docket No. ER83-654-000 are currently scheduled to become effective, following a five month suspension, on February 28, 1984.

to have been withdrawn inasmuch as the two phases would otherwise take effect concurrently on March 2, 1984. Waiver of notice, as requested by Lockhart, would abbreviate the sixty day notice period by only nine days. We further note that, because Lockhart's rates typically are based predominantly on a pass-through of increased charges from Duke, the Commission has generally allowed Lockhart's effective dates to track those of Duke. In this case, approximately two-thirds of Lockhart's requested increase is attributable to Duke's filing and Lockhart submitted its rates less than two weeks after Duke's filing. Under these circumstances, we find that good cause exists to waive the notice requirements, to consider Lockhart's "interim" rates as having been withdrawn, and to suspend the "proposed" rates to become effective, subject to refund, on March 2, 1984.[6] We also find that Lockhart's filing should be made subject to the outcome of the proceedings in Docket No. ER84-177-000, to the extent that Duke's increase is reflected in the Lockhart filing.

The Commission orders:

(A) Lockhart's motion of December 1, 1983 to withdraw its filing in Docket No. ER83-654-000 is hereby granted, and that docket is hereby terminated.

(B) Lockhart's request to file a rate increase during the twelve months following withdrawal of its filing in Docket No. ER83-654-000 is hereby granted.

(C) Lockhart's request for wavier of the notice requirements is hereby granted.

(D) Lockhart's "interim" rates are hereby deemed to have been withdrawn. Lockhart's "proposed" rates are accepted for filing and suspended to become effective, subject to refund, on March 2, 1984.

(E) 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 Lockhart's rates.

(F) The Commission Staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding Judge is authorized to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

LOCKHART POWER CO., DOCKET NO. ER84-199-000, RATE SCHEDULE DESIGNATIONS

Designation	Description
Supplement No. 18 to Rate Schedule FPC Nos. 2 and 3 (Supersedes Supplement Nos. 16 to Rate Schedule FPC Nos. 2 and 3)[1].	"Proposed" Rate for North and South Station.

[1] Supplement No. 17 to Rate Schedule FPC Nos. 2 and 3, accepted in Docket No. ER83-654-000, have been withdrawn.

[FR Doc. 84-5987 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[6] We decline to adopt Union's suggestion that we artificially bifurcate Lockhart's filing for purposes of suspension. Lockhart was free, under the Federal Power Act, to propose a single rate structure applicable to Union. The filing purports to recover all of Lockhart's costs of serving that customer and purchased power is simply one component of the cost support for a single rate. We perceive no more reason to splinter that rate than we would in an instance where, for example, the affected customer objects to O&M expenses but agrees to the balance of the utility's cost support.

[Docket No. TA84-1-60-001]

Locust Ridge Gas Co.; Proposed Changes in FERC Gas Tariff

February 29, 1984.

Take notice that on February 17, 1984, Locust Ridge Gas Company (Locust Ridge) tendered for filing the following revisions to its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1:

Substitute Sixteenth Revised Sheet No. 1A

Substitute Ninth Revised Sheet No. 1A.

Locust Ridge states that these revisions will not change its current effective rate but will reclassify the components of their purchased gas costs.

Locust Ridge states that copies of its filing have been sent to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 12, 1984. 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. 84-5988 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-238-000]

Lone Star Gas Co., a Division of ENSERCH Corp.; Request Under Blanket Authorization

February 29, 1984.

Take notice that on February 10, 1984, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas, 75201, filed in Docket No. CP84-238-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) in which Lone Star proposes to construct and operate sales taps and appurtenant facilities under the blanket authorization issued in Docket No. CP83-59-000, as amended in Docket No. CP83-59-002, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Lone Star proposes to sell natural gas to the following three residential customers at the specified locations:

Customer	Location	Line
Washington Miles	Garvin County Okla	GD.
Jack Justice	do	GD6.
Jim Donhan	Carter County, Okla	GLA.

It is stated that consumption of gas for each of these customers is estimated to be less than 135 Mcf per year. Sales to these customers would be made at the appropriate rate as approved by the Oklahoma Corporation Commission, it is explained.

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 section 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. 84-5989 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-15-001]

Mid Louisiana Gas Co.; Proposed Change in FERC Gas Tariff

February 29, 1984.

Take notice that on February 23, 1984, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing the following revision to its FERC Gas Tariff:

Substitute Forty-Ninth Revised Sheet No. 3a.

Superseding Forty-Ninth Revised Sheet No. 3a.

An effective date of February 1, 1984 is requested.

Mid Louisiana asserts that the filing is in compliance with Ordering Paragraph B of the Commission's order in the above docketed number.

Mid Louisiana also asserts that copies of their filing have been supplied to all jurisdictional customers and interested state commissioners

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 12, 1984. 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. 84-5990 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-34-001]

Midwestern Gas Transmission Co.; Revised Rate Filing

February 29, 1984

Take notice that on February 22, 1984, Midwestern Gas Transmission Company (Midwestern) tendered for filing Fourth Substitute Eighth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1984. Midwestern states that the purpose of this filing is to revise the rate applicable to Rate Schedule I-1, as required by the Commission's orders dated January 11, 1984, in Docket No. RP84-34 and January 31, 1984, in Docket No. RP82-117-006.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 12, 1984. 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. 84-5991 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-65-000]

Pacific Power & Light Co.; Order Accepting Rates To Become Effective Without Suspension or Hearing, Noting Intervention, Denying Motion for Partial Rejection, and Terminating Docket

Issued: March 1, 1984.

On November 1, 1983, as completed on January 13, 1984,[1] Pacific Power & Light Company (PP&L) submitted for filing a proposed rate increase for firm power service to Montana Light and Power Company (Montana).[2] PP&L proposes to replace its current agreement with Montana with a service agreement under PP&L's existing tariff which was accepted for filing by the Commission in Docket No. ER83-424-000 (23 FERC ¶ *61,359* (1983)).[3] The proposed rates would increase PP&L's revenues by about 74.4% during the calendar year 1983 test period. PP&L requests that the rates be made effective as of January 1, 1984, sixty days after PP&L's initial submittal in this docket.

Notice of PP&L's original filing was published in the Federal Register with comments, protests, or interventions due on or before November 23, 1983.[4] Montana filed a timely motion to intervene, protest, request for suspension, and motion for partial rejection. Montana requests partial rejection based on PP&L's alleged unlawful attempt to bring into this proceeding matters related to sales to PP&L by Montana of excess power and energy. In support of its request for suspension, Montana alleges that the requested rate level is excessive and that the need for certain charges is unsupported. Montana further alleges that PP&L's attempt to place Montana on its existing tariff fails to reflect the differing load characteristics and operating modes of the customer classes.

PP&L filed a response which disputes Montana's allegations and which requests that the Commission deny Montana's request for partial rejection and accept the company's filing without suspension or investigation.

On January 31, 1984, Montana filed additional comments in response to PP&L's January 13, 1984 revised submittal, renewing its request for a five month suspension. Montana alleges various improper adjustments or treatments in the company's cost of service. Specifically, Montana alleges: (1) The use of noncoincident metered demands to derive Montana's actual demand responsibility, resulting in an overstatement by 72% of Montana's actual demand responsibility; (2) excessive projected demand and energy losses; and (3) unsupported income tax calculations resulting in a $30 million discrepancy in total company income tax expense between PP&L's original

[1] The Comission's Office of Electric Power Regulation, by letter dated December 15, 1983, advised PP&L that its original submittal was deficient.

[2] *See* Attachment for rate schedule designations.

[3] PP&L states that Montana was not included as a tariff customer in Docket No. ER83-424-000 because Montana had requested an extension of its previous contract, which expired by its own terms on April 30, 1982, pending negotiations between Montana and the Bonneville Power Administration for a separate power agreement. Montana then informed PP&L of its desire to continue service from PP&L, which now proposes to place Montana on its current tariff rate.

[4] 48 FR 51956 (1983).

submittal and its response to the Staff's December 15 deficiency notice. Montana also alleges that PP&L failed to adequately respond to the deficiency request that PP&L explain all factors leading to Montana's customer classification and that PP&L failed to delineate all of the customer classifications under which it provides service to wholesale and retail customers.

Montana also contends that, by placing Montana on the PPL–4 tariff rate, PP&L has improperly placed Montana in a customer class without accounting for the load characteristics, operating mode, and diversity of Montana. Specifically, Montana also alleges that the PPL–4 rate is inappropriate because Montana's load factor is less than the average load factor of the PPL–4 customers and Montana receives service at 34.5 kV rather than 115 kV.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), the timely motion to intervene serves to make Montana a party in this docket.

In response to Montana's allegation that the PPL–4 rate is inappropriate because Montana's average load factor is less than that of the PPL'4 customers and because it receives service at 34.5 kV rather than at 115 kV, our review indicates that Montana actually benefits from its inclusion under the PPL–4 rate. This is because the PPL–4 rate includes a demand-energy rate tilt, [5] and customers with a load factor below the average of the class actually pay less than a full allocated share of the demand costs.

We further find without merit Montana's allegation that PP&L is attempting to improperly place Montana on a tariff rate which reflects delivery at a voltage of 115 kV when Montana actually receives service at 34.5 kV. The rate for service at 115 kV, proposed for service to Montana, is less than the tariff rate for service at 34.5 kV and reflects the elimination of costs related to the transformation of energy deliveries to the lower voltages. PP&L's proposed agreement reflects the lower 115 kV rates but recovers the additional costs related to transformation facilities through a separate facilities charge. This rate design is carried forward from the present agreement and is functionally equivalent to service at the higher single unit charge for 34.5 kV service, reflecting both power supply and transformation facilities.

Montana also alleges that PP&L failed to delineate all of the customer classifications (ratail and wholesale) under which it provides similar service. Montana specifically notes for possible comparison a retail customer classification for service to loads of 1000 kW or more.[6] We believe that such a comparison is unnecessary, because PP&L has demonstrated through a fully distributed cost allocation study that it could support a substantially higher rate level for Montana than the proposed rate. Further, our analysis indicates that under the proposed rates, PP&L will recover less than its costs to serve Montana and, indeed, a lower proportion of its costs of service than is being recovered from other tariff customers. It therefore appears that Montana can raise no viable objection its inclusion under PP&L's Rate PPL–4.

Montana requests rejection of that portion of PP&L's submittal which relates to the terms and conditions under which Montana sells excess energy to PP&L. We note that, historically, the sale of power and energy by both PP&L and Montana has been made pursuant to a bilateral contract which sets out the rates for sales by either party. The bilateral agreement is presently on file as PP&L's Rate Schedule FPC No. 131 and Montana's Rate Schedule FPC No. 2. In order to supersede its existing rate schedule with a service agreement under its wholesale tariff, PP&L has incorporated into its proposed service agreement the exact terms, conditions, and rates which are presently on file in its bilateral agreement. PP&L's filing does not attempt to amend Montana's Rate Schedule FPC No. 2, nor could PP&L unilaterally make such recisions to Montana's rates. The retention of both PP&L's and Montana's charges in PP&L's agreeement is for administrative convenience and has no effect on Montana's rights or ability to change its rates to PP&L. Therefore, rejection is inappropriate, and we shall deny Montana's motion for rejection of that part of PP&L's submittal which incorporates the terms of the bilateral agreement into the proposed service agreement.

Our analysis of PP&L's filing and the pleadings indicates that the proposed rates would not yield excessive revenues. On the contrary, we find that the proposed rate increase would reesult in deficient revenues to PP&L even if all of the adjustments proposed by Montana are incorporated into our analysis. Under these circumstances, we find no grounds to investigate the rate further, and we shall accept PP&L's rates to become effective without suspension or a hearing. We do not, however, believer that PP&L has demonstrated good cause for waiver of the notice requirements to allow for an effective date sixty days after its deficient filing. Thereforee the submittal shall become effective on March 14, 1984, sixty days after completion of the filing.

The Commission orders:

(A) Montana's motion for partial rejection of PP&L's submittal is hereby denied.

(B) Waiver of the notice requirements is hereby denied.

(C) PP&L's rates are hereby accepted for filing to become effective, without suspension or hearing, sixty days after completion of the filing, on March 14, 1984. Such permission to become effective does not constitute approval by the Commission of the rate schedule or any parts thereof.

(D) Docket No. ER84–65–000 is hereby terminated.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Pacific Power & Light Company—Docket No. ER84–65–000, Rate Schedule Designations

Designation	Description
(1) First Revised Sheet Nos. 5 and 6 to FERC Electric Tariff, Original Volume No. 4 (Supersedes Original Sheet Nos. 5 and 6).	Service Schedule PPL-4.
(2) First Revised Sheet No. 8 to FERC Electric Tariff, Original Volume No. 4 (Supersedes Original Sheet No. 8).	List of Service Agreements.
(3) First Revised Sheet No. 9 to FERC Electric Tariff, Original Volume No. 4 (Supersedes Original Sheet No. 9).	Index of Purchasers.
(4) Service Agreement under FERC Electric Tariff, Original Volume No. 4 (Supersedes Rate Schedule FPC No. 131).	Service Agreement with Montana Light & Power Company.

[5] A portion of demand-related costs are recovered through the energy charge.

5 PP&L's Large General Service Metered Time-of-Use classification applicable to retail loads of 1000 kW or more in the the State of Montana.

[FR Doc. 84–5946 Filed 3–5–84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-233-000]

Panhandle Eastern Pipe Line Co.; Application

February 29, 1984.

Take notice that on February 8, 1984, Panhandle Eastern Pipe Line Company (Panhandle), 300 Bissonnet, Houston, Texas 77001, filed in Docket No. CP84-23-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the Bradshaw Booster Station located in Hamilton County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that the Bradshaw Booster Station was constructed to connect new gas supplies produced in Wichita, Greeley and Hamilton Counties. Further, Panhandle states that as no gas supplies were discovered or connected, the plant was placed in Account 105—Gas Plant Held for Future Use. Panhandle states that abandonment of the station with a book value of $1,604,699 including engine units U-319 and U-320, 18.5 miles of 4-inch pipeline, 12.5 miles of 8-inch pipeline and related facilities, is necessary to improve cost effectiveness. Panhandle proposes to abandon by sale to Liquid Energy Corporation the two engine units for $430,000 and estimates $100,705 of reusable salvage materials from the remaining facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1984, 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 Panhandle to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5993 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-222-000]

Texas Eastern Transmission Corp.; Application

February 29, 1984.

Take notice that on February 3, 1984, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP84-222-000 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 in the offshore Lousiana area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 20.1 miles of 20-inch pipeline in the West Cameron Area of offshore Louisiana, extending from a platform in West Cameron Block 570 to an interconnection with Applicant's existing Cameron Offshore System in West Cameron Block 513. Applicant states that it has arranged to purchase the respective 50 percent interests of CNG Producing Company and Mark Producing Company in the reserves of West Cameron Block 570 and the southern quarter of West Cameron Block 566. The total recoverable reserves are estimated to be approximately 190,000,000 Mcf.

Applicant asserts that the proposed facilities would be designed to provide a daily delivery capacity of 131,000 Mcf. It is further stated that such facilities would be scheduled for completion by the late summer of 1984.

Applicant estimates that the proposed facilities would cost $14,788,000. Such costs, it is indicated, would be financed through revolving credit arrangements or funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1984, 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. 84-5994 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140047; TSH-FRL 2537-5]

Mathtech, Inc. and Borriston Research Laboratories, Inc.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Mathtech, Inc. and its subcontractor Borriston Research

Laboratories, Inc., information submitted to EPA under section 5 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed as confidential. These firms will review this information and use it to evaluate the potential costs of testing required to satisfy regulatory actions taken under section 5 of TSCA.

DATE: The transfer of confidential data submitted to EPA will occur no sooner than ten working days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, 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: Under section 5(e) TSCA 15 U.S.C. 2604, EPA can issue a proposed order to prohibit or limit the manufacturing, processing, distribution in commerce, use or disposal of a new chemical substance under certain circumstances, if the information available to the Agency is insufficient to permit a reasoned evaluation of the health and environmental effects of the substance. Before taking such action, the Agency considers the costs of potential testing options that would provide sufficient information to assess adequately the effects of concern.

Under its contract with EPA (Contract No. 68-01-6630) Mathtech, Inc. and its subcontractor, Borriston Research Laboratories, Inc., will be providing support to EPA in performing these test cost evaluations.

In accordance with 40 CFR 2.306(j), EPA has determined that Mathtech, Inc. and its subcontractor Borriston Research Laboratories, Inc., may require access to confidential business information (CBI) submitted to EPA under section 5 of TSCA to satisfactorily perform work under the above-noted contract. Since these firms will review information that in some cases is confidential, EPA is issuing this notice to inform all submitters of data under section 5 of TSCA that these firms may receive from EPA, on a need-to-know basis, confidential business information on specific chemicals that are under review or are subjects of regulatory actions. After completing their review of materials submitted for a specific chemical, the firm receiving confidential business information will return all such information to EPA.

Mathtech, Inc. and its subcontractor Borriston Research Laboratories, Inc., have been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved the security plans of these two firms and conducted the required inspections of the contractors' facilities and found them to be in compliance with the provisions of the manual. Personnel from these two firms will be required to sign a non-disclosure agreement and be briefed on appropriate security procedures before they are permitted access to confidential information in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: February 22, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-5957 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53058; BH-FRL 2537-1]

Premanufacture Notices; Monthly Status Report for January 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Aency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for January 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53058]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-229, 401 M Street, SW., Washington, DC 20460, (202-382-3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during January; (b) PMNs received previously and still under review at the end of January; (c) PMNs for which the notice review period has ended during January; (d) chemical substances for which EPA has received a notice of commencement to manufacture during January and (e) PMNs for which the review period has been suspended. Therefore, the January 1984 PMN Status Report is being published.

Dated: February 27, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, January 1984

I. 53 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity and generic name	FR Citation	Expiration date
84-313	Generic name: Poly alkylene polyol	49 FR 1768 (1/13/84)	Apr. 2, 1984
84-314	Generic name: Partially oxidized polysaccharide	49 FR 1768 (1/13/84)	Do.
84-315	Generic name: Polymer of alkyl and heteromono-cyclic amines and an alkanedioic acid	49 FR 1768 (1/13/84)	Do.
84-316	Generic name: Polyester polyol	49 FR 2526 (1/20/84)	Apr. 4, 1984.
84-317	5-Oxa-2-methyl-7-phenyl-2-heptene	49 FR 2526 (1/20/84)	Apr. 7, 1984.
84-318	[4-(4-methylphenylthio)phenyl]phenylmethanone	49 FR 2526 (1/20/84)	Apr. 8, 1984.
84-319	Crude oat oil	49 FR 2526 (1/20/84)	Do.
84-320	Generic name: Saturated polyester	49 FR 2526 (1/20/84)	Do.
84-321	Generic name: Polyether ester acid, compound with amine	49 FR 2527 (1/20/84)	Apr. 9, 1984.

I. 53 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR Citation	Expiration date
84-322	Generic name: Organosiloxane copolymer	49 FR 2527 (1/20/84)	Do.
84-323	Generic name: Urea-aldehyde resin	49 FR 2527 (1/20/84)	Apr. 10, 1984.
84-324	Generic name: Isoindolyl derivative of aromatic heterocycle	49 FR 2527 (1/20/84)	Do.
84-325	Generic name: Vinylpolymer, aldehyde crosslinked	49 FR 2527 (1/20/84)	Do.
84-326	Generic name: Bis(polyalkylaminetriphenyl)-bis (aminoalkyl) benzene	49 FR 2527 (1/20/84)	Do.
84-328	Generic name: Modified linseed alkyd	49 FR 3524 (1/27/84)	Apr. 15, 1984.
84-329	Generic name: Substituted heteropolycyclic sulfonic acid	49 FR 3524 (1/27/84)	Do.
84-330	Generic name: Substituted aryl heteropolycycle sulfonic acid, sodium salt	49 FR 3524 (1/27/84)	Do.
84-331	Generic name: Terephthalic acid, polymer with polytetramethylene ether glycol and alkanediols	49 FR 3524 (1/27/84)	Do.
84-332	Generic name: Acrylic ester copolymer	49 FR 3524 (1/27/84)	Do.
84-333	Generic name: Acrylic ester copolymer	49 FR 3524 (1/27/84)	Do.
84-335	Generic name: Metal carboxylate	49 FR 3524 (1/27/84)	Apr. 16, 1984.
84-336	Polymer of: Melamine formaldehyde, o,p toluene-sufonamide, methyl glucoside, solium hydroxide	49 FR 3524 (1/27/84)	Do.
84-337	Polymer of: Phenol, nonyl phenol, formaldehyde, methyl glucoside, sodium carbonate, ammonium sulfamate.	49 FR 3524 (1/27/84)	Do.
84-338	Polymer of: Melamine, formaldehyde, methyl glucoside, sodium hydroxide, guanidine carbonate	49 FR 3524 (1/27/84)	Do.
84-339	Polymer of: Phenol, nonyl phenol, formaldehyde Reax 27D, methyl glucoside, sodium carbonate	49 FR 3524 (1/27/84)	Do.
84-340	Polymer of: Phenol, nonyl phenol, formaldehyde Reax 27D, sodium carbonate	49 FR 3525 (1/27/84)	Do.
84-345	Generic name: Unsaturated aliphatic ester	49 FR 4256 (2/3/84)	Apr. 18, 1984.
84-346	Generic name: Copolymer of acrylic acid and acrylic acid esters	49 FR 4256 (2/3/84)	Do.
84-347	Generic name: Fluorinated polyamide	49 FR 4256 (2/3/84)	Do.
84-348	Generic name: Substituted phosphonium chloride, cadmiun complex	49 FR 4256 (2/3/84)	Do.
84-349	Generic name: Substituted phosphonium borate	49 FR 4256 (2/3/84)	Do.
84-350	Generic name: Substituted phosphonium chloride	49 FR 4256 (2/3/84)	Do.
84-351	Generic name: Substituted benzophenone	49 FR 4256 (2/3/84)	Apr. 21, 1984.
84-352	Generic name: Cellulose ester	49 FR 4256 (2/3/84)	Apr. 22, 1984.
84-353	Generic name: Quinone-imine dye	49 FR 4256 (2/3/84)	Do.
84-354	Generic name: Substituted substituted benzene-sulfonic acid	49 FR 4256 (2/3/84)	Apr. 23, 1984.
84-355	Generic name: Substituted substitute benzene sulfonic acid	49 FR 4256 (2/3/84)	Apr. 24, 1984.
84-356	Generic name: Disubstutyted dichloro sulfonated heteropolycycle	49 FR 4257 (2/3/84)	Do.
84-357	Generic name: Substituted arylamino substituted benzenesulfonic acid	49 FR 4257 (2/3/84)	Do.
84-359	2,2-bis(4-(3-di(cocoalkylpolyoxyethyl)amino-2-hydroxy)phenyl)propane, ethoxylated	49 FR 6161 (2/17/84)	Apr. 25, 1984.
84-360	Generic name: Substituted nonyl phenol polymer	49 FR 4980 (2/9/84)	Do.
84-361	Generic name: Substituted cyclohexane	49 FR 4980 (2/9/84)	Apr. 28, 1984.
84-362	Generic name: Poly amido-amine	49 FR 4980 (2/9/84)	Do.
84-364	Generic name: Amine adduct of fatty acid glycidyl ester	49 FR 4980 (2/9/84)	Do.
84-365	Generic name: Vinyl ether monomer	49 FR 4980 (2/9/84)	Apr. 29, 1984.
84-366	Generic name: Vinyl ether monomer	49 FR 4981 (2/9/84)	Do.
84-367	Generic name: Vinyl ether monomer	49 FR 4981 (2/9/84)	Do.
84-378	Generic name: Substituted styrene, substituted acrylate, derivatized copolymer	49 FR 4981 (2/9/84)	Do.
84-369	Benzenemethanaminium: 4-ethenyl-N-dodecyl-N-,N-dimethyl chloride	49 FR 4981 (2/9/84)	Do.
84-370	Generic name: (Substituted-heterocycle) alkyl-amine derivative	49 FR 4981 (2/9/84)	Do.
84-371	Generic name: Polymer of acrylate and methacrylate esters	49 FR 4981 (2/9/84)	Do.
84-372	Generic name: 4-(substituted cycloalkyl)-alkoxybenzene	49 FR 4981 (2/9/84)	Do.
84-373	Generic name: 4-(substituted cycloalkyl)-alkoxybenzene	49 FR 4981 (2/9/84)	Do.

II. 70 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
84-242	Generic name: Copolymer of acrylates and methacrylates	48 FR 55917 (12/16/83)	Feb. 29, 1984.
84-243	Generic name: Ester-amide	48 FR 55917 (12/16/83)	Mar. 3, 1984.
84-244	Generic name: Alkyl ester	48 FR 55917 (12/16/83)	Do.
84-245	Generic name: Zinc amino acid complex	48 FR 55917 (12/16/83)	Mar. 4, 1984.
84-246	Generic name: Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84-247	Generic name: Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84-248	Generic name: Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84-249	Generic name: 1H-indole, 2,3 dihydro-1,3,3 trimethyl-2-[2-2,4,6-trisubstituted phenyl) ethenyl]	48 FR 55917 (12/16/83)	Mar. 5, 1984.
84-250	Generic name: Nickel fluorotitanate	48 FR 55917 (12/16/83)	Do.
84-251	Generic name: Mixture of alpha, beta, gamma-cyclodextrin, other cyclodextrins and oligosaccharides.	48 FR 56846 (12/23/83)	Mar. 7, 1984.
84-252	Generic name: Modified polymer of styrene with alkyl methacrylates	48 FR 56846 (12/23/83)	Mar. 10, 1984.
84-253	Generic name: Blocked isocyanate modified epoxy resin	48 FR 56846 (12/23/83)	Do.
84-254	Polymer of: 1,3-benzenedicarboxylic acid, 2,2,-dimethyl-1,3-propanediol, 1,4-benzenedicarboxylic acid, hexanedioic acid, 2,2'-oxybis(ethanol), 1,3-dihydro-1,3-dioxo-5-iso benzofuran carboxylic acid, 2,2,4-trimethyl-1,3-pentanediol.	48 FR 56846 (12/23/83)	Do.
84-255	Withdrawn		
84-256	Polymer of: methyl methacrylate, 2-ethyl hexyl acrylate, dimethyl amino ethyl methacrylate	48 FR 56846 (12/23/83)	Mar. 11, 1984.
84-257	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid, and a diisocyanate.	48 FR 56846 (12/23/83)	Do.
84-258	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid, and a diisocyanate.	48 FR 56846 (12/23/83)	Do.
84-259	Generic name: Bis(polyalkylaminotriphenyl)-bis(alkylamino)benzene	48 FR 56846 (12/23/83)	Do.
84-260	Generic name: Alkyleneamine methylene phosphonic acid	48 FR 56847 (12/23/83)	Do.
84-261	Generic name: Polyester/alkyd from alkanediols, carbomonocyclic anhydride and mixed acids	48 FR 56847 (12/23/83)	Mar. 12, 1984.
84-262	Polymer of: safflower oil, 1,2,3-propanetriol, 5-furandione, 4,5,6,8,8-Hexachloro-3a,4,7,7,a-tetrahydro-4,7-methanoisobenzofuran.	48 FR 56847 (12/23/83)	Do.
84-263	Generic name: Alkyl phosphate ester amine salt	48 FR 56847 (12/23/83)	Do.
84-264	Generic name: Alkyl sulfonate	48 FR 57618 (12/30/83)	Mar. 14, 1984.
84-265	Generic name: Copolymer of acrylic acid with alkyl methacrylates and an alkyl acrylate	48 FR 57618 (12/30/83)	Mar. 18, 1984.
84-266	Generic name: Modified fluoroalkyl urethane	48 FR 57618 (12/30/83)	Do.
84-267	Generic name: Alkenyl modified oxyalkylene polymer	48 FR 57618 (12/30/83)	Do.
84-268	Generic name: Isocyanate-terminated polyurethane	48 FR 57618 (12/30/83)	Do.
84-269	Generic name: Isocyanate-terminated polyurethane	48 FR 57618 (12/30/83)	Do.
84-270	Generic name: Isocyanate-terminated polyurethane	48 FR 57619 (12/30/83)	Do.
84-271	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.
84-272	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.
84-273	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.

II. 70 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-274	Poly (OXY-1,4-butanediyl)-X-(1-OXO-2-propenyl)-w-[(1-OXO-2-propenyl)OXY]-	48 FR 57619 (12/30/83)	Do.
84-275	Generic name: Modified acrylate polymer	48 FR 57619 (12/30/83)	Do.
84-276	Generic name: Diarylazomethine N-oxide	48 FR 57619 (12/30/83)	Do.
84-277	Generic name: Spiroglycol	48 FR 57619 (12/30/83)	Do.
84-278	11-Bromoundecanoyl chloride	48 FR 57619 (12/30/83)	Do.
84-279	Cholest-5-en-3-ol(3Beta)-, 11-bromoundecanoate	48 FR 57619 (12/30/83)	Do.
84-280	Cholest-5-en-3-ol(3Beta)-, 11-{(1-oxo-2-propenyl)□oxy undecanoate	48 FR 57619 (12/30/83)	Do.
84-281	Cholest-5-en-3-ol(3Beta)-, 4-{(1-oxo-2-propenyl)□oxy undecanoate	48 FR 57619 (12/30/83)	Do.
84-282	Cholest-5-en-3-ol(3Beta)-, 4-chlorobutanoate	48 FR 57619 (12/30/83)	Do.
84-283	Generic name: Polymer of polysubstituted alkyl acrylates	49 FR 930 (1/6/84)	Mar. 21, 1984.
84-284	Generic name: Mercaptocarboxylic acid ester reaction product with olefin	49 FR 930 (1/6/84)	Do.
84-285	Generic name: Methyl-oxo-ethyl-disubstituted heteromonocycle	49 FR 930 (1/6/84)	Do.
84-286	Generic name: 3-methyl substituted aliphatic nitrile	49 FR 930 (1/6/84)	Do.
84-287	Generic name: 3-methyl substituted aliphatic nitrile	49 FR 930 (1/6/84)	Do.
84-288	Generic name: 2-methyl substituted aliphatic nitrile	49 FR 931 (1/6/84)	Do.
84-289	Generic name: Alkylated onium salt, substituted sulfur compound, substitued sulfide	49 FR 931 (1/6/84)	Do.
84-290	Generic name: Reaction product of glycerin, ethylene oxide and hydrocarbyl halide	49 FR 931 (1/6/84)	Do.
84-291	Generic name: Reaction product of alkenyl-succinic anhydride and substituted alcohol	49 FR 931 (1/6/84)	Mar. 26, 1984.
84-292	Generic name: Naphthalene sulfonic acid, diisononyl-, compound with morpholine	49 FR 931 (1/6/84)	Do.
84-293	Generic name: Di-alkyl methyl amine	49 FR 931 (1/6/84)	Do.
84-294	1-cyclopentylidene-4-ethoxycarbonylpiperazinium tetrafluoroborate	49 FR 931 (1/6/84)	Do.
84-295	Generic name: Disubstituted piperazine salt	49 FR 931 (1/6/84)	Do.
84-296	2-methyl-3-(3-sulfopropyl)naphtho(2,3-d)thiazolium hydroxide inner salt	49 FR 931 (1/6/84)	Do.
84-297	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-298	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-299	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-300	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-301	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-302	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-303	Generic name: Polyurethane polymer	49 FR 932 (1/6/84)	Do.
84-304	Generic name: Benzyl dialkyl methyl quaternary ammonium chloride	49 FR 932 (1/6/83)	Do.
84-305	2-propenoic acid, 2-methyl-,2-{(((1-methyl-propylidene)amino)oxy)carbonyl)amino)ethyl ester	49 FR 932 (1/6/83)	Mar. 27, 1984.
84-306	Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 932 (1/6/83)	Do.
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 932 (1/6/83)	Do.
84-308	Generic name: Benzenamine, 2-substituted-4-[2-(5-substituted-2,3-dihydro-1,3,3-trialkyl-1H-Indol-2-yl)ethenyl]-.	49 FR 932 (1/6/84)	Do.
84-309	Generic name: Polyether acid phosphate	49 FR 1787 (1/13/84)	Mar. 28, 1984.
84-310	Generic name: Amine salt of a substituted organic acid	49 FR 1787 (1/13/84)	Do.
84-311	Generic name: Cyclic alkene-yne	49 FR 1788 (1/13/84)	Do.
84-312	Methyltris(2-methyl-3-butyn-2-oxy)silane	49 FR 1788 (1/13/84)	Do.

III. 177 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity and generic name	FR citation	Expiration date
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6397 (2/11/83)	Jan. 25, 1984.
83-663	Generic name: Alkyl-substituted aromatic amine	48 FR 20490 (5/6/83)	Jan. 4, 1984.
83-785	Generic name: Substituted heteromonocycle sulfonylphenyl azo substituted naphthalenesulfonic acid, salt.	48 FR 26884 (6/10/83)	Jan. 3, 1984.
83-1023	Generic name: Alkyl aryl phosphine	48 FR 36649 (8/12/83)	Jan. 18, 1984.
83-1026	Generic name: Disubstitutedsulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid, sodium salt.	48 FR 37699 (8/19/83)	Jan. 3, 1984.
83-1057	Generic name: 1,1-di(alkylsubstituted) hydrazine	48 FR 38890 (8/26/83)	Jan. 20, 1984.
83-1062	Generic name: Polycarboxylic acid	48 FR 39689 (9/1/83)	Jan. 23, 1984.
83-1267	9H-thioxanthen-9-one, 2,4-diethyl-	48 FR 43402 (9/23/83)	Jan. 5, 1984.
83-1268	9H-thioxanthen-9-one, 2,4-dimethyl-	48 FR 43402 (9/23/83)	Do.
83-1269	Methanone, (4-methoxy-3-methylphenyl)	48 FR 43402 (9/23/83)	Dec. 28, 1983.
83-1270	9H-thioxanthen-9-one, 4-chloro-	48 FR 43402 (9/3/83)	Jan. 5, 1984.
84-8	Generic name: Polyfunctional copolymer of styrene with alkyl acrylate and substituted alkyl methacrylates.	48 FR 46853 (10/14/83)	Jan. 1, 1984.
84-9	Generic name: Polyester from vegetable oil fatty acids, alkane triol, alkanoic anhydride and carbomonocyclic acids.	48 FR 46853 (10/14/83)	Do.
84-10	Generic name: Polymer of N,N'-biscycloaminoalkylene diamine and an alkanoic acid	48 FR 46853 (10/14/83)	Jan. 2, 1984.
84-11	Generic name: Alkylated cycloalkanone, bis[(4-azidophenyl)methylene]-	48 FR 46853 (10/4/83)	Jan. 3, 1984.
84-12	Generic name: Aliphatic polycarbonate urethane	48 FR 46853 (10/14/83)	Do.
84-13	Generic name: Disubstituted benzene	48 FR 46853 (10/14/83)	Do.
84-14	Generic name: Polyurethane prepolymer resin	48 FR 48864 (10/21/83)	Jan. 4, 1984.
84-16	Generic name: Epoxy urethane	48 FR 48864 (10/21/83)	Jan. 8, 1984.
84-19	Generic name: Tolylene diisocyanate polymer with acrylated glycols	48 FR 48864 (10/21/83)	Do.
84-20	Generic name: Methylene bis(4-isocyanatocyclohexane)polymer with acrylated glycols	48 FR 48864 (10/21/83)	Do.
84-21	Generic name: Polybutanediol acrylate	48 FR 48864 (10/21/83)	Do.
84-22	Generic name: Isophorone dissocyanate polymer with acrylated diols	48 FR 48864 (10/21/83)	Do.
84-23	Generic name: 1,4-cyclohexylene diisocyanate polymer with acrylated diols	48 FR 48864 (10/21/83)	Do.
84-24	Generic name: Methylene-bis(cyclohexyl isocyanate)polymer with acrylated diols	48 FR 48865 (10/21/83)	Do.
84-25	Generic name: Titanium alcohol complex	48 FR 48865 (10/21/83)	Jan. 9, 1984.
84-26	Generic name: Alkoxy functional polydimethyl-siloxane	48 FR 48865 (10/21/83)	Do.
84-28	Generic name: Flexibilized dicyclopentadiene modified unsaturated polyester resin	48 FR 48865 (10/21/83)	Do.
84-29	Generic name: Ethylene terpolymer	48 FR 48865 (10/21/83)	Do.
84-30	Generic name: Modified polyethylene ionomer	48 FR 48865 (10/21/83)	Do.
84-31	Generic name: Modified polyethylene ionomer	48 FR 48865 (10/21/83)	Do.
84-32	Generic name: Aminomethylene phosphonic acid	48 FR 48865 (10/21/83)	Do.
84-33	Generic name: Phosphorus containing aminosilane	48 FR 48865 (10/21/83)	Do.
84-34	Generic name: Aliphatic polycarbonate diol	48 FR 48865 (10/21/83)	Do.
84-35	Generic name: (Substitutedphenyl) (heterocycle-substituted alkyl)ketone	48 FR 48865 (10/21/83)	Do.
84-37	Poly[oxy)methyl-1,2-ethanediyl)], alpha-hydroomega-(2-amino-2-methyl)ethoxy-, ether with 1,2,3-propanetriol (3:1).	48 FR 48866 (10/21/83)	Jan. 10, 1984
84-38	Generic name: Oil modified polyester	48 FR 48866 (10/21/83)	Do.

III. 177 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-39	Generic name: Oil frec. polyester	48 FR 48866 (10/21/83)	Do.
84-40	Generic name: Oil modified polyester	48 FR 48866 (10/21/83)	Do.
84-41	Generic name: Metal complex with amine fatty acid salt	48 FR 48866 (10/21/83)	Jan. 9, 1984.
84-42	Generic name: Substituted benzene	48 FR 50951 (11/4/83)	Jan. 11, 1984.
84-43	Generic name: Fatty acid mercaptan acrylic copolymer	48 FR 50952 (11/4/83)	Do.
84-44	Generic name: Acrylic copolymer	48 FR 50952 (11/4/83)	Do.
84-45	Generic name: Acrylic urethane polymer	48 FR 50952 (11/4/83)	Do.
84-46	Generic name: Acrylic urethane polymer	48 FR 50952 (11/4/83)	Do.
84-47	Generic name: Ester urethane copolymer	48 FR 50952 (11/4/83)	Do.
84-48	Generic name: Acrylic styrene copolymer	48 FR 50952 (11/4/83)	Do.
84-49	Generic name: Formaldehyde reaction product with phenol and diamine	48 FR 50952 (11/4/83)	Do.
84-51	Generic name: Substituted heterocyclic metal complex	48 FR 50952 (11/4/83)	Do.
84-52	Generic name: Vinylpyrrolidone copolymer	48 FR 50952 (11/4/83)	Do.
84-53	Generic name: Vinlpyrrolidone copolymer	48 FR 50952 (11/4/83)	Do.
84-54	Generic name: Drying oil modified alkyd	48 FR 50952 (11/4/83)	Jan. 14, 1984.
84-55	Generic name: Ethoxylated nonylphenol urethane derivative	48 FR 50952 (11/4/83)	Do.
84-56	Generic name: Polyester resin	48 FR 50953 (11/4/83)	Do.
84-57	Generic name: Transition metal complex	48 FR 50953 (11/4/83)	Do.
84-58	Generic name: Cycloaliphatic amines	48 FR 50953 (11/4/83)	Do.
84-59	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-60	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-61	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-62	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-63	Generic name: Substituted-phenyl-N-substituted-amino monochlorotriazinylamino substituted-sulfo-phenylazo-benzylidenehydrazino sulfobenzoate-copper sulfate, potassium salt	48 FR 50953 (11/4/83)	Do.
84-65	Generic name: Substituted anthraquinone aryl sulphamate	48 FR 50953 (11/4/83)	Do.
84-67	Generic name: Substituted aromatic azo pyridinium salt	48 FR 50953 (11/4/83)	Do.
84-70	Generic name: Substituted methimine indolium acetic acid salt	48 FR 50953 (11/4/83)	Do.
84-71	Generic name: Substituted pyridinium chloride	48 FR 50954 (11/4/83)	Jan. 15, 1984.
84-72	Generic name: Modified acrylate ester resin	48 FR 50954 (11/4/83)	Do.
84-74	Generic name: Unsaturated organic compounds with isoscyanates	48 FR 50954 (11/4/83)	Do.
84-75	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 50954 (11/4/83)	Do.
84-76	Generic name: Vinyl acetate-ethylene copolymer	48 FR 50954 (11/4/83)	Do.
84-77	Generic name: Substituted heterocycle, diester with alkanedioic acid	48 FR 50954 (11/4/83)	Do.
84-78	Generic name: Substituted benzaldehyde	48 FR 50954 (11/4/83)	Do.
84-79	Generic name: Glycol/phthalate polyester resin	48 FR 50954 (11/4/83)	Do.
84-80	Generic name: Cellulose, acetate, [(1-oxo-2-propenyl) amino] methyl ether	48 FR 50954 (11/4/83)	Do.
84-81	Generic name: Cellulose, acetate butanoate, [(1-oxo-2-propenyl) amino] methyl ether	48 FR 50954 (11/4/83)	Do.
84-82	Generic name: Azo triazolium salt	48 FR 50954 (11/4/83)	Do.
84-83	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-84	Generic name: Azo benzothiazolium salt	48 FR 50955 (11/4/83)	Do.
84-85	Generic name: Azo benzothiazolium salt	48 FR 50955 (11/4/83)	Do.
84-86	Generic name: Heterocyclic azo substituted aromatic compound	48 FR 50955 (11/4/83)	Do.
84-87	Generic name: Ethylene interpolymer	48 FR 50955 (11/4/83)	Jan. 16,1984.
84-88	Generic name: Acrylic resin	48 FR 50955 (11/4/83)	Do.
84-89	Generic name: Acrylic resin	48 FR 50955 (11/4/83)	Do.
84-90	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-91	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-92	Generic name: Polymer of 1,2-propanediol, 1,6-hexanedioic acid and tetra substituted benzene dicarboxylic acid derivative.	48 FR 50955 (11/4/83)	Do.
84-94	Generic name: Cresol formaldehyde polymer	48 FR 50955 (11/4/83)	Do.
84-95	Generic name: Thermoplastic polyurethane	48 FR 50945 (11/4/83)	Jan. 18, 1984.
84-96	Generic name: Polyurethane polymer	48 FR 50945 (11/4/83)	Do.
84-97	Ethanol, 2-amino-hydrobromide	48 FR 50945 (11/4/83)	Do.
84-98	Generic name: Alkoxy polyol terpolymer	48 FR 50945 (11/4/83)	Do.
84-100	Generic name: Ester of substituted, unsaturated acid	48 FR 50945 (11/4/83)	Do.
84-101	Generic name: Ester of substituted, unsaturated acid	48 FR 50945 (11/4/83)	Do.
84-103	Generic name: Modified polyacrylate polymer	48 FR 50945 (11/4/83)	Do.
84-104	Generic name: Starch grafted polyacrylate polymer	48 FR 50945 (11/4/83)	Do.
84-105	Generic name: Halogenated alkene	48 FR 50945 (11/4/83)	Do.
84-106	Generic name: Halogenated alkane	48 FR 50945 (11/4/83)	Do.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50945 (11/4/83)	Do.
84-109	Generic name: Substituted-substituted-oxadiazine	48 FR 50946 (11/4/83)	Do.
84-110	Generic name: Polyurea	48 FR 50946 (11/4/83)	Do.
84-112	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-113	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-114	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-115	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-116	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-118	Generic name: Aliphatic polycarbonate urethane	48 FR 50946 (11/4/83)	Do.
84-119	Generic name: Aliphatic polyester urethane	48 FR 50946 (11/4/83)	Do.
84-120	Generic name: Modified halogenated hydrocarbon polymer	48 FR 50946 (11/4/83)	Do.
84-122	Generic name: Substituted-benzene sulfonic acid, sodium salt	48 FR 50946 (11/4/83)	Do.
84-123	Generic name: Naphthaquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester	48 FR 50947 (11/4/83)	Jan. 21, 1984.
84-124	Invalid		
84-125	Generic name: 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-substituted, potassium salt	48 FR 50947 (11/4/83)	Do.
84-126	Generic name: Substituted naphthalene diazonium sulfate	48 FR 50947 (11/4/83)	Do.
84-127	Generic name: Polyurethane prepolymer resin	48 FR 50947 (11/4/83)	Do.
84-128	Generic name: Alkyleneamine methylene phosphonic acid	48 FR 50947 (11/4/83)	Do.
84-129	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-130	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-131	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-132	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-133	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-134	Generic name: Flourocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-135	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-136	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-137	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-138	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-139	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.

III. 177 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-140	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-141	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-142	Generic name: Flourocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-143	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-144	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-145	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-146	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-147	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-148	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-149	Generic name: Polyalkylene glycol ether	48 FR 50948 (11/4/83)	Do.
84-150	Generic name: Aminomethylene phosphonic acid	48 FR 50948 (11/4/83)	Do.
84-151	Lithium aluminum hydroxide	48 FR 50948 (11/4/83)	Do.
84-152	Hydroxy bromide	48 FR 50948 (11/4/83)	Do.
84-153	Hydroxy chloride	48 FR 50949 (11/4/83)	Do.
84-154	Lithium aluminum hydroxy stearate	48 FR 50949 (11/4/83)	Do.
84-155	Palmitate	48 FR 50949 (11/4/83)	Do.
84-156	Myristate	48 FR 50949 (11/4/83)	Do.
84-157	Laurate	48 FR 50949 (11/4/83)	Do.
84-158	Generic name: Modified epoxy resin	48 FR 50949 (11/4/83)	Do.
84-159	Generic name: Rubber modified epoxy resin	48 FR 50949 (11/4/83)	Do.
84-160	Generic name: Rubber modified epoxy resin	48 FR 50949 (11/4/83)	Do.
84-162	Generic name: Modified epoxy resin	48 FR 50949 (11/4/83)	Jan. 22, 1984.
84-163	Generic name: Substituted triazine	48 FR 50949 (11/4/83)	Do.
84-164	Generic name: Fluorine substituted dioxolane	48 FR 50949 (11/4/83)	Do.
84-165	Generic name: Carbonyl-fluorine substituted dioxolane	48 FR 50949 (11/4/83)	Do.
84-166	Generic name: Fluorine substituted poly dioxolane	48 FR 50949 (11/4/83)	Do.
84-167	Generic name: Fluorine substituted dioxan-2-one	48 FR 50950 (11/4/83)	Do.
84-168	Generic name: Oxo-fluorine substituted dioxolane	48 FR 50950 (11/4/83)	Do.
84-169	Generic name: Acrylate ester blocked polyurethane	48 FR 50950 (11/4/83)	Do.
84-170	Generic name: Acrylate blocked polyurethane	48 FR 50950 (11/4/83)	Do.
84-171	Generic name: Functional polyurethane	48 FR 50950 (11/4/83)	Jan. 23, 1984.
84-172	Generic name: Functional acrylic copolymer	48 FR 50950 (11/4/83)	Do.
84-173	Generic name: Titanium (4+) mixed alcohol complex	48 FR 50950 (11/4/83)	Do.
84-174	Generic name: Titanium (4+) mixed alcohol complex	48 FR 50950 (11/4/83)	Do.
84-175	N-dodecylthio-2-propanol	48 FR 50950 (11/4/83)	Do.
84-177	Generic name: Ester of substituted cyclohexene	48 FR 50950 (11/4/83)	Do.
84-178	Generic name: Ester of substituted cyclohexene	48 FR 50950 (11/4/83)	Do.
84-179	Generic name: Substituted-phenyl-N-substituted-amino monochlorotriazinylamino substituted-sulfo-phenylazo-benzylidenehydrazino sulfobenzoate-copper sulfate, sodium salt.	48 FR 50950 (11/4/83)	Jan. 24, 1984.
84-181	Generic name: Aliphatic acrylate ester	48 FR 50951 (11/4/83)	Do.
84-182	Generic name: Polyether acrylate	48 FR 50951 (11/4/83)	Do.
84-183	Generic name: Aliphatic ester methacrylate	48 FR 50951 (11/4/83)	Do.
84-185	Generic name: Perhaloolefin	48 FR 50951 (11/4/83)	Do.
84-186	Generic name: (Polyurethane from polyhydroxyalkyls and an aromatic diisocyanate)	48 FR 50951 (11/4/83)	Do.
84-187	Yttrium aluminum gallium oxide	48 FR 52504 (11/18/83)	Jan. 25, 1984.
84-188	Generic name: Aryl alkyl alkanedione	48 FR 53504 (11/18/83)	Do.
84-189	Generic name: Aminoplast resin	48 FR 52504 (11/18/83)	Do.
84-190	Generic name: Chromophore substituted polyoxyalkylene	48 FR 52504 (11/18/83)	Jan. 28, 1984.
84-191	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	48 FR 52504 (11/18/83)	Jan. 29, 1984.
84-192	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	48 FR 52504 (11/18/83)	Do.
84-193	Generic name: Functional copolymer of styrene with acrylate type monomers	48 FR 52504 (11/18/83)	Do.
84-194	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.
84-195	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.
84-196	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.

IV. 48 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
81-177	Generic name: Chloroalkyl alkoxysilane	46 FR 25695 (5/8/81)	Jan. 9, 1984.
81-178	Generic name: Chloroalkylchlorosilane	46 FR 25695 (5/8/81)	Do.
81-620	Generic name: Silicon substituted organic amine	46 FR 60982 (12/14/81)	Jan. 16, 1984.
82-143	Generic name: heterocyclic-phenyl azo substance	47 FR 10074 (3/9/82)	Dec. 15, 1983.
82-479	Generic name: Heteropolycyclic(dihydroxyheteropolycycle)	47 FR 30104 (7/12/82)	Dec. 21, 1983.
82-547	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Dec. 28, 1983.
82-705	Generic name: Epoxy urethane	47 FR 44609 (10/8/82)	Dec. 21, 1983.
83-2	Generic name: Polymer of styrene, substituted styrene, and substituted methacrylate salt	47 FR 46371 (10/18/82)	Jan. 4, 1984.
83-33	1,2,3-propanetricarboxylic acid, 2 hydroxy, esters with high boiling C_8-C_{16} alkane hydroformylation products.	48 FR 47067 (10/22/83)	Jan. 9, 1984.
83-101	Generic name: Polymer of diphenylmethane diisocyanate; hydroxy alkyl ethers, and substituted alkanediols.	47 FR 52223 (11/19/83)	Nov. 19, 1983.
83-520	Generic name: Polyester polycarboxylate salt	48 FR 10470 (3/11/83)	Jan. 4, 1984.
83-530	Generic name: Disubstituted carbomonocyclic ester	48 FR 10470 (3/11/83)	Dec. 21, 1983.
83-629	Reaction product of 2-butanone oxime and polymethylene polyphenylene isocyanate	48 FR 17385 (4/22/83)	Jan. 10, 1984.
83-642	Generic name: Disubstituted phenol	48 FR 20487 (5/6/83)	Dec. 15, 1983.
83-668	Generic name: Tetrasubstituted benzenamine	48 FR 20490 (5/6/83)	Jan. 4, 1984.
83-733	Cyclohexanedimethanol, isophthalic acid, trimellitic anhydride condensation product	48 FR 23904 (5/27/83)	Do.
83-739	Generic name: Diamide of polybutenyl succinic anhydride	48 FR 23904 (5/27/83)	Jan. 31, 1984.
83-815	Generic name: Modified polyacrylate	48 FR 29048 (6/24/83)	Dec. 6, 1983.
83-874	Generic name: Copolymer of alkyl and substituted alkyl methacrylates	48 FR 31461 (7/8/83)	Dec. 7, 1983.
83-877	Generic name: Polymer of aliphatic diamine and benzenedicarboxylic acid	48 FR 31462 (7/8/83)	Jan. 6, 1984.
83-921	Generic name: Hydrolyzed copolymer based on maleic anhydride	48 FR 32384 (7/15/83)	Dec. 14, 1983.
83-932	Vinylbenzal-2,4-disodium disulfonate/vinyl alcohol copolymer	48 FR 33532 (7/22/83)	On or about Feb. 13, 1984.
83-939	Oxo-heptyl acetate	48 FR 33533 (7/22/83)	Week of Jan. 30, 1984.
83-946	Generic name: Polyglycol alcohol polymer	48 FR 33533 (7/22/83)	Jan. 11, 1984.

IV. 48 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
83-991	Generic name: Substituted, sulfated naphthylazo sodium salt	48 FR 35713 (8/5/83)	Dec. 29, 1983.
83-1013	Generic name: Substituted (oxyphenyl)tetrazo oxylene	48 FR 36648 (8/12/83)	Dec. 19, 1983.
83-1061	Generic name: Tetracarboxylic compound	48 FR 38891 (8/26/83)	Jan. 16, 1984.
83-1151	Generic name: Diethoxydiphenylalkanoe	48 FR 41642 (9/16/83)	Dec. 27, 1983.
83-1200	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Dec. 23, 1983.
83-1202	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Do.
83-1208	Generic name: Polyester of dicarboxylic acids and a difunctional alcohol	48 FR 43398 (9/23/83)	Dec. 14, 1983.
83-1219	Generic name: Monosubstituted benzenesulfonamide	48 FR 43399 (9/23/83)	Jan. 10, 1984.
83-1241	Polymer of: adiprene 167, teracol 650 and 2-hydroxy ethyl acrylate	48 FR 43400 (9/23/83)	Dec. 16, 1983
83-1248	Benezeneacetic acid,α,α"-(1,2-ethanediyldiimine) bis[2-hydroxy-5-sulfo]tetrasodium salt	48 FR 43401 (9/23/83)	Jan. 23, 1984.
83-1251	Generic name: Linseed oil alkyd resin	48 FR 43401 (7/22/83)	Dec. 14, 1983.
83-1264	Generic name: Polysubstituted heterocyclic azo disubstituted aniline	48 FR 43401 (9/23/83)	Jan. 3, 1984.
83-1273	Generic name: Chromophore substituted polyoxy alkylene	48 FR 44901 (9/30/83)	Do.
83-1289	Polymer of: 1,4 cyclohexanedimethanol, neopentylglycol, trimethylol propane, isophthalic acid, fumaric acid.	48 FR 44902 (9/30/83)	Jan. 17, 1984.
83-1293	Generic name: 2-(2-chlorophenyl)-1-substituted-2-hydroxy-1-ethanone	48 FR 44902 (9/30/83)	Jan. 1984.
83-1296	Generic name: Polyol acetal	48 FR 45842 (10/7/83)	Jan. 3, 1984.
83-1325	1-H-imidazole-1-carboxamide, N,N"-,5 naphthalenediylbis	48 FR 46851 (10/14/83)	Feb. 1, 1984.
84-2	Generic name: Amine salt of a modified carboxyl terminated polyester urethane polymer	48 FR 46852 (10/14/83)	Jan. 2, 1984.
84-3	Generic name: Modified magnesium fluorogermanate	48 FR 46852 (10/14/83)	Jan. 19, 1984.
84-6	Generic name: Polyurethane based on TDI and a polycarbonate	48 FR 46853 (10/14/83)	Jan. 2, 1984.
84-49	Generic name: Formaldehyde reaction product with phenol and diamine	48 FR 50952 (11/4/83)	On or about Feb. 1, 1984.
84-58	Generic name: Cycloaliphatic amines	48 FR 50953 (11/4/83)	Do.
84-72	Generic name: Modified acrylate ester resin	48 FR 45094 (11/4/83)	Mar. 1984.
84-94	Generic name: Cresol formaldehyde polymer	48 FR 50955 (11/4/83)	Jan. 16, 1984.

V. 60 Premanufacture Notices for Which the Review Period has Been Suspended

PMN No.	Identity and generic name	FR citation	Date suspended
80-146	Phosphorodithioic acid, *O,O'*-di(isohexyl, isoheptyl, isoctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid, *O,O'*-di(isohexyl, isoheptyl, isoctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isoctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isoctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-333	Generic name: Reaction product of polycycle-sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenylazo	48 FR 5304 (2/4/83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chloro-triazinylaminodimethylphenylazo-sulfo-naphthaleneazo-.	48 FR 5306 (2/4/83)	Do.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5/6/83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20491 (5/6/83)	Do.
83-755	Generic name: 4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarlamino-formimidphenol with sulfonaphthylazosulfonaphthol.	48 FR 24968 (6/3/83)	Do.
83-822	Generic name: Trisubstituted aniline	48 FR 29049 (6/24/83)	Sept. 28, 1983.
83-831	Generic name: Disazo solvent red dye	48 FR 29055 (6/24/83)	Sept. 9, 1983.
83-845	Generic name: Tetrasodium salt of μ-(2-(2-hydroxy-3-nitro-5-sulfo-phenylazo)-2'-(2-hydroxy-5-substituted-3-sulfphenylazo)-3,3'-disulfo-6,6'-iminodi-1-naphtholate-(0,0',0",0' ") (8⁻))dicopper(II)acid.	48 FR 30434 (7/1/83)	Sept. 16, 1983.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30435 (7/1/83)	Sept. 21, 1983.
83-875	Generic name: 4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino]benzene	48 FR 31462 (7/8/83)	Do.
83-876	Generic name: 4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31462 (7/8/83)	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32383 (7/15/83)	Oct. 1, 1983.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36648 (8/12/83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36648 (8/12/83)	Do.
83-1012	Generic name: Bis(aulfophenylchlorotriazine-aminosulfophenylazo) hydroxyaminodisulfo-naphthalene.	48 FR 36648 (8/12/83)	Oct. 24, 1983.
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative.	48 FR 36649 (8/12/83)	Do.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8/19/83)	Nov. 3, 1983.
83-1033	Generic name: C_{6-8} carboxylic acid	48 FR 37700 (8/19/83)	Dec. 8, 1983.
83-1042	Generic name: Acridine, 9-phenyl	48 FR 37700 (8/19/83)	Oct. 17, 1983.
83-1048	Generic name: Polyether polyurethane	48 FR 38890 (8/26/83)	Oct. 27, 1983.
83-1162	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Nov. 29, 1983.
83-1163	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1238	Generic name: Substituted anthraquinone	48 FR 43400 (9/23/83)	Dec. 9, 1983.
83-1274	Generic name: Acetamine, 2-chloro-N-chloromethyl-N-(2-ethyl-6-methylphenyl)	48 FR 44901 (9/30/83)	Do.
84-7	Generic name: N,N,N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	48 FR 46853 (10/14/83)	Dec. 21, 1983.
84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48864 (10/21/83)	Jan. 3, 1984.
84-17	Generic name: Substituted heterocyclic metal complex	48 FR 48864 (10/21/83)	Do.
84-17	Generic name: 1 (1,1 - dimethylethoxy)-propan-2-ol	48 FR 48864 (10/21/83)	Jan. 6, 1984.
84-27	Generic name: Polyol carboxylate ester	48 FR 48865 (10/21/83)	Dec. 28, 1983.
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48866 (10/21/83)	Jan. 3, 1984.
84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50952 (11/4/83)	Do.
84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50953 (11/4/83)	Jan. 5, 1984.
84-66	Generic name: Substituted phenol-formaldehyde condensate	48 FR 50953 (11/4/83)	Jan. 14, 1984.
84-68	Generic name: Substituted anthraquinone aryl amine	48 FR 50953 (11/4/83)	Dec. 28, 1983.

V. 60 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity and generic name	FR citation	Date suspended
84-69	Generic name: Substituted anthraquinone ammonium salt	48 FR 50953 (11/4/83)	Do.
84-93	Generic name: Substituted-1H-isoindol-1-one	48 FR 50955 (11/4/83)	Jan. 12, 1984.
84-99	Generic name: Hydroxylalkyl ether	48 FR 50945 (11/4/83)	Jan. 11, 1984.
84-102	Generic name: Substituted aromatic	48 FR 50945 (11/4/83)	Jan. 16, 1984.
84-107	Generic name: Halogenated alkane	48 FR 50945 (11/4/83)	Jan. 12, 1984.
84-111	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Jan. 9, 1984.
84-117	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50946 (11/4/83)	Jan. 4, 1984.
84-161	Reaction of: diethylene triamine, Cardura E, Cardura glycidyl ether, urea	48 FR 50949 (11/4/83)	Jan. 13, 1984.
84-176	Generic name: Aliphatic triol ester methacrylate	48 FR 50950 (11/4/83)	Do.
84-180	Generic name: Polyether acrylate ester	48 FR 50951 (11/4/83)	Do.
84-184	Generic name: Aliphatic ester methacrylate	48 FR 50951 (11/4/83)	Do.
84-209	Generic name: Pentasubstituted phenyl fatty acid ester	48 FR 53162 (11/25/83)	Jan. 18, 1984.
84-216	Generic name: Phosphate ester	48 FR 54394 (12/2/83)	Dec. 7, 1983.
84-224	Generic name: Alkoxylated bisphenol A, inorganic ester, monoethanolamine salt	48 FR 55332 (12/12/83)	Jan. 20, 1984.

[FR Doc. 84-5959 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140046; BH-FRL 2537-3]

Syracuse Research Corporation; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will provide Syracuse Research Corporation (SRC) access to information submitted to the Agency by manufacturers, processors, and importers of chemical substances under sections 5 and 8(d) of the Toxic Substances Control Act (TSCA). Some of the information may be confidential. Under EPA guidance, SRC will collect information to support the production of Health Hazard Profiles for the Agency's Office of Solid Waste.

DATE: Access by SRC to information submitted to EPA and claimed as confidential will take place no sooner than March 16, 1984.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, 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: Under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.), EPA develops Health Hazard Profiles for various chemical substances in the process of assessing the chemicals' characteristics and pollution risk potential.

Under its contract with EPA (No. 68-03-3112), SRC will assist the Agency in preparing Health Hazard Profiles. SRC will review and assess various information located in TSCA sections 5 and 8(d) files for use in the Agency's risk assessment process for the substances for which Health Hazard Profiles are performed.

Some of the information to which SRC may require access has been claimed as confidential. In accordance with 40 CFR 2.306(j), it has been determined that access by SRC to TSCA confidential business information (CBI) will be necessary for satisfactory completion of work under this contract.

Under the EPA security manual, "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," SRC is legally required to safeguard CBI from any unauthorized disclosure. SRC access to CBI will take place only on EPA premises. In accordance with the contractor requirements manual, SRC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information.

EPA is issuing this notice to inform submitters of information under TSCA sections 5 and 8(d) that SRC will have access to confidential business information from EPA.

Dated: February 22, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-5961 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

American Radio & Telephone Service, Inc. et al.; Hearings

In re Applications of American Radio Telephone Service, Inc.; CC Docket No. 84-164, File No. 21092-CD-P-(4)-82; For a construction permit for additional one-way facilities to operate on the frequency 43.60 MHz for station KUO650 in the Domestic Public Land Mobile Radio Service at Baltimore and Towson, Maryland; American Radio Telephone Service, Inc.; CC Docket No. 84-165, File No. 21093-CD-P-(6)-82; For a construction permit for additional one-way facilities to operate on the frequency 43.60 MHz for station KUO651 in the Domestic Public Land Mobile Radio Service at Washington, D.C., Oxon Hill and Rockville, Maryland.

Order Designating Applications for Hearing

Adopted February 8, 1984.
Released February 27, 1984.
By the Common Carrier Bureau.

1. Before the Chief, Mobile Services Division, are the captioned applications of American Radio Telephone Service, Inc. (American). Our review of the applications raises a question concerning whether American has demonstrated a need for an additional frequency for Station KUO560 at Baltimore, MD and Station KUO561 at Washington, D.C. The applications have not been protested. We find American to be otherwise legally and technically qualified.

2. American has submitted traffic load studies for its presently authorized one-way facilities for station KUO651 as required by Section 22.516 of the Commission's rules. Station KUO651 presently serves the Washington, D.C. metropolitan area on four different one-way frequencies: 35.22 MHz, 43.58 MHz, 152.24 MHz and 158.70 MHz. From the traffic load studies submitted, the grade of service on the 152.24 MHz and 158.70 MHz frequencies is greater than the required 0.50 necessary to justify an additional channel. The grade of service on the frequency 43.58 MHz was found to be 0.39, and the grade of service on the frequency 35.22 MHz was found to be 0.45. In addition, American has submitted a need survey for the

Washington, D.C. area that indicates a need for a potential maximum of 953 new subscribers.[1]

3. For the Baltimore metropolitan area American provides one-way service over Station KU0650 operating on the frequencies 35.22 MHz, 35.58 MHz, 152.24 MHz and 158.70 MHz. American has submitted traffic load studies for these facilities. Only the 152.24 MHz frequency has a grade of service greater than the required 0.50 necessary to justify an additional channel. The grade of service for the other frequencies is 0.45 on 35.22 MHz, 0.009 on 35.58 MHz and 0.13 on 158.70 MHz. American provided a new subscriber survey for the Baltimore market area which demonstrated a need for a maximum of 946 potential new subscribers.[2]

4. On January 27, 1983, in a *Further Notice of Proposed Rulemaking* in CC Docket 20870, FCC 83-38, released February 14, 1983, the Commission adopted interim objective need standards governing one-way applications requesting an additional frequency. Pursuant to the rulemaking, applications for one additional paging channel will be granted if the application shows that the existing system's present grade of service is 0.50 or greater or that the existing grade of service is 0.40 or greater, with a projected grade of service of 0.50 or greater.

5. Applications filed after February 14, 1983 which do not meet the interim need standards are returned as defective. Prior to the *Further Notice*, the Mobile Services Division (Division) applied the 0.50 blocking standard as a guideline to determine whether an applicant had demonstrated a sufficient need for an additional channel. In addition, the results of a general need survey were accepted and were discounted by 50 percent to determine the projected grade of service.

6. Since the American applications were filed prior to February 14, 1983, we will apply the Division's standards prior to the adoption of the interim standards. To simplify our calculations we will assume 50 percent or 477 new subscribers projected for the Washington system will be added to the 43.58 MHz facility of station KU0651. Based on our calculations including the 477 new subscribers the projected grade of service will only be 0.43, less than the 0.50 required. Accordingly, American has not demonstrated sufficient loading to justify an additional channel for Station KU0651. For the Baltimore proposal we will presume 50 percent of 946 potential new subscribers or 473 units for Station KU0651. Adding these subscribers to the existing loading produces a loading of 0.017 and therefore ARTS does not demonstrate sufficient need for an additional channel for Station KU0650. Accordingly, we will designate the American captioned applications for hearing to determine whether American has adequately demonstrated need for an additional frequency for Stations KU0650 and KU0651.

7. Accordingly, it is ordered that the applications of American Radio Telephone Service, Inc., File No. 21092-CD-P-4-82 and 21093-CD-P-6-82 are designated for hearing in a consolidated proceeding pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether American has demonstrated a need for an additional frequency for Station KU0650 and Station KU0651; and

(b) To determine, in light of the evidence adduced pursuant to the need for an additional frequency issue, what disposition of the applications would best serve the public interest, convenience and necessity.

8. It is further ordered, That the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

9. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to this proceeding.

10. It is further ordered, That the applicant may avail itself of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 30 days of the release date hereof, a written notice stating an intention to appear on the date for a hearing and present evidence on the issues specified in the Memorandum Opinion and Order.

11. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Michael Deuel Sullivan,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 84-6600 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

[1] This survey does not demonstrate that any of the potential subscribers have signed written but nonbinding orders for service.

[2] *See*, note 1, *supra*.

Brian Haskin et al.; Hearings

In re Applications of Brian Haskin, Port Huron, Michigan; MM Docket No. 84-171, File No. BPCT-830601KE; TV 46 CORP., Port Huron, Michigan; MM Docket No. 84-172, File No. BPCT-830728KI; Haney Communications, Port Huron, Michigan; MM Docket No. 84-173, File No. BPCT-830801KG; For Construction Permit.

Hearing Designation Order

Adopted: February 17, 1984.
Released: February 28, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 46, Port Huron, Michigan; an informal objection filed by the Association of Maximum Services Telecasters, Inc. (AMST) against TV 46 Corps.; and related pleadings.[1]

2. The deadline for filing amendments to the above-captioned applications was October 5, 1983 ("B" cut-off date). However, on November 8, 1983, TV 46 Corp. (TV 46) filed an amendment to its application. The amendment was not accompanied by a motion for leave to amend. Brian Haskin (Haskin) filed a motion for leave to amend and an accompanying amendment to his application on November 10, 1983. No oppositions to the amendments were filed. We have reviewed the motion and the amendments submitted by Haskin and TV 46, and conclude that, in each case, good cause exists for accepting the amendments. However, it is not our intention to allow any comparative advantage to accure to either of these parties as a result of our acceptance of the amendments. Accordingly, Haskin's motion for leave to amend shall be granted and the amendments filed by Haskin and TV 46 shall be accepted for 1.65 purposes only.

3. No determination has been reached that the tower height and location proposed by TV 46 would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Haskin and TV 46 each proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within

[1] On October 5, 1983, AMST filed an informal objection to TV 46's application, pointing out that TV 46's proposed transmitter site is about 1.9 miles short-spaced to WVCI(TV) Bay City, Michigan. TV 46 filed an amendment which eliminated the short-spacing. Accordingly, AMST's objection will be dismissed as moot.

250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). Accordingly, in the event of a grant of Haskin's or TV 46's application, the construction permit shall be appropriately conditioned.

5. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least 10° plus any minima or maxima. Haskin and Haney Communications (Haney) have not supplied this data. TV 46's tabulation was not oriented with 0° referenced to True North. Accordingly, these applicants will each be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

6. Section V–C, Item 10, FCC Form 301, requires that an applicant submit the area and population within its predicted Grade B contour. TV 46 has not specified the population within its Grade B contour. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. TV 46 will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. The presiding Administrative Law Judge will consider any significant difference in the areas and populations under the standard comparative issue.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, It is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to TV 46 Corp., whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced purusant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That the Association of Maximum Service Telecasters, Inc.'s Informal Objection is DISSMISSED as moot.

10. It is further ordered, That, the motion for leave to amend filed by Brian Haskin is granted; and the amendments filed by Brian Haskin and TV 46 Corp. are accepted.

11. It is further ordered, That, in the event of a grant of Brian Haskin's application, the construction permit shall be conditioned as follows:

Subject to the condition that the station authorized herein shall not operate with effective radiated visual power in excess 2880 kW in the absence of the consent of Canada and operation with effective radiated visual power in excess of 1000 kW after January 1, 1986 is subject to a further extension of consent by Canada.

12. It is further ordered, That, in the event of a grant of TV 46 Corp.'s application the construction permit shall be conditioned as follows:

Subject to the condition that operation with effective radiated power in excess of 1000 kW after January 1, 1986 is subject to a further extension of consent by Canada.

13. It is further ordered, That Brian Haskin, TV 46 Corp. and Haney Communications shall each submit an amendment providing the information required by Section 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after this Order is released.

14. It is further ordered, That TV 46 Corp. submit an amendment specifying in the area and population within its predicted Grade B contour, to the presiding Administrative Law Judge, within 20 days after this Order is released.

15. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commisison's Rules, in persons or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Steward, *Chief*,

Video Services Division, Mass Media Bureau.

[FR Doc. 84-5996 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

CMM, Inc., et al.; Hearings

In re applications of CMM, Inc., Cedar City, Utah; MM Docket No. 84–169, File No. BPCT–830902KI; Michael Glenn Golden, Cedar City, Utah; MM Docket No. 84–170, File No. BPCT–831110KJ; For Construction Permit.

Hearing Designation Order

Adopted: February 17, 1984

Released: February 28, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of CMM, Inc. (CMM) and Michael Glenn Golden (Golden) for authority to construct a new commercial television broadcast station on channel 4, Cedar City, Utah.

2. Section II, page 2, FCC Form 301, requires that if an applicant is a corporation, the name, address and office held by each officer must be listed. CMM's application shows that Mike Miller is the sole stockholder, but the office or offices which he holds, if any, have not been disclosed. No other names are listed as officers. The station is to operate in the state of Utah. The laws of the State of Tennessee, where CMM is incorporated, appear to require that a corporation have at least two officers (Tenn. Code Ann. 48–811). Furthermore, § 73.3514(a) of the Commission's Rules requires applicants to provide all information called for by FCC Form 301, unless the requested information is inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and directors and to examine CMM's compliance with § 73.3514(a).

3. Section V–C, Item 10, FCC Form 301, requires an applicant to submit the area and population within its predicted Grade B contour. CMM has not specified

the area within its predicted Grade B contour. Consequently, we are unable to determine whether there would be a significant difference in the size of the areas and populations that CMM and Golden each proposes to serve. Accordingly, CMM will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. The presiding Administrative Law Judge will consider any signficiant difference in the areas and populations to be served under the standard comparative issue.

4. The proposed antenna for CMM is to be mounted on the tower of AM radio Station KBRE, Cedar City, Utah. Consequently, any grant of a construction permit to CMM will be conditioned to ensure that KBRE's radiation pattern is not adversely affected by the construction of the proposed station.

5. Our review of CMM's field strength contours indicates that CMM has plotted and computed its contour values using field strength levels appropriate for Channels 7–13, but CMM proposes to operate on Channel 4. CMM will be required to file with the presiding Administrative Law Judge, within 20 days after release of this Order, the appropriate contour data and a new contour map.

6. Section 76.501(a)(2) of the Commission's Rules prohibits direct or indirect ownership of both a cable television system and a television broadcast station if the television station would place a Grade B contour over any part of the service area of the cable system. Michael Glenn Golden is president and 25 per cent stockholder of Cable System Concepts, which provides service to Brian Head, Utah, which encompasses the Grade B contour of the proposed television station. However, it has been represented to the Commission that in the event of a grant of his application, Mr. Golden will divest himself of all interest in, and connection with, Cable System Concepts, Brian Head, Utah, prior to the commencement of operation of the Cedar City, Utah, station. Accordingly, any grant of a construction permit to Mr. Golden will be conditioned upon his divestiture of all interest in, and connection with, Cable System Concepts, Brian Head, Utah.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to CMM, Inc.:

(a) The number, identify and legal qualifications of the officers and directors;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant complied with § 73.3514(a) of the Commission's Rules; and

(c) In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That CMM, Inc. shall submit an amendment showing the area and population figures to the presiding Administrative Law Judge within 20 days after this Order is released.

10. It is further ordered, That, in the event of a grant of the application of CMM, Inc., the construction permit shall be conditioned as follows:

During installation of the antenna authorized herein, AM station KBRE shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements on the AM antenna shall be made and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to return to the direct method of power determination.

11. It is further ordered, That, CMM, Inc. shall submit an amendment to correct contour data and a correct contour map to the presiding Administrative Law Judge within 20 days after this Order is released.

12. It is further ordered, That, in the event of a grant of Michael Glenn Golden's application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Michael Glenn Golden has divested himself of all interest in, and connection with, Cable System Concepts, Brian Head, Utah.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advised the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-5995 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

Peninsula Communications, Inc.; et al.; Hearings

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Pensinsula Communications, Inc.; Kodiak, AK.	BPH-820427AM	84-166
B. Pillar Mountain Broadcasters; Kodiak, AK.	BPH-820908AS	84-167

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon isuses whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-5999 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

Pro Broadcasters of Colorado, Ltd. et al.; Hearings

In re Applications of Pro Broadcasters of Colorado, Ltd., Commerce City, Colorado; MM Docket No. 84-187, File No. BP-820305BB; Req. 670 kHz, 1 kW, 5 kW-LS, DA-N, U; Christian Wireless Company, Wellington, Colorado; MM Docket No. 84-188; File No. BP-820420AQ; Req: 680 kHz, 1 kW, DA-D; For Construction Permit.

Hearing Designation Order

Adopted: February 23, 1984.
Released: March 2, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Pro Broadcasters of Colorado, Ltd. and Christian Wireless Company, and an informal objection to the Pro Broadcasters application filed by Mr. Don Stinson.

2. *Pro Broadcasters of Colorado, Ltd.* Mr. Stinson filed an informal objection to the application of Pro Broadcasters alleging that the proposed 368 foot tower location is in the path of most light aircraft departing to the northeast from the existing Stapleton Airport, and is within the proposed boundary reserved airspace of two sites proposed by the Denver Regional Council of Governments for a new air carrier regional airport. In addition, he alleges that erection of the tower could also present a hazard to aircraft using the proposed new Adams County Airport at Watkins, Colorado. The Commission defers to the Federal Aviation Administration in all matters of this nature. The FAA has not issued a determination of no hazard to air navigation with respect to the Pro Broadcasters proposal. As is our practice under such circumstances, the Federal Aviation Administration will be made a party to this proceeding, and an appropriate issue will be specified.

3. This applicant's local notice, a copy of which was included in the informal objection filed by Mr. Stinson, fails to state that it proposed to erect six 373 foot towers at the site, as required by Section 73.3580 of the Commission's Rules. A corrected notice must be published and certification furnished to the presiding Administrative Law Judge within thirty days of the release of this Order. The judge in turn shall take such action as he deems appropriate in light of the submission.

4. *Christian Wireless Company.* This applicant's proposal constitutes a major environmental action as defined by Section 1.1305 of the Commission's Rules, and requires submission of environmental impact informaiton described in Section 1.1311. The environmental narrative statement submitted by Christian Wireless does not contain all of the requied information.[1] Consequently, we are unable to determine whether grant of the application will hae a significant effect on the quality of the human environment. Accordingly, Christian Wireless Company will be required to file within 30 days of the release of this Order an amended environmental narrative statement with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules is waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979) *recon. denied sub nom. Old Pueblo Broadcasting Corp., 83 FCC 2d 337 (1980).*

5. Except as indicated by the isues specified below, the applicants are qualified to construct and operate as proposed.[2] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

6. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the height and location of the six antenna towers proposed by Pro Broadcasters of Colorado, Ltd.

2. If a final environmental impact statement is issued with respect to the proposal of Christian Wireless Company which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine:

(a) whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301-1319 of the Commission's Rules; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural services to such areas and popultions.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide an fair, efficient, and equitable distribution of radio service.

5. To determine in the event it is concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine in light of the evidence aduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation administration is made a party to these proceedings.

---

[1] The environmental statement submitted by Christian Wireless did not contain information concerning the zoning classification (if any) or state whether the proposal has been a source of local controversy in the community as required by § 1.1311(a)(3) and (4) of the Rules.

[2] Operation with the facilities specified by Pro Broadcsters of Colorado, Ltd. is subject to suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts. of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro, 1981, and to bilateral and other multilateral agreements betwen the United States and other countries.

8. It is further ordered, That Pro Broadcasters of Colorado, Ltd. shall publish a corrected local notice of the filing of its application and shall certify its publication to the presiding Administrative Law Judge within 30 days after the release of this Order.

9. It is further ordered, That § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, Christian Wireless Company shall submit the environmental impact information as set out in paragraph 5 above, and required by Section 1.1311 of the Rules, to the presiding Administrative Law Judge, with a copy to the Cheif, Audio Services Division.

10. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such Ruels, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-5997 Filed 3-5-84; 8:45 am]

BILLING CODE 6712-01-M

South Carolina Educational Television Commission et al.; Hearings

In re Applications of South Carolina Educational Television Commission, Rock Hill, South Carolina; MM Docket No. 84-184, File No. BRCT-810803KJ; For Renewal of License of Noncommerical Educational Television Station WNSC-TV, Channel 30, Rock Hill, South Carolina; York County Television Corporation, Rock Hill, South Carolina; MM Docket No. 84-185, File No. BPCT-811030KJ; For a Construction Permit for a New Commercial Television Station on Channel 30, Rock HIll, South Carolina.

Hearing Designation Order

Adopted: February 22, 1984. Released: March 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of South Carolina Educational Television Commission ("SCETV") for renewal of license of noncommercial educational television station WNSC-TV, Channel 30, Rock Hill, South Carolina and of York County Television Corporation ("York County") for a construction permit for a new commercial television station on Channel 30, and related pleadings.[1]

2. *Background.* The basic facts are not in dispute. Two television channels, 30 and 55, are assigned to Rock Hill, South Carolina. Since January, 1978, SCETV has operated noncommercial educational television station WNSC-TV on Channel 30 which is not reserved for educational use. On August 31, 1981, York County filed an application to construct a new commercial television station on Channel 55, the only unoccupied channel in Rock Hill, South Carolina, which was then reserved for educational use.[2] York County also requested a waiver of our rules to permit a commercial operation on that channel. By letter dated September 16, 1981, York County's waiver request was denied and its application was returned. York County then filed the instant application for Channel 30.

3. *The SCETV Application.* In its "petition to deny an alternative request to issue show cause order," York County urges that SCETV's renewal application for Channel 30 be denied. It maintains that, in order to provide a fair, efficient and equitable distribution of broadcast services, the Commission has, in the past, amended its rules to delete the noncommercial educational reservation of an unoccupied channel if the number of noncommercial educational services contemplated for the community remains unchanged. York County contends that WNSC-TV's noncommercial educational operation on Channel 30, in light of the Commission's denial of its waiver request, effectively precludes any commercial television broadcast operation in Rock Hill. Thus, it insists that the public interest would be better served by requiring WNSC-TV to shift channels and operate on the reserved Channel 55, thus permitting the initiation of a first commerical television service on Channel 30 in Rock Hill. Alternatively, York County requests that the Commission require SCETV to show cause why it should not be required to move from Channel 30 to Channel 55.

4. In opposition, SCETV asserts that York County's petition fails to comply with Section 309(d)(1) of the Communications Act of 1934, as amended, by failing to contain specific allegations of fact sufficient to show that a grant of the WNSC-TV renewal application would be *prima facie* inconsistent with the public interest. SCETV rejects York County's conclusion that any commercial television broadcast operation is precluded in Rock Hill. SCETV asserts that the way to change the reserved status of a channel is to file a petition for rulemaking to amend the table of assignments and, in this case, request that Channel 55 be opened to commercial as well as noncommercial educational use. It notes that in 1977, such a petition was filed, but was later dismissed at the petitioner's request. York County, SCETV says, did not avail itself of the established procedure for removing the reservation on Channel 55.

5. Denial of York County's request to operate a commercial television station on a channel reserved for noncommercial educational broadcasting does not preclude any commercial television operation in Rock Hill. It is clear that established rulemaking procedures were available to York County to seek an amendment of the table of assignments to permit a commercial television operation on Channel 55. In fact, in those cases cited by York County to support its position that the table of assignments will be altered to ensure an equitable distribution of broadcast services, Commission action was taken as a result of appropriate rulemaking proceedings. York County chose not to avail itself of that established procedure, instead attempting to effectuate such amendment by seeking a waiver of the rules. Upon denial of that waiver request, York County now seeks to effectuate an amendment of the table of assignments by a petition to deny. Since that petition does not address SCETV's operation and raises no substantial and material question as to whether grant of the WNSC-TV renewal application would be *prima facie* inconsistent with the public interest, there exists no basis for the requested

[1] On October 30, 1981, York County filed a "petition to deny and alternative request to issue show cause order" against the SCETV application. On January 7, 1982, SCETV timely filed a petition to deny the York County application.

[2] In fact, on December 2, 1983, the Commission adopted a *Report and Order* in MM Docket No. 83-81, which was published in the **Federal Register** on December 22, 1983 (48 FR 56587), which amended the Television Table of Assignments to delete the noncommercial reservation for Channel 55, thus making available a second commercial channel in Rock Hill. However, our action today addresses only the applications for Channel 30 and related pleadings before us.

Commission action. Moreover, York County has offered no basis for its request for the Commission to issue an order requiring SCETV to show cause why it should not be required to move from Channel 30 to Channel 55. York County has offered no explanation as to why it did not pursue established rulemaking procedures for amending the table of assignments and, under these circumstances, we agree with SCETV that the public interest would not be served by the disruption of WNSC–TV's existing operation.

6. *The York County Application.* In its petition to deny the York County application, SCETV reiterates the position taken in its opposition to York County's pleading. SCETV states that the public interest would be better served by denying York County's application and having it seek a change of the Channel 55 designation by rulemaking procedures. SCETV urges that such an approach would additionally serve the public interest by eliminating the need for a comparative hearing between the applicants and allowing WNSC–TV to continue its noncommercial educational television service without interruption.

7. Despite SCETV's contention that a rulemaking proceeding might be the perferred course for establishing a commercial television broadcast service in Rock Hill, that fact does not necessitate denial of the York County application. York County is not precluded from filing a mutually exclusive application for Channel 30 consistent with the Commission's Rules. Inasmuch as the SCETV pleading does not address York County's proposed operation and raises no substantial and material question as to whether grant of its application would be *prima facie* inconsistent with the public interest, the petition to deny will be denied.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of South Carolina Educational Television Commission and York County Television Corporation are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest; and

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That, the "petition to deny and alternative request to issue show cause order", filed by York County and the petition to deny filed by SCETV are denied.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–5998 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

Date and/or Conference Room Change on Meetings for FCC [1] Industry Advisory Committee on Technical Standards for DBS

February 29, 1984.

The W.G. on Signal Format which would have been held on February 28, 1984 has been changed to March 5, 1984, same location.

March 5, 1984; 9:30 AM (all day)
Satellite Television Corp., 12 flr., 1301 Pennsylvania Avenue, NW

The S.C. on Transmission Standards and W.G. on Receiver Compatibility/Encryption Interface will be held at 1200 19th Street, in lieu of at CBS, same date.

March 13, 1984; at 9:30 AM
(Transmission Standards); at 2:00 PM (RCVR Compatibility/Encryption Interface) 1200 19th Street; Conference Room Number 330

If more information is required, contact B. Pattan FCC/OST, (202) 653–9098.

William L. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–6602 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

[1] Change from Public Notice released February 24, 1984 (#2565).

Senior Level Meeting of the North Atlantic Consultative Process To Be Held

February 29, 1984.

A Senior Level meeting of the North Atlantic Consultative Process will be held in Toronto, Canada on March 26–28, 1984. The tentative agenda for the meeting is as follows:

1. Opening remarks
2. Election of chairman
3. Approval of agenda
4. Presentation of the report of Heads of delegation meetings—Paris, 24 March 1983 and Washington, D.C., 17 November 1983
5. Presentation of the report of the fourth NACWG meeting—Paris, 31 January–2 February 1984
6. Discussion on the subjects included in the report of the NACWG meeting
   (a) Review of North Atlantic Consultative Process
   (b) Review of traffic forecast including level of demand for new services
   (c) Impact of technology development on facility requirements
   (d) Review of the TAT 8 fiber optic system program
   (e) Review of the Intelsat VI program including status of launch vehicles
   (f) Review of TAT 8/Intelsat VI follow-on facility requirements
   (g) Review of restoration principles
   (h) Facilities loading
   (i) Decision time-table
   (j) Review of terms of reference
7. Future activities of the NACWG
8. Future meetings
9. Any other business
10. Closing remarks

Persons having an interest in this meeting should contact Mr. Stuart Z. Chiron no later than March 5, 1984.

For further information, contact Stuart Z. Chiron (202) 632–4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–6001 Filed 3–5–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Emergency Food and Shelter National Board Program

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Emergency Food and Shelter National Board Program Plan, 48 FR 56308 (December 20, 1983), in regard to reallocation decisions made by the National Board in their Board meeting held on February 10, 1984. Additional monies available for reallocation came from three sources: (1) Localities which failed to respond to notifications of award selection; (2) localities which declined the awards; and (3) interest income (projected through March 31, 1984.) The reallocation amount totaled $1,063,767.00..

The Board decided to reallocate monies to civil jurisdications that had working local boards and were in the highest need based on the original formula established by the National Board. Based on this criteria, the Board determined that the award amount should total an additional $3 per unemployed person in the following jurisdications:

• Jurisdictions, including balance of counties, with 18,000+ unemployed *and* 16 percent or higher unemployment rate for the October 1982 through September 1983 period.

• Jurisdictions, including balance of counties, with 1,000 to 17,999 unemployed *and* 25.7 percent or higher unemployment rate for the October 1982 through September 1983 period.

The following listing is of localities that received additional awards and the amount each received.

Birmingham, AL	$69,759
Gila County, AZ	14,451
Santa Cruz County, AZ	7,092
Imperial County, CA	51,360
Shoshone County, ID	5,202
Cheboygan County, MI	7,518
Detroit, MI	302,892
Genesee County, MI	58,394
Ontonagon County, MI	3,660
Pontiac, MI	26,097
Presque County, MI	3,456
Lake County, MN	4,599
Buffalo, NY	44,160
Cleveland, OH	131,028
Beaver County, PA	62,922
Westmoreland County, PA	94,245
Hidalgo County, TX	54,942
Maverick County, TX	11,835
Morris County, TX	5,562
Starr County, TX	15,366
Webb County, TX	31,533
Zavala County, TX	4,182
Clay County, WV	3,249
Fayette County, WV	14,619
Jackson County, WV	7,365
Lincoln County, WV	6,297
Mason County, WV	11,681
Nicholas County, WV	10,596
Roane County, WV	4,254
Webster County, WV	3,870
Wyoming County, WV	8,979

DATE: .

With the funding of these additional localities, all monies available for the Emergency Food and Shelter National Board Program have now been allocated. Therefore, no other localities will be considered for funding.

DATED: February 27, 1984.

FOR MORE INFORMATION CONTACT: Karen Keefer, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 287-0567.

Dennis Kwiatkowski,

Chairman, National Board for Emergency Food and Shelter.

[FR Doc. 84-5936 Filed 3-5-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-348]

The Dime Savings Bank of New York, FSB New York, New York; Final Action Approval of Conversion Application

Date: February 21, 1984.

Notice is hereby givern that on February 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of the Dime Savings Bank of New York, FSB, New York, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5910 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-345]

First Federal Bank, F.S.B., Opelika, Alabama; Final Action Approval of Conversion Application

Date: February 21, 1984.

Notice is hereby given that on January 30, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Bank, F.S.B., Opelika, Alabama, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5907 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-347]

First Federal Savings Bank of Montana, Kalispell, Montana; Final Action Approval of Conversion Application

Date: February 21, 1984.

Notice is hereby given that on February 10, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings Bank of Montana, Kalispell, Montana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5909 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-346]

Peoples Federal Savings and Loan Association of East Chicago, Indiana, Hammond, Indiana; Final Action Approval of Conversion Application

Date: February 21, 1984.

Notice is hereby given that on February 9, 1984, the Office of General Counsel of the Federal Home Loan Bank

Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Peoples Federal Savings and Loan Association of East Chicago, Indiana, Hammond, Indiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, P.O. Box 60, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5908 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-349]

Pioneer Savings Association, Waco, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on February 14, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Pioneer Savings Association, Waco, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5911 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-350]

United Federal Savings and Loan Association, Smyrna, Georgia; Final Action Approval of Conversion Application

Notice is hereby given that on February 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of United Federal Savings and Loan Association, Smyrna, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-5912 Filed 3-5-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Chemical New York Corp., et al.; Applications to engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under §225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.21(1) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in §225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval on the proposal.

Unless otherwise noted, comments regarding the applicants must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 26, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York; to engage *de novo* through its subsidiary, Chemical Realty Coporation, New York, New York, in activities which may be carried on by a real estate appraiser, an investment and financial advisor or an intermediary who arranges and services debt secured by commercial and industrial real estate or who arranges equity financing for such real estate.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina; to engage *de novo* through its subsidiaries, TranSouth Financial Corporation, TranSouth Financial Corporation of Florida, in making direct loans for consumer and other purposes; purchasing retail installment notes and contracts; selling at retail money orders having a face value of not more than $1,000; and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit through its subsidiaries, and through TranSouth Mortgage Corporation and TranSouth Mortgage Corporation of Florida; in making direct loans for consumer and other purposes under the general usury statutes; purchasing retail installment notes and contracts; making direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit through its subsidiaries.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Citizens & Southern Georgia Corporation*, Atlanta, Georgia; to engage *de novo* through its subsidiaries, Family Credit Services, Inc. (Florida) and (Alabama), Family Mortgage Services, Inc., Family Mortgage Brokers, Inc., and Citizens and Southern Mortgage Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit; soliciting and servicing loans and other extensions of credit for any person; acting as agent for the sale of life, accident and health insurance directly related to extensions of credit;

the issuance and sale of money orders, and travelers checks; and providing data processing and data transmission services, facilities, or data bases.

2. *First Bancshares of Louisiana, Inc.*, Baton Rouge, Louisiana, to engage *de novo* through its subsidiary, Louisiana, National Mortgage Company, Baton Rouge, Louisiana, in mortgage lending, consumer installment lending and other extensions of credit to third parties, and acting as agent with respect to credit life and credit disability insurance. These activities will be conducted in the Parish of St. Tammany, Louisiana

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp. Inc.*, Detroit, Michigan; to engage *de novo* through its subsidiary, NBD Delaware Bank, Wilmington, Delaware, in consumer finance activities, including the provision of consumer credit through credit card accessed lines of credit and through unsecured revolving credit plans of various kinds.

2. *Palos Bancshares, Inc.*, Palos Heights, Illinois; to engage *de novo* through its subsidiary, Palos Leasing, Inc., Palos Heights, Illinois in making leases of personal property in accordance with § 225.25(b)(5) of Regulation Y. This activity would be performed in the State of Illinois, principally the Chicago metro area. Comments on this application must be received not later than March 21, 1984.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Peoples Ban Corporation*, Seattle, Washington; to engage *de novo* through its subsidiary Peoples Mortgage Company, Seattle, Washington; in activities incidental to the conduct of a mortgage banking business, to arrange equity financing for income-producing real properties with institutional investors and sophisticated individual investors. The geographic areas to be served are the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

Board of Governors of the Federal Reserve System, February 29, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5931 Filed 3-5-84; 8:45 am]

BILLING CODE 6210-01-M

Peoples Corporation, Inc. of Bishopville, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 29, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Peoples Corporation, Inc. of Bishopville*, Bishopville, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Bishopville, South Carolina.

2. *State Bancorp, Inc.*, Bruceton Mills, West Virginia; to acquire 100 percent of the voting shares of Preston County Bank, Kingwood, West Virginia.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Brownsville Bancshares Corporation*, Brownsville, Tennessee; to become a bank holding company by acquiring at least 80 percent of the voting shares of Brownsville Bank, Brownsville, Tennessee.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bank of The Rockies Bancshares, Inc.*, Boulder, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of The Rockies, Boulder, Colorado.

Board of Governors of the Federal Reserve System, February 29, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc 84-5930 Filed 3-5-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under DMB Review

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of Management and Budget to review and approve six existing information collections in use without OMB control numbers.

COMMENT DATE: Comments must be received on or before March 24, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to Kathleen M. Lannon, Acting GSA Clearance Officer, General Services Administration (ATRAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: For specific information about the information collections contained in this notice, contact the "Agency contact" listed for each item. Questions of a general nature may be directed to Jim Flowers, Directives and Reports Management Branch (202-566-0666).

SUPPLEMENTARY INFORMATION:

1. *Title, purpose, and annual burden (respondents, responses, hours).*

a. *Incentive Contracts.* Firms performing under Federal incentive contracts must provide information, such as cost of work performed, estimated costs of performance to complete all work, estimated costs allocable to supplies and services, etc., so that their performance can be evaluated against negotiated targets. Respondents, responses, hours—50 each.

Agency contact: Victoria Moss, Office of Acquisition Policy (202-523-4799).

b. *Professional Employee Compensation.* Offerors must submit compensation plans for operational employees working on certain Government contracts in excess of $250,000 to ensure fair compensation. Respondents and responses—128 each; hours—64.

Agency contact: Victoria Moss, Office of Acquisition Policy (202-523-4799).

c. *General Services Administration Regulation (GSAR), Part 514, Formal Advertising.* The information requested from bidders in their monthly production capability is used to make progressive awards to ensure coverage of stock items. Respondents and responses—9,000 each; hours—1,500.

Agency contact: Ida Ustad, Office of Acquisition Policy (202-523-4754).

d. *GSAR, Part 515, Contracting by Negotiation.* Bidders/offerors are required to submit a Data Universal Numbering System (DUNS) number for their facilities or production points. The information is entered into the Federal Data System and other agency systems. Respondents and responses—90,945 each; hours—7,579.

Agency contact: Ida Ustad, Office of Acquisition Policy (202-523-4754).

e. *GSAR, Part 525, Foreign Acquisition.* The requirement for offerors to identify whether items are foreign source end products and the dollar amount of import duty for each product is required to comply with limitations in GSA appropriations. Respondents and responses—750 each; hours—125.

Agency contact: Ida Ustad, Office of Acquisition Policy (202-523-4754).

f. *GSAR, Part 537, Service Contracting.* The contracting officer must obtain information on a prospective contractor's qualifications in order to determine the contractor's responsibility. Respondents, responses, hours—2,500 each.

Agency contact: Ida Ustad, Office of Acquisition Policy (202-523-4754).

g. *Overtime.* Firms requesting authorization of overtime under Federal cost-reimbursement contracts must furnish justification regarding the need for the overtime. Respondents and responses—9 each; hours—4½.

Agency contact: Victoria Moss, Office of Acquisition Policy (202-523-4799).

2. *Obtaining copies of proposals.* Requestors may obtain copies of the proposals from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, D.C. 20405, or call 202-566-0666.

Dated: February 27, 1984.

Kathleen Lannon,

Acting Director, Information Management Division.

[FR Doc. 84-5902 Filed 3-5-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83N-0424]

Revisions of Certain Food Chemicals Codex, 3d ed., Monographs; Opportunity for Public Comment

Correction

In FR Doc. 84-2102, beginning on page 3271 in the **Federal Register** of Thursday, January 26, 1984, the first word in the third line under the heading "II. Current Monographs in Which NAS/NRC Is Proposing to Make Revisions" in column two of page 3272 should have read, "Brominated".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-84-1351]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

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 Notices list 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: Relocation and Real Estate Recordkeeping Requirements
Office: Community Planning and Development
Form number: None
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 29,000
Status: Revision
Contact: Roland Brown, HUD, (202) 755-6296; 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: February 13, 1984.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Loan Management Reports
Office: Public and Indian Housing
Form number: HUD-4370 and HUD-4370A
Frequency of submission: Annually
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 282
Status: Extension
Contact: Stanley F. Victor, HUD, (202) 755-8145; 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: February 13, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-5979 Filed 3-5-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-84-1353]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

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 Notices list 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 Managment 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: Department of Housing and Urban Development Acquisition Regulation
Office: Administration
Form number: HUD-178
Frequency of submission: On Occasion
Affected public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated burden hours: 133
Status: New
Contact: Edward L. Girovasi, Jr., HUD, (202) 755-5294; 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: February 21, 1984.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Analysis of Proposed Main Construction Contract
Office: Public and Indian Housing
Form number: HUD-52396
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 407
Status: Extension
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; 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: February 21, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-5978 Filed 3-5-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-84-1352]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has 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 proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. 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 proposal 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 proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Credit Application for Mobile Home Loan
Office: Housing
Form number: HUD-56001 (MH)
Frequency of submission: On Occasion
Affected public: Individuals or Households
Estimated burden hours: 30,000
Status: Extension

Contact: James L. Anderson, (202) 755-6880; 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: February 3, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-5980 Filed 3-5-84; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Six Wild and Scenic Rivers in Alaska; Availability of Final Management Plans

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Final River Management Plans for Six Wild and Scenic Rivers in Alaska.

SUMMARY: Section 603 of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980, Pub. L. 96-487, amended the Wild and Scenic Rivers Act (16 U.S.C. 1274) by adding the following rivers in Alaska to the National Wild and Scenic Rivers System: Beaver Creek, Birch Creek, Delta, Fortymile, Gulkana and Unalakleet Rivers. Section 605(d) of ANILCA required that detailed boundaries and management plans for these six rivers be developed and submitted to Congress. The river management plans were submitted to Congress on February 1, 1984, and will become effective on May 1, 1984.

Copies of the final river management plans are available upon request.

ADDRESS: Requests for copies of any or all of the six river management plans should be sent to: Bureau of Land Management (930), 701 "C" Street, Post Office Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown at (202) 343-9353, Washington, D.C., or Richard Hagan at (907) 271-3344, Anchorage, Alaska.

Dated: February 24, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84-5915 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-84-M

[A 19085]

Arizona; Conveyance of Public Land in Coconino County

February 28, 1984.

Notice is hereby given that pursuant to sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2750, 2757, 43 U.S.C. 1713, 1719), Kaibab Industries, Phoenix, Arizona, has purchased by direct sale, the following described public land situated in Coconino County:

Gila and Salt River Meridian, Arizona

T. 41 N., R. 2 W.,
Sec. 28, S½NE¼.
Containing 80 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the transfer of the land out of Federal ownership.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-5903 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-84-M

[(A-16420) PS]

Arizona; Conveyance

February 22, 1984.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2740; 43 U.S.C. 1713), Donald W. Nichols and Linnie Nichols, 2912 North Usery Pass Road, Mesa, Arizona 85207, have purchased, by direct sale, at the fair market value of $8,500.00, public land in Maricopa County described as follows:

Gila and Salt River Meridian, Arizona

T. 2 N., R. 7 E.,
Sec. 34, SW¼SW¼SW¼SW¼SW¼SW¼.
Containing 0.15625 acre.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of a patent to Donald W. Nichols and Linnie Nichols.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-5904 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-32-M

[(A-18906) PS]

Arizona; Conveyance

February 22, 1984.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2740; 43 U.S.C. 1713), the J. Grant Heaton Family Trust, Route Fredonia, Moccasin, Arizona 86022, has purchased, at the fair market value of $8,000.00, public land in Maricopa County described as follows:

Gila and Salt River Meridian, Arizona

T. 40 N., R. 5 W.,
Sec. 31, E½SE¼.
Containing 80.00 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of a patent to the J. Grant Heaton Family Trust.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-5905 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-32-M

California; Proposed Reinstatement of Terminated Oil and Gas Lease

A petition for reinstatement of oil and gas lease SAC 019806(b) embracing lands in the State of California, County of Kern, was timely filed and accompanied by all the required rentals and royalties accruing from November 1, 1981, the date of termination.

The lessees have agreed to new lease terms for increased rentals and royalties to the rates of $5.00 per acre or fraction thereof and 16⅔ percent, respectively, as required in section 31(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188) for leases issued under section 17(c) of the Act.

The lessees have paid the required $500.00 administrative fee and have reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

The lessees having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the said Act, the Bureau of Land Management is proposing to reinstate the lease, effective November 1, 1981, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: February 27, 1984.

Joan B. Russell,

Chief, Leasable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 84-5906 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-17]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 12(c) and 14(h)(8) of the Alaska

Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (ANCSA) and Sec. 1429 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2530, 2531) (ANILCA), will be issued to Chugach Natives, Inc., for approximately 3,049 acres. The Lands involved are within the Seward Meridian, Alaska:

T. 3 N., R. 10 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the *Cordova Times* upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C. Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 5, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-5963 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-JA-M

[AA-50379-18]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement act of December 18, 1971 (43 U.S.C. 1601, 1611) ANCSA), will be issued to Chugach Natives, Inc., for approximately 333 acres. The lands involved are within the Seward Meridian, Alaska:

T. 8. N., R. 5 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the *Cordova Times* upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 5, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13 Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Title Administration, Division of Technical Services, Alaska Department of Natural Resources, Pouch 7035, Anchorage, Alaska 99510-7035, and

Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99510.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-5964 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-14862-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance to Kuitsarak Inc., notice of which was published in the **Federal Register**, on September 29, 1983, is modified as to page 6 of the decision.

The time limits for filing an appeal are:

1. Parties receiving service of the modification by personal service or certified mail, return receipt requested, shall have thirty days from receipt of the modification to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy

of the modification by regular mail which is not certified, return receipt requested, shall have until April 5, 1984 to file an appeal.

Copies may be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

The decision, notice of which was given September 29, 1983, is final, except as modified.

Ann Adams,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-5962 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-JA-M

[NM-53598 (OK) through NM-53604 (OK)]

Public Land Sale, Beaver, Cimarron and Texas Counties, Oklahoma

AGENCY: Bureau of Land Management.

ACTION: Sale of 237.95 acres of Public Land in Beaver, Cimarron, and Texas Counties, Oklahoma.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value:

Tract	Legal Description	Acres	Value
Beaver County (BV)			
BV-2	T. 1 S., R. 25 E., C.M., Sec. 3: Lots 1, 2, and 3.	6.18	$200
BV-2A	Sec. 6: Lots 1 and 2	9.15	200
BV-4	T. 1 S., R. 26 E., C.M., Sec. 4: Lots 2 and 3.	1.23	25
BV-6	T. 4 N., R. 22 E., C.M. Sec. 18: SE¼ SE¼.	40.00	4,000
CI-1	T. 3 N., R. 3 E., C.M., Sec. 28: SE¼ NW¼.	40.00	3,000
CI-8	T. 6 N., R. 2 E., C.M., Sec. 28: SE¼ NE¼.	40.00	3,000
CI-9	T. 6 N., R. 7 E., C.M., Sec. 8: Lot 1; Sec. 9: Lots 1 and 2; Sec. 10: Lots 1 and 2; Sec. 11: Lots 1 and 2; Sec. 12: Lots 1 and 3.	68.29	500
Texas County (TX)			
TX-4	T. 1 S., R. 11 E., C.M. Sec. 6: Lot 2.	1.80	300
TX-8 and 9	T. 1 S., R. 14 E., C.M., Sec. 4: Lot 3; Sec. 5: Lot 1.	31.30	500
Total acres		237.95	

The above described lands will be sold by sealed bid only through a competitive bid type sale. The sale will be held on Monday, April 30, 1984, and the sealed bids will be opened at 10:00 a.m., Bureau of Land Management (BLM) Conference Room, 200 N.W. Fifth Street, Room 548, Oklahoma City, Oklahoma 73102. Particulars for this sale, including reservations, and other specific items, will be made available to the public approximately 30 days before the scheduled sale date.

The subject lands are part of the remaining public land holdings in Oklahoma that are scattered throughout 42 counties (approximately 8,000 acres). The lands are being offered for sale since the BLM can not economically or feasibly manage the subject lands. No other federal agency or department was interested in managing these lands. Area residents of McCurtain, Oklahoma favor the transfer of the lands into private ownership. The sale is consistent with the Bureau's planning for the lands involved and has been discussed with governmental units and local officials. The public interest would be served by offering the lands for sale.

The terms and conditions applicable to the sale are:

1. The patents will contain a reservation to the United States for ditches and canals.

2. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

3. The sale will be subject to all valid existing rights.

4. Patentees or their successors are limited by Section 3(d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the United States or its agencies in the event existing or future facilities on these lands are damaged by flood.

5. No preference right would be given to adjoining land owners. no bids will be accepted for less than the appraised price. Federal law requires that bidders be United States citizens or, in the case of a corporation, subject to the laws of any state of the United States. Proof of citizenship shall accompany the bid.

Portions of the above described public lands contain wetlands. The patents to parcel numbers CI-9 (Section 13), BV-2 (Section 3), and BV-6 will contain wetland protection patent restrictions. The type, location, and size of each wetland will appear in the patent as well as the following restrictive language:

In accordance with Section 209 of the FLPMA of 1976, 43 U.S.C. 1718 (1976) and Section 4 of Executive Order 11990 (1978), 3 Code of Federal Regulations 121 (1978), the patentee's use of the patented lands is restricted as follows:

1. Restrictions on use of wetlands contained in applicable federal, state, or local wetlands regulations are incorporated hereby as if set forth fully herein.

2. The patentee may not use the patented land, or authorize its use, in such a manner that would directly or indirectly result in an adverse alteration of the wetland charactertistics or category of that portion of the lands identified above as wetlands.

The patent restrictions are binding upon the patentee and his successors, heirs, and assigns.

Sealed written bids will be considered only if received by the Bureau of Land Management, 200 NW. Fifth Street, Room 548, Oklahoma City, Oklahoma, 73102 prior to 10:00 a.m., Monday, April 30, 1984. A separate written bid should be submitted for each sale parcel desired. The tract number should also be identified on the lower right hand corner of the mailing envelope (example, Land Sale—Tract CI-10). Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, Bureau of Land Management for at least twenty percent of the amount bid. The written sealed bids will be opened and publicly declared at the beginning of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by drawing. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Parcels not sold on the assigned day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at no less than the appraised fair market value. The sale for these parcels will be held on the first Monday of each month.

DATE: For a period of 45 days from date of this Notice, interested parties may submit comments to the District Manager. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Tulsa District Office, Bureau of Land Management, 6136 East 32nd Place, Tulsa, Oklahoma 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, (405) 231-5491.

Floyd L. Stelzer,

Acting District Manager.

[FR Doc. 84-6024 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Annual Report Migratory Bird Inventory.

Abstract: Individuals or businesses which sell, trade, release or otherwise dispose of captive-reared migratory waterfowl (excluding mallard ducks) are required to have a permit. Information collected on the subject form is used to monitor trade of captive populations and provide data necessary to protect wild populations from taking for commercial purposes.

Bureau Form Number: 3-202.

Frequency: Annually.

Description of Respondents: Individuals and businesses.

Annual Responses: 5,000.

Annual Burden Hours: 2,500.

Service Clearance Officer: Arthur J. Ferguson, 202-653-7499.

Dated: Feburary 17, 1984.

Ronald E. Lambertson,

Associate Director—Wildlife Resources.

[FR Doc. 84-5918 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-07-M

Migratory Bird Hunting; Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice announces that representatives of the U.S. Fish and Wildlife Service will be in attendance at meetings of the Atlantic, Mississippi, Central, Pacific, and National Flyway Councils at the following times and locations.

DATE: March 25, 1984:

—Atlantic Flyway Council, 9 a.m.
—Mississippi Flyway Council, 9 a.m.
—Central Flyway Council, 8:30 a.m.
—Pacific Flyway Council, 8:30 a.m.
—National Waterfowl Council, 3 p.m.

ADDRESS: Council meetings will be held at the Boston Park Plaza Hotel, Boston, Massachusetts, as follows:

Atlantic Flyway Council, Room 413, 4th Floor;
Mississippi Flyway Council, Arlington Room, Mezzanine Level;
Central Flyway Council, Room 436, 4th Floor;
Pacific Flyway Council, Room 433, 4th Floor;
National Waterfowl Council, Arlington Room, Mezzanine Level.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone AC 202-254-3207.

SUPPLEMENTARY INFORMATION: Flyway Councils are organizations of State conservation agencies that share responsibility for migratory bird management with the U.S. Fish and Wildlife Service. The Council meetings noted above are scheduled in conjunction with the 49th North American Wildlife and Natural Resources Conference to be held March 23-28, 1984, at the Boston Park Plaza Hotel, Boston, Massachusetts. The U.S. Fish and Wildlife Service will be represented at the above meetings to facilitate discussions of various migratory bird management and research programs, many of which are conducted jointly with the Service and with the Canadian Wildlife Service.

Dated: February 24, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-5966 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD)

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0759, Block 173, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The suoject DOCD was deemed submitted on February 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certifications are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-5920 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3289, Block 57, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on February 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-5919 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 24, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 5, 1984.

Beth Grosvenor,

4Acting Chief of Registration, National Register.

CALIFORNIA

Los Angeles County

Los Angeles, *Highland Park Police Station*, 6045 York Blvd.

San Diego County

San Diego, *Moylan, Major Myles, House*, 2214–2224 Second Ave.

San Diego, *Panama Hotel*, 105 W. F St.

CONNECTICUT

Fairfield County

Bridgeport, *Perry, David, House*, 531 Lafayette St.

INDIANA

LaPorte County

LaPorte vicinity, *Orr, William, House*, 4076 W. Small Rd.

Marion County

Indianapolis, *Cotton-Ropkey House*, 6360 W. 79th St.

Perry County

St. Croix vicinity, *Rickenbaugh House*, SW of St. Croix in Hoosier National Forest

Vanderburgh County

Evansville, *Old Peerless Laundry Building (Downtown Evansville MRA)*, 420 SE 8th St.

IOWA

Mahaska County

Oskaloosa, *Shoemake, John H., House*, 116 Second Ave. W.

KENTUCKY

Garrard County

Lancaster, *Ball, Billy, House (Lancaster MRA)*, 209 Richmond St.

Lancaster, *Denny Place (Lancaster MRA)*, 217 Lexington St.

Lancaster, *Garrard County Jail (Lancaster MRA)*, Stanford St.

Lancaster, *Grrard Mills (Lancaster MRA)*, 205 E. Buford St.

Lancaster, *Hamilton House (Lancaster MRA)*, 107 Maple Ave.

Lancaster, *Hemphill, J.C., House (Lancaster MRA)*, 211 Lexington St.

Lancaster, *Hill, Dr. Oliver Perry, House (Lancaster MRA)*, 106 Hill Court

Lancaster, *Lancaster Cemetary (Lancaster MRA)*, Campbell, Crab Orchard, and Richmond Sts.

Lancaster, *Lancaster Commercial Historic District (Lancaster MRA)*, Danville, Lexington, Richmond, and Stanford Sts.

Lancaster, *Lear, Judge V.A., House (Lancaster MRA)*, 222 Lexington St.

Lancaster, *Male Academy (Lancaster MRA)*, 108 S. Campbell St.

Lancaster, *Mason, Sue Shelby, House (Lancaster MRA)*, 213 Lexington St.

Lancaster, *Methodist Episcopal Church (Lancaster MRA)*, Stanford St.

Lancaster, *Peacock House (Lancaster MRA)*, 215 Buford St.

Lancaster, *Peacock-Miller House (Lancaster MRA)*, 212 Danville St.

Lancaster, *Petrie House (Lancaster MRA)*, 404 Danville St.

Lancaster, *Wearren Place (Lancaster MRA)*, Stanford St.

Lancaster, *Wherritt House (Lancaster MRA)*, 210 Lexington St.

Graves County

Mayfield, *Mayfield Downtown Commercial District*, Roughly bounded by North, Water, 5th and 9th Sts.

LOUISIANA

Orleans Parish

New Orleans, *New Canal Lighthouse*, West End Blvd. and Lakeshore Dr.

Plaquemines Parish

Port Eads vicinity, *South Pass Light*, W of Port Eads

St. Bernard Parish

New Orleans vicinity, *Chandeleur Light*, Breton National Wildlife Refuge

St. Tammany Parish

Madisonville vicinity, *Tchefuncte River Range Rear Light*, N side Lake Pontchartrain

Tangipihoa Parish

Ponchatoula vicinity, *Pass Manchac Light*, W end of Lake Pontchartrain

MAINE

Androscoggin County

Auburn, *Auburn Public Library*, 49 Spring St.
Lewiston, *Jordan School*, 35 Wood St.
Poland, *Poland Spring Bottling Plant and Spring House*, Ricker Rd.

Cumberland County

Cumberland Center vicinity, *Winn Road School*, Winn Rd.
Gorham vicinity, *Longfellow, Stephen, House*, Longfellow Rd.

Kennebec County

Augusta, *Fuller-Weston House*, 11 Summer St.
Augusta, *Vickery Building*, 261 Water St.
South China vicinity, *Jones, Eli and Sybil, House*, Dirigo Corner

Washington County

Lubec, *Young, Daniel, House*, 34 Main St.

York County

Goodwins Mills, *Foss, Levi, House*, ME 35

MARYLAND

Allegany County

Frostburg vicinity, *Borden Mines Superintendent's House*, MD 36

Calvert County

Solomons, *Lore, J.C., Oyster House*, MD 2

Carroll County

Eldersburg vicinity, *Wesley Chapel Methodist Episcopal Church*, Liberty and Johnsville Rds.

Cecil County

Harrisville, *Harris, Nathan and Susannah, House*, 541 Rising Sun Rd.

Prince Georges County

Upper Marlboro, *Traband, John H., House*, 14204 Marlboro Pike

Somerset County

Venton, *Panther's Den*, Drawbridge Rd.

MICHIGAN

Ingham County

Lansing, *Brown-Price*, 1003 N. Washington Ave.

MISSOURI

St. Louis (Independent City)

Forest Park Hotel, 4910 W. Pine Blvd.
Seventh District Police Station, 2800 S. Grand Ave.
YWCA, Phyllis Wheatley Branch, 2709 Locust St.

Clay County

Excelsior Springs, *Clay County State Bank*, 101 E. Broadway

Franklin County

Labadie, *North, James, House*, MOT
Washington, *Schwegmann, John F., House*, 438 W. Front St.

Greene County

Springfield, *Keet-McElhany House*, 435 E. Walnut St.

Jackson County

Independence, *Minor, Charles, House*, 314 N. Spring St.
Kansas City, *Bonfils Building*, 1200 Grand Ave.
Kansas City, *Eighteenth and Vine Streets Historic District*, Roughly bounded by The Paseo, Woodland Ave., 18th and 19th Sts.
Kansas City, *Kansas City Live Stock Exchange*, 1600 Genessee St.

Laclede County

Lebanon, *Wallace House*, 230 Harwood Ave.

Marion County

Hannibal vicinity, *Masterson, Robert, House*, N W of Hannibal

Scott County

Sikeston, *Marshall Hotel*, 103 E. Malone Ave.

St. Francois County

Bonne Terre, *Bonne Terre Depot*, Oak St.
Bonne Terre, *St. Joe Lead Company Adminitration Building*, Elm St.

St. Louis County

Kirkwood, *Mudd's Grove*, 302 W. Argonne Dr.
Webster Groves, *Tuxedo Park Station*, 643 Glen Rd.

OHIO

Cuyahoga County

Cleveland, *Beehive School*, 4345 Lee Rd.

Hamilton County

Newtown, *Martin, Joseph, House (proposed move)*, 3727 Church St.

OKLAHOMA

Lincoln County

Chandler, *Boston Store (Territorial Commercial Buildings of Chandler TR)*, 917 Manvel Ave.
Chandler, *Building at 1014 Manvel Avenue (Territorial Buildings of Chandler T R)*, 1014 Manvel Ave.
Chandler, *Building at 720 Manvel Ave. (Territorial Commercial Buildings of Chandler T R)*, 720 Manvel Ave.
Chandler, *Building at 812 Manvel Ave. (Territorial Commercial Buildings of Chandler T R)*, 812 Manvel Ave.
Chandler, *Building at 814 Manvel (Territorial Commercial Buildings of Chandler T R)*, 814 Manvel Ave.
Chandler, *Chandler Bookstore (Territorial Commercial Buildings of Chandler T R)*, 713 Manvel Ave.
Chandler, *Clapp-Cunningham Building (Territorial Commercial Buildings of Chandler T R)*, 1021 Manvel Ave.
Chandler, *Feuquay Building (Territorial Commercial Buildings of Chandler T R)*, 822–824 Manvel Ave.
Chandler, *Milly Building (Territorial Commercial Buildings of Chandler T R)*, 922–924 Manvel Ave.
Chandler, *Murphy Building (Territorial Commercial Buildings of Chandler T R)*, 717–719 Manvel Ave.
Chandler, *Oleson-Crane Building (Territorial Commercial Buildings of Chandler T R)*, 721 Manvel Ave.
Chandler, *St. Cloud Hotel (Territorial Commercial Buildings of Chandler T R)*, 1216 Manvel Ave.
Chandler, *Wolcott Building (Territorial Commercial Buildings of Chandler T R)*, 725 Manvel Ave.

OREGON

Benton County

Corvallis, *Julian Hotel*, 105 SW Second St.

Clatsop County

Gearhart, *Latourette, Charles David, House*, 683 D St.

Coos County

Coos Bay, *Marshfield Hotel*, 275 Broadway

Jackson County

Medford, *Barnum Hotel*, 204 N. Front St.

Multnomah County

Portland, *Williams, George H., Townhouses*, 133 NW 18th Ave.

PENNSYLVANIA

Dauphin County

Harrisburg, *Harrisburg Old Downtown Commercial Historic District*, Roughly Market St. from 3rd to 4th and 3rd St. from Walnut to Chestnut Sts.

Philadelphia County

Philadelphia, *Broad Street Historic District*, Roughly bounded by Juniper, Cherry, 15th, and Pine Sts.

York County

Railroad, *Railroad Borough Historic District*, Shaub Rd. N., E., and S. Main St.
Shrewsbury, *Shrewsbury Historic District*, Roughly bounded by Highland, Sunset Drs., Park Ave., Church, and Pine Sts.

TENNESSEE

Greene County

Greeneville vicinity, *Wayside*, E of Greeneville off U.S. 411

WISCONSIN

Oneida County

Jennings, *Mecikalski General Store, Saloon, and Boardinghouse*, 465 Max Rd.

Ozaukee County

Port Washington, *Dodge, Edward, House (proposed move)*, 146 S. Wisconsin St.

Winnebago County

Clayton, *Larson Brothers Airport, WI 150*

[FR Doc. 84-5874 Filed 3-5-84; 8:45 am]
BILLING CODE 4310-70-M

Gateway Advisory Commission; Meeting

SUMMARY: This notice sets forth the date of the forthcoming meeting of the

Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: March 20, 1984, commencing at 3 p.m.

ADDRESS: Theodore Roosevelt Birthplace NHS, 28 East 20th Street, New York, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 338-3578.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Pub. L. 92-592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include: (1) Appointment of Vice Chairperson; (2) Designation of Sub-Committees, (a) Floyd Bennett Field, (b) Fort Hancock (Sandy Hook) Improvements, (c) Natural Resource Management; (3) Floyd Bennett Field Development Briefing; (4) Other Announcements.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services for the deaf or hearing impaired will be needed, they should be requested within five working days before the meeting. Facilities and space accommodate members of the public are limited, and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: February 23, 1984.

Robert W. McIntosh, Jr.,

Superintendent, Gateway National Recreation Area.

[FR Doc. 84-6019 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-70-M

DELTA REGION PRESERVATION COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., CST, on April 3, 1984, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Public Law 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Status of development projects
—Interpretive programs
—World Exposition Folklife Program
—Land Protection Plan

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, c/o Municipal Auditorium, 1201 St. Peter's Street, New Orleans, Lousiana 70116, telephone 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: February 24, 1984.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-6010 Filed 3-5-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: March 1, 1984.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Dairymen, Inc.
(2) 10140 Linn Station Road, Louisville, KY 40223
(3) 5305 Panola Industrial Blvd., Decatur, GA 30031, and other locations
(4) Barry Kinslow, 10140 Linn Station Road, Louisville, KY 40223
(1) J & J Transporters
(2) 23 East Walnut St., Central Islip, NY 11722
(3) 23 East Walnut St., Central Islip, NY 11722
(4) J. DeFranco, 23 East Walnut St., Central Islip, NY 11722
(1) J & R Trucking
(2) 23 East Walnut St., Central Islip, NY 11722
(3) 23 East Walnut St., Central Islip, NY 11722
(4) J. DeFrance, 23 East Walnut St., Central Islip, NY 11722
(1) Mid-America Farm Lines, Inc.
(2) 420 North Nettleton, Springfield, MO 65802
(3) 420 North Nettleton, Springfield, MO 65802
(4) Gary Hanman, 800 West Tampa, Springfield, MO 65805

James H. Bayne,

Acting Secretary.

[FR Doc. 84-5943 Filed 3-5-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29894]

Jefferson Warrior Railroad Company, Inc.; Acquisition and Operation in Jefferson County, Alabama

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10901, acquisition by Jefferson Warrior Railroad Company, Inc., of: (a) Trackage rights over the track of Seaboard System Railroad, Inc., between Humero and Granlin, AL, and (b) trackage of a private, industrial railroad known as the "Mary Lee" between Granlin and Bessie, AL.

DATES: This exemption shall be effective on April 4, 1984. Petitions for reconsideration must be filed by March 26, 1984. Petitions for stay must be filed by March 16, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 29894 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative, Carleta A. Roberts, 1400 Park Place Tower, Birmingham, AL 35203.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact 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.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-5941 Filed 3-5-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30413]

Bernard J. Cahill-Control-Rahway Valley Co., Lessee and Clarion Railroad Co.; Exemption

February 29, 1984.

By petition (treated as a notice of exemption) filed February 8, 1984, as supplemented by letter dated February 13, 1984, Bernard J. Cahill (Cahill) seeks an exemption under 49 U.S.C. 10505 from approval requirements of: (1) 49 U.S.C. 11322 to hold executive positions with Rahway Valley Company, Lessee (RVC) and Lake Erie, Franklin and Clarion Railroad Company (LEF&C) and (2) 49 U.S.C. 11343 for control which Cahill may possess of both RVC and LEF&C.

RVC is a class III railroad, operating over a 7.1-mile line in New Jersey. LEF&C is also a class III railroad, operating over a 15-mile line in Pennsylvania. Cahill owns 12.5 percent and 12 percent of the outstanding stock of RVC and Clarion River Corporation (CRC), respectively. CRC has been organized to acquire LEF&C and, upon acquisition, Mr. Cahill will be elected vice president and secretary of LEF&C. Mr. Cahill is the president, secretary, and general manager of RVC. Thus, he will acquire control of the two railroads because of the top management positions which he occupies and the large shares of stock which he holds.

These transactions involve the acquisition of carriers which will not connect with each other or any railroads in their corporate family; the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and the transactions do not involve a class I carrier. Therefore, under 49 CFR 1180.2(d)(2), the proposed control transaction is the type specifically exempt from prior review and approval. Additionally, 49 CFR 1185.9(b) makes it unnecessary for Mr. Cahill to secure authorization to hold positions of officer or director of the two carriers, because the carriers are commonly controlled or managed pursuant to an exemption.

As a condition to the use of this exemption, any employees affected by the control transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-5942 Filed 3-5-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

The Attorney General's Task Force on Family Violence; Public Hearings.

ACTION: Notice of public hearings.

SUMMARY: Notice is hereby given that the Attorney General's Task Force on Family Violence will hold a public meeting on March 27 and March 28, 1984, to review findings of testimony, both written and oral, that it has received and to discuss future actions, including possible recommendations to the Attorney General, and timetable of the Task Force.

The meeting, which will be held at the Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, D.C. will begin at 9:00 a.m. each day.

As the purpose of this meeting is to discuss future actions and possible recommendations, public comment will be limited to Task Force members.

A transcript of the meeting will be made and copies will be available through the Court Reporter.

FOR FURTHER INFORMATION CONTACT: Ms. Marise Rene Duff, Executive Director, Attorney General's Task Force on Family Violence, 633 Indiana Avenue, NW., Room 1021, Washington, D.C. 20531, 202/2776-6500.

Marise Rene Duff,

Executive Director.

[FR Doc. 84-5973 Filed 3-5-84; 8:45 am]

BILLING CODE 4410-18-M

Lodging of Amended Stipulation and Judgment (on Consent) Pursuant to Clean Air Act; Inland Foundry Co.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that on February 21, 1984 a Consent Decree in *United States* v. *V. R. Van Dyk, d.b.a. Inland Foundry Company*, Civil No. C83-979-RJM was lodged with the United States District Court for the Eastern District of Washington. The complaint filed by the United States alleges violations of the Clean Air Act by defendant at his Mead, Washington grey iron foundry. The complaint sought injunctive relief to require defendant to comply with the visible emission limitations of the Washington State Implementation Plan and civil penalties for past violations. After the filing of the complaint, defendant sold the foundry. The proposed Consent Decree assesses civil penalties in the amount of $12,500 and prohibits defendant from operating or managing a foundry in the future.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington,D.C. 20530, and should refer to *United States* v. *V. R. Van Dyk, d.b.a. Inland Foundry Company*, D. J. Ref. 90-5-1-2-545.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Washington, 841 United States Courthouse, Post Office Box 1494, Spokane, Washington 99210 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth avenue, Seattle, Washington 98101. Copies of the Consent Decree may be examined at the Environmental Enforcement Section,

Land and Natural Resources Division of the Department of justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-6022 Filed 3-5-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Lodging of Amended Stipulation and Consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 17, 1984 a proposed Amended Stipulation and Consent Decree in *United States* v. *City of Twin Falls, Idaho*, Civil No. 1-76-181, was lodged with the United States District Court for the District of Idaho. The proposed Amended Stipulation and Consent Decree concerns violations of the Clean Water Act by defendant's publicly owned treatment works, imposes injunctive relief, and assesses civil penalties.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Divisions, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Twin Falls, Idaho*, D. J. Ref. 90-5-1-1-629A.

The proposed Amended Stipulation and Consent Decree may be examined at the office of the United States Attorney, District of Idaho, 639 Federal Building, 550 West Fort Street, Boise, Idaho, 83724 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the Amended Stipulation and Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Amended Stipulation and Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.10 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-5917 Filed 3-5-84; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Advisory Board; Cancellation

This is to provide notice of cancellation of the meeting of the National Institute of Justice Advisory Board which was published in the **Federal Register** on February 9, 1984. This meeting was originally scheduled for March 1-2, 1984 at the Henley Park Hotel, Washington, D.C.

This cancellation is necessitated by the inability of several Board members to attend the meeting. The meeting has been rescheduled for April 5-6, 1984 at the same location.

Dated: February 24, 1984.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 84-5914 Filed 3-5-84; 8:45 am]

BILLING CODE 4410-18-M

Advisory Board; Meeting

Notice is hereby given that the National Institute of Justice Advisory Board will hold meetings on April 5, 1984 from 9:00 A.M. to 5:00 P.M. and on April 6, 1984 from 9:00 A.M. to 12:00 P.M. at the Henley Park Hotel, 929 Massachusetts Avenue NW., Washington, D.C.

The major items of business will include a briefing on FY '84 funding activities, FY '84 program priorities, and FY '84 Advisory Board activities.

The meeting is open to the public. For further information, please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice, Washington, D.C. 20531 (202/724-2953).

Dated: February 24, 1984.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 84-5913 Filed 3-5-84; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

State of Minnesota Department of Economic Security; Hearing

This notice announces an opportunity for a hearing for the Minnesota Department of Economic Security pursuant to the last sentence of Section 3303(b)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(3), and 20 CFR 601.5, to be held at 9:30 o'clock in the morning on April 17, 1984, in Courtroom A, Vanguard Building, 1111 20th Street NW., Washington, D.C.

Issues

The hearing will be held on the following issues:

Issue 1: Whether, with respect to certification of State laws on October 31, 1984, under Section 3303(b)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(1), subdivision 2 of section 268.06 of the unemployment compensation law of the State of Minnesota (the Minnesota Employment Services law, Chapter 268, Minnesota Statutes 1980) has been amended so that, with respect to the 12-month period ending on such October 31, the Minnesota law no longer contains the provisions specified in Section 3303(a)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(a)(1), or the State has, with respect to such 12-month period, failed to comply substantially with any such provision.

Basis of Issue: Section 3303(a)(1) of the Code requires State laws to provide that no reduced rate of contributions to a pooled fund shall be permitted to an employer "except on the basis of * * * experience with respect to * * * factors bearing direct relation to unemployment risk * * *." This section requires that the experience of all employers in a State be measured by the same factor (or group of factors treated as a single factor) during the same period of time.

Subdivision 2 of section 268.06 of the Minnesota law provides:

> Each employer shall pay contributions equal to two and seven-tenths percent for each calendar year prior to 1985 and 5 9/10 percent for 1985 and each subsequent calendar year of wages paid and wages overdue and delayed beyond the usual time of payment from him with respect to employment occurring during each calendar year, except as may be otherwise prescribed in subdivisions 3a and 4. Each employer who has an experience ratio of less than one-tenth of one percent shall pay contributions on

only the first $8,000 in wages paid and wages overdue and delayed beyond the usual time of payment to each employee with respect to employment occurring during each calendar year.

The final sentence of this subdivision has the effect of applying the rates of one class of employers to one amount of taxable wages and the rates of another class of employers to a different amount of taxable wages. The result is as though the experience of the two classes of employers were computed by using different factors to measure the experience of each class of employers. Therefore, because the $8,000 wage base is lower than the wage base applicable to most employers, employers paying contributions on the lower wage base are in effect awarded a rate reduction on a basis other than their experience.

Issue 2: Whether, with respect to certification of State laws on October 31, 1984, under Section 3303(b)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(1), subdivision 8 of section 268.08 of the unemployment compensation law of the State of Minnesota, *supra*, has been amended so that, with respect to the 12-month period ending on such October 31, the Minnesota law no longer contains the provisions specified in Section 3303(a)(1) of the Internal Revenue Code of 1954, 26 U.S.C 3303(a)(1), or the State has, with respect to such 12-month period, failed to comply substantially with any such provision.

Basis of Issue: Section 3303(a)(1) of the Code requires State laws to provide that no reduced rate of contributions to a pooled fund shall be permitted to an employer "except on the basis of * * * experience with respect to * * * factors bearing a direct relation to unemployment risk * * *." This section requires that a reduced rate be based on all of an employer's experience.

Subdivision 8 of secton 268.06 of the Minnesota law provides in relevant part:

For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the experience ratio, exept that if the ratio for the current calendar year increases or decreases the experience ratio for the preceding calendar year by more than one and one-half percentage points for 1982; and 2½ percentage points for 1983 and each year thereafter, the increase or decrease for the current year shall be limited to one and one-half percentage points for 1982, and 2½ percentage points for 1983 and each year thereafter, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1½ percentage points for 1983 and each year thereafter. "Small business employer" for the purpose of this subdivision means an employer with an annual covered payroll of $250,000 or less, or fewer than 20 employees in three of the four quarters ending June 30, of the previous calendar year.

* * * * *

No employer first assigned an experience ratio in accordance with subdivision 6, shall have his contribution rate increased or decreased by more than one and one-half percentage points for 1982; and 2½ percentage points for 1983 and each year thereafter over the contribution rate assigned for the preceding calendar year in accordance with subdivision 3a, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1½ percentage points for 1983 and each year thereafter.

The limitations on possible rate increases to a fixed percentage imposed by subdivision 8 impermissibly considers only a portion of each employer's experience in setting the rates of employers affected by the rate increase limitation.

Subdivision 8 also prescribes a different rate increase limitation for "small business employers," thus measuring the experience of that group of employers by a different factor than that applied to other employers during the same period. The differing limitations also distort the experience of small business employers in relation to the experience of other employers, and further distort the experience of small business employers in relation to the experience of other employers subject to a rate increase limitation. Section 3303(a)(1), in requiring that the experience of all employers be measured by the same factors, does not permit distinctions to be made among classes of employers on the basis of size of payroll or workforce or other reasons.

These Proceedings

Following the hearing, a decision will be made which will have a bearing on whether the Minnesota law is certifiable under Section 3303(b)(1) of the Code on October 31, 1984.

The proceedings in this matter shall be in accordance with the Rules of Procedure as set out below.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, who will be designated in accordance with the Rules of Procedure.

Counsel for the Minnesota Department of Economic Security shall enter an appearance with the presiding Administrative Law Judge no later than March 14, 1984; a copy shall be provided to William H. DuRoss, III, Associate Solicitor for Employment and Training, 200 Constitution Ave., NW., Washington, D.C. 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearance with the presiding Administrative Law Judge no later than March 14, 1984, and provide a copy to the Minnesota Department of Economic Security as expeditiously as possible.

Signed at Washington, D.C., on February 29, 1984.

Raymond J. Donovan,

Secretary of Labor.

Rules of Procedure

1. An administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agency (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or member or the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to hearing or at the begining of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, discovery, and designation of evidence to be offered at the hearing.

5. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings, and may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

6. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter(s) in issue. The State agency shall then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) The State agency will proceed next to present any evidence it may wish to offer which is relevant to the issue(s) referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue(s) referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each other party of record, prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal to any issue, and the trial record shall thereafter the closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter, and may provide for the later receipt of such evidence or any other evidence for the record.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

11. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; argument for the State agency, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

13. As soon as possible, the presiding Administrative Law Judge shall: (1) Prepare a recommended decision on the basis of the record containing his recommended findings of fact and conclusions of law on all issues raised by the parties; (2) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (3) forward a copy of the recommended decision to each party of record and amicus curiae. No conclusions of law regarding either the constitutionality of any Federal statute or the constitutionality of interpretation thereof shall be made.

14. Any party of record may file with the Secretary of Labor a Statement of Exceptions, with proof of service on the other parties of record, setting forth any exceptions they may have to the recommended decision, within seven (7) days after the date of the recommended decision.

15. (a) Any brief intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the office of the presiding Administrative Law Judge. Unless otherwise ordered, any brief shall be deemed to be filed on the date it is post-marked if transmitted by the United States Postal Service, and shall be deemed to be filed on the date received in the Office of Administrative Law Judges if transmitted by any other means.

(b) An original and one copy of any brief shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with proof of sufficient service upon the parties.

(c) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

16. Following the certification in accordance with Rule 13 above, and consideration of any Statement of Exceptions filed and served in accordance with Rule 14, the Secretary of Labor shall render a decision in the matter, in writing, and shall forward the decision together with the record to the Chief Administrative Law Judge, and shall forward a copy of his decision to each party of record and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 84-6007 Filed 3-5-84; 8:45 am]
BILLING CODE 4510-30-M

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Addition to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The addition to the annual list is effective on March 1, 1984.

SUMMARY: The purpose of this notice is to announce a change to the annual list of Labor Surplus Areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA), 601 D Street NW., Washington, D.C. 20213. Telephone: 202-376-6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in Labor Surplus Areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as Labor Surplus Areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as Labor Surplus Areas pursuant to the criteria specified in the regulations and to publish annually a list of Labor Surplus Areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of Labor Surplus Areas on September 29, 1983 (48 FR 44676).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a Labor Surplus Area under Subpart A. Thus, Labor Surplus Areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area described below has been classified by the Assistant Secretary of Labor as a Labor Surplus Area pursuant to 20 CFR 654.5(b) (48 FR 15615, April 12, 1983) and is added to the annual list of Labor Surplus Areas, effective March 1, 1984. The following addition to the annual list of Labor Surplus Areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Addition to the Annual List of Labor Surplus Areas

March 1, 1984

Massachusetts

Labor Surplus Area	*Civil Jurisdiction Included*
North Adams Town	North Adams Town in Berkshire County

Signed at Washington, D.C. on February 22, 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84-6007 Filed 3-5-84; 8:45 am]

BILLING CODE 4510-30-M

Wage and Hour Division

[Administrative Order No. 657]

Special Industry Committee for all Industry in American Samoa; Appointment; Convention; Hearing

1. Pursuant to section 5 and 6(a)(3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR Part 511, I hereby appoint special Industry Committee No. 16 for American Samoa.

2. Pursuant to section 6(a)(3) and section 8 of the Act, as amended (29 U.S.C. 206(a)(3), 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR 511, I hereby:

(a) Convene the above-appointed industry committee.

(b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a)(3) of the Act, as amended.

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industry, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on April 23, 1984, in the Rainmaker Hotel, Pago Pago, American Somoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by sections 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977, currently $3.35 an hour.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within industry, in making such classifications and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. The Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information he has assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, as soon as it is completed. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in § 511.8 of the regulations and shall be filed not later than April 13, 1984. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked with the time provided.

Signed at Washington, D.C. this 29th day of February 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-6009 Filed 3-5-84; 8:45 am]

BILLING CODE 4510-27-M

LEGAL SERVICES CORPORATION

Grants and Contracts; Applications; Legal Aid Society of Orange County

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides that: "At least thirty (30) days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Aid Society of Orange County located in Santa Ana, California, to provide legal services to eligible clients residing in the southeastern portion of Los Angeles County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to: Legal Services Corporation, Office of Field Services, 733 Fifteenth Street NW., Washington, D.C. 20005, (202) 272-4080, Attn: Gail D. Francis.

Joshua H. Brooks,

Deputy Director, Office of Field Services.

March 1, 1984.

[FR Doc. 84-5971 Filed 3-5-84; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

February 29, 1984.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, March 19 and 20, 1984. The meetings on both days will be held in Rooms 416 and B-100 at 2001 Wisconsin Avenue, NW., Washington, D.C. The committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessement, on a selective basis, of the status of the Nation's marine and atomspheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The Tentative Agenda is as follows:

Monday, March 19, 1984

Plenary

9:00 a.m.-9:30 a.m.
- Announcements (Room 416)
- Swearing-In of Charles A. Black

9:30 a.m.-12:00 noon
- Intergovernmental Oceanographic Commission
- Speakers: To be announced.

12:00 noon-1:00 p.m., Lunch

1:00 p.m.-5:00 p.m., Panel Meetings

1:00 p.m.-4:00 p.m.
- Shipbuilding Panel Chairman: Don Walsh (Room 416)
- Topic: Panel Work Session
- Speakers: None

2:00 p.m.-5:00 p.m.
- Underwater Technology Panel Chairman: Sylvia Earle (Room B-100)
- Topic: Panel Work Session
- Speakers: None

5:00 p.m., Recess

Tuesday, March 20, 1984

8:30 a.m.-11:00 a.m., Panel Meeting
- Exclusive Economic Zone Panel Chairman: Don Walsh (Room 416)
- Topic: Panel Work Session
- Speakers: None

11:00 a.m.-12:00 noon, Plenary
- Intergovernmental Oceanographic Commission (continued) (Room 416)
- Speaker: John V. Byrne, Administrator, National Oceanic and Atmospheric Administration

12:00 noon-1:00 p.m., Lunch

1:00 p.m.-3:30 p.m., Plenary
- Budget Summary: Marine and Atmospheric Programs (FY 1985)
- Panel Reports

3:30 p.m., Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: March 1, 1984.

Steven N. Anastasion,

Executive Director.

[FR Doc. 84-5972 Filed 3-5-84; 8:45 am]

BILLING CODE 3510-12-M

NUCLEAR REGULATORY COMMISSION

Draft Supplement to the Programmatic Environmental Impact Statement Related to TMI-2 Cleanup; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplement to the programmatic environmental impact statement on TMI-2 cleanup; extension of comment period.

SUMMARY: On January 13, 1984, a Notice of Availability of Draft Supplement to the Programmatic Environmental Impact Statement on TMI-2 Cleanup was published in the **Federal Register** (49 FR 1788) that indicated that comments must be received before February 27, 1984. Since several interested persons have experienced delays in evaluating the draft supplement and have requested an extension, the NRC is issuing this notice extending the comment period.

DATE: New comment period expires April 2, 1984. Comments should be forwarded to Dr. Bernard J. Snyder, Director, TMI Program Office, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Dr. Ronnie Lo, TMI Program Office, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-8335.

Dated at Washington, D.C. this 28th day of February 1984.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Director, Three Mile Island Program Office.

[FR Doc. 84-5728 Filed 3-5-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Seminar on Probabilistic Risk Assessment; Seminar

The ACRS Seminar on Probabilistic Risk Assessment will take place on March 22 and 23, 1984, Room 1046, 1717 H Street, NW., Washington, D.C. The seminar will be held to discuss the state-of-the-art of the development of probabilistic risk assessment. Notice of this meeting was published Tuesday, February 21, 1984 (49 FR 6420).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire seminar will be open to public attendance.

The agenda for subject seminar shall be as follows: *Thursday, March 22, 1984—8:30 a.m. until the conclusion of business; Friday, March 23, 1984—8:30 a.m. until the conclusion of business.*

During the initial portion of the seminar, the ACRS, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACRS will then hear presentations by and hold discussions with representatives of the NRC Staff and a number of experts on probabilistic risk assessment.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 1, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-6018 Filed 3-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-413A]

Duke Power Co., Saluda River Electric Cooperative, Inc. and North Carolina Electric Membership Corp.; Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Catawba Nuclear Power Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Catawba 1 construction permit to the Duke Power Co., Saluda River Electric Cooperative, Inc. and the North Carolina Electric Membership Corp., the staffs of the Antitrust and Economic Analysis Section of the Site Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit (CP) review are not of the nature to equire a second antitrust review at the operating license (OL) stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the Piedmont area of North and South Carolina, the events relevant to the Catawba construction permit review and the events that have occurred subsequent to the construction permit review.

The conclusion of the staff's analysis is as follows:

"The principal applicant, Duke Power Company, represents the largest power system in the relevant marketing area. Additions of large baseload power plants such as Catawba and necessary increases in attendant transmission facilities accompanying large nuclear plants, generally tend to increase the oversight or planning role of the larger systems in a particular marketing area, i.e., usually enhancing any existing market power of the system. By subjecting all nuclear applicants to an antitrust review at the CP stage, the NRC via its Section 105c(2) charge, prevents the economies associated with large baseload nuclear plants from being captured by only the largest power systems throughout the country, thereby thwarting increases in existing market power. During the Catawba CP antitrust review, it became apparent that Duke Power had been less than cooperative with smaller power systems in its service area and adjacent areas. Consequently, a set of antitrust license conditions was attached to the Catawba construction permit (as well as the Oconee and McGuire OLs) which was designed to implement greater coordination between Duke Power and smaller municipal and cooperative systems in the relevant area—thereby furthering the competitive process among all of the power systems in the area. The economies associated with the Catawba nuclear plant and those linked to Duke Power's integrated network of power supply were subsequently made available to smaller systems in the area.

"Staff has identified a number of changes that, (1) have occurred since the construction permit antitrust review, and (2) are reasonably attributable to the principal licnesee. However, many of these changes are in conformance with the construction permit antitrust license conditions and have had positive performance effects on the availability of bulk power supply and on competition in the area generally. Other changes which have occurred, have not had significant negative antitrust implications that would likely warrant a Commission remedy, and therefore do not warrant a significant change finding.

"Based upon the successful implementation of the CP license conditions and the absence of any significant detrimental conduct or activity since the CP review on the part of Duke Power Company, Saluda River Electric Cooperative, Inc. or the North Carolina Electric Membership Corporation (licensees and co-applicants), staff recommends that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the Catawba Nuclear Power Station."

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Catawba Nuclear Station, Unit 1 is not required.

Signed on February 27, 1984, by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for 30 days from the date of the publication of the **Federal Register** notice. Requests for a reevaluation of the no significiant changes determination shall be accepted after the date when the Director's finding becomes final but before the

issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief, Site Analysis Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 84-6016 Filed 3-5-84; 8:45 am]

BILLING CODE 7590-01-M

[License No. 49-19585-01 EA 83-110]

Perforating Services, Inc.; Rescission of Suspension and Order Modifying License

I

Perforating Services, Inc., P.O. Box 912, Casper, Wyoming 82601 (the "licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "NRC") pursuant to 10 CFR Part 30. The license, issued on June 4, 1981, and due to expire on June 30, 1986, authorizes the use, storage, and transfer of byproduct material as described in the licensee's application dated October 26, 1980, and letter dated May 10, 1981.

II

An inspection of the licensee's facility at Gillette, Wyoming, on September 28 and 30, 1983, by a representative of the NRC Region IV Office indicated that the licensee had conducted licensed activities in violation of certain NRC requirements. As a result of this inspection, an Order to Show Cause and Order Temporarily Suspending License, Effective Immediately, was issued to Perforating Services, Inc., on October 13, 1983.

An inspection of the licensee's facility on October 21, 1983, confirmed that licensed material had been secured and apparently had been stored in compliance with the Order. The licensee responded to the Order on November 11, 1983, and January 10, 1984. Following receipt of these responses, the NRC concluded that supplementary information was necessary in order to determine whether the licensee would be able to use byproduct material in compliance with its license and NRC regulations. Therefore, an Enforcement Conference was held with the licensee at the NRC's field office in Denver, Colorado, on February 2, 1984. At this Enforcement Conference the licensee explained how Perforating Services, Inc. was now in full compliance with each of the requirements violated previously and that its Radiation Safety Officer would be taking a training course on well-logging safety to improve the quality of its radiation safety program.

On the basis of an evaluation of the licensee's responses, the results of the Enforcement Conference and the October 21, 1983 inspection, I have now determined the licensee has shown cause why License No. 49-19585-01 should not be revoked and has shown that, subject to the implementation of the proposed improvements in its licensed program and the conditions set forth in Section III, licensed activities can be performed in accordance with Commission requirements. Accordingly, I have determined that subject to these conditions and improvements, its license suspension may be rescinded.

III

In view of the foregoing and pursuant to sections 81, 161b and 1610 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, it is hereby ordered that:

1. The licensee shall conduct internal compliance audits on a quarterly frequency. These audits shall be conducted for 1 year and shall be performed by an independent consultant approved by the NRC Region IV staff. After each audit, a written report of the audit findings shall be documented and retained at the licensee's facility for future inspection by the NRC. Actions taken in response to the audit findings shall also be documented, reviewed by the licensee, and retained with the records of the audit.

2. The licensee shall send the Radiation Safety Officer by July 1, 1984 to a training course for well-loggers approved by the Region IV staff. This training course must cover the rules and regulations of the Commission and radiation safety requirements related to well-logging operations. In addition to the training course, each quarterly visit by an independent consultant shall provide for additional ongoing training. This training shall include source handling and storage within the facility and field site source handling operations. This training shall also consist of a review of the documentation and record-keeping requirements associated with the licensed program. A written report of the training given shall be documented and retained at the licensee's facility for future inspection by the NRC.

IV

The licensee may request a hearing on this Order within 25 days of the date of its issuance. Any request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section III of this Order.

The Order modifying license set forth in Section III shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an Order issued following further proceedings on this Order.

The suspension of licensed activities imposed by the Order of October 13, 1983 is rescinded upon the effectiveness of the Order set forth in Section III.

Dated at Bethesda, Maryland this 28th day of February 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-6017 Filed 3-5-84; 8:45 am]

BILLING CODE 7590-1-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Issuance of Policy Letter No. 84-2, "Noncompetitive Procurement Procedures"

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Final issuance of OFPP Policy Letter No. 84-2, "Noncompetitive Procurement Procedures".

SUMMARY: This OFPP Policy Letter establishes specific circumstances under which noncompetitive procurements must be justified. It also requires that regulations be published in the Federal Acquisition Regulation which ensure that noncompetitive awards under these circumstances are tightly controlled and that the Agency Senior Procurement Executive in each agency establish procedures for review and approval of justifications for such noncompetitive awards.

EFFECTIVE DATE: This Policy Letter is effective June 26, 1984.

FOR FURTHER INFORMATION CONTACT: William Maraist, OFPP/OMB, 726 Jackson Place, Washington, DC 20503 (202–395–3300).

Dated: February 27, 1984.

Donald E. Sowle,

Administrator.

Executive Office of the President

Office of Management and Budget

[OFPP Policy Letter No. 84–2]

To the Heads of Executive Departments and Establishments

Subject: Noncompetitive procurement Procedures

February 27, 1984.

1. *Purpose.* The purpose of this Policy Letter is to establish uniform restrictions on the use of noncompetitive procurement procedures.

2. *Background.* Both the Armed Services Procurement Act (ASPA) and the Federal Property and Administrative Services Act (FPASA) require that procurements be competitive to the maximum practicable extent. However, approximately one-third of procurement dollars today ($56B in FY'83) are awarded without obtaining competition. (This does not include procurements reported as "follow-on after competition" $31B in FY'83.) One of the principal goals of the Administration's Proposal for a Uniform Federal Procurement System, submitted to Congress on February 26, 1982, is to increase competitive procurements where practicable. Executive Order 12352, Federal Procurement Reforms, March 17, 1982, also highlights enhancing competition and limiting noncompetitive procurement actions as key elements of procurement reform.

In this memorandum of August 11, 1983 to the Heads of Executive Departments and Agencies (attached), President Reagan directed that competition be given preference in agency buying programs. He also directed the Administrator for Federal Procurement Policy to issue a formal policy directive establishing Government-wide restrictions on the use of noncompetitive procurement.

It is important that we obtain the benefits of competition—economic, technological and managerial—to the maximum practicable extent. This policy letter focuses existing agency direction more effectively and requires procurement officials to take greater advantage of competitive opportunities.

Although the primary purpose of this policy letter is to establish controls on the use of noncompetitive procurement procedures, the heads of executive departments and agencies should also (1) communicate to department or agency program and procurement personnel a strong commitment to competition; (2) promote advance procurement planning, market research and early communication between program and procurement personnel to identify opportunities for competition early in the acquisition cycle; (3) strictly enforce the requirement for complete justification of noncompetitive procurements and careful scrutiny by review officials; (4) take reasonable steps, where competition is impracticable, to remove or overcome barriers to competition for subsequent procurements; (5) provide appropriate training; and (6) use data systems to track noncompetitive procurements and progress toward increasing competition.

3. *Policy.*

a. For procurements of property or services over the small purchase ceiling, competitive procedures shall be used unless one or more of the following circumstances require the use of noncompetitive procedures:*

(1) The property or service needed by the Government is available from only one source and there is no competitive alternative nor can competitive alternatives be developed in time to satisfy the requirements of the Government.

(2) The property or service needed by the Government is urgently required under unusual and compelling circumstances, caused by other than a lack of advance planning of funding concerns.

(3) An award must be made to a specified source or sources—

(i) when it is necessary to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) maintain an essential research capability to be provided by an educational or other nonprofit institution or a Federally Funded Research and Development Center;

(ii) to establish or maintain an alternative source which will likely increase or maintain competitive and will likely result in lower overall cost to the Government;

(iii) for follow-on procurement, in order to avoid (A) substantial duplication of cost to the Government for the property or service being procured, which cannot be expected to be recovered through competition or (B) unacceptable delays in accomplishing the agency's mission objectives;

(4) The contract to be awarded results from acceptance of a bona fide unsolicited proposal that meets the requirements set forth in 3.d. below and that demonstrates a unique or innovative concept which fills a requirement or general mission need of the Government (the term "unsolicited proposal" means a proposal that is submitted to a Federal department or agency on the initiative of the submitter for the purpose of obtaining a contract with the U.S. Government, and which is not in response to a formal or informal request (other than a departmental request constituting a publicized general statement of need in areas of science and technology-based research and development that are of interest to the department)).

(5) A specific source is required by international agreement or for directed procurements for foreign governments.

(6) The property or service is authorized or required by statute to be obtained from or through another Federal agency, or required by statute to be obtained from a specified source.

(7) Disclosure of the property or service needed by the Government to more than one source would jeopardize the national security.

b. Justification for a noncompetitive procurement which does not fall under any of the circumstances listed in 3.a. above, shall be reviewed and approved by the Department or Agency Senior Procurement Executive and may not be delegated.

c. Regulations and procedures to ensure that noncompetitive procurements awarded under the circumstances listed in 3.a. above are tightly controlled shall be published in the Federal Acquisition Regulation (FAR). The contracting officer shall justify, in writing the proposed use of noncompetitive procurement procedures and shall ensure that the information has been certified as accurate by the requiring activity. The justification shall be retained in the contract file. In accordance with Pub. L. 98–72 and regulatory direction in the FAR, the Agency Senior Procurement Executive (required by E.O. 12352 and Pub. L. 98–191) shall establish procedures for review and approval of such justifications.

d. Following regulatory direction in the FAR and the requirements of Pub. L. 98–72, the Agency Senior Procurement Executive shall establish procedures to assure that contract awards under circumstance 3.a.(4) result from bona fide unsolicited proposals and that such proposals are not the result of actions by Government personnel which circumvent the requirement to effect competition to the maximum extent practicable. (This is not intended to prevent "advance guidance" such as that presently contained in FAR 15.5 or broad agency announcements constituting general statements of need in areas of science and technology based research and development that are of interest to the agency.)

e. The extension of a management and operating contract shall be awarded in accordance with FAR 17.6.

This additional attention to noncompetitive procurements will further the implementation of Executive Order 12352 as part of the procurement reforms being carried out in accordance with Reform 88 and the Administration's Proposal for a Uniform Federal Procurement System. It is important to note that the policies contained in this Policy Letter are not intended to adversely affect such congressionally-mandated programs as those dealing with small, minority and disadvantaged businesses, small business innovation research, or such Presidential initiatives as those dealing with the establishment of minority business goals.

4. *Effective Date.* This policy will be effective when implemented in the Federal Acquisition Regulation (FAR). The Department of Defense, the General Services Administration and the National Aeronautics and Space Administration shall ensure that this policy is implemented in the FAR no later

* The application of this policy letter to procurements above the small purchase ceiling does not mean that small purchases need not be competitive. It is expected that the FAR will continue to require competition and justification of noncompetitive small purchases above a minimum dollar amount that is administratively cost effective.

than 120 days after the date of this policy directive.

Donald E. Sowle,

Administrator.

[FR Doc. 84-6020 Filed 3-5-84; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13798; 812-5738]

Franklin Building Associates, Limited Partnership, et al.; Filing of Application

February 28, 1984.

Notice is hereby given that Franklin Building Associates, Limited Partnership (the "Partnership"), One Post Office Square–Suite 1400, Boston, Massachusetts, 02109, a Massachusetts limited partnership formed to invest in Onterie Associates (the "Operating Partnership"), an Illinois limited partnership which will own and operate a residential and commercial project in Chicago (the "Project"), and Milk Street Residential Associates, Limited Partnership, the Partnership's general partner (the "General Partner") (together with the Partnership, "Applicants"), filed an application on January 4, 1984, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act), to exempt the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and to the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

Applicants state that the Partnership was formed as a vehicle for private investment in government-assisted rental housing in accordance with the express determination of Title IX of the Housing and Urban Development Act of 1968. Applicants further state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as limited partner, will hold a 90.5% interest in the Operating Partnership which, in turn, will acquire, develop, construct, own, and operate the Project, a residential and commercial project consisting of 594 units of rental housing for moderate income persons, in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974). According to the application, the Operating Partnership has qualified for federal assistance in the form of mortgage insurance under Section 221(d)(4) of the National Housing Act and in the form of housing assistance payments for 119 apartment units pursuant to Section 8 of the United States Housing Act.

Applicants represent that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investments and the ability to claim on their individual tax returns a share of the tax benefits as if they were direct owners. Applicants further represent that the Partnership's objectives are to invest in the Operating Partnership, provide tax benefits on a current basis, obtain reasonable protection for investment in the Operating Partnership, provide potential for appreciation, and provide for future cash distributions from operations, refinancing, or sale of the Project.

Applicants represent that the Partnership will offer 120 units of limited partnership interests of the Partnership (the "Units"), pursuant to Section 4(2) of the Securities Act of 1933 ("1933 Act") and Regulation D thereunder, to investors meeting certain suitability standards, including, for example, a net worth of at least $250,000 exclusive of home, furnishings, and automobiles, or a net worth of at least $200,000 per Unit purchased, exclusive of home, furnishings, and automobiles, and an annual income of at least $100,000 per Unit purchased. According to the application, the Units are being offered only to "Accredited Investors" as defined in Regulation D and to not more than 35 "Non-Accredited Investors." Subscriptions for Units must be approved by the General Partner, which approval shall be conditioned upon representations as to the suitability of the investment for each subscriber. Furthermore, because the Units will be offered without registration pursuant to Section 4(2) of the 1933 Act and Regulation D, transfer of the Units will be restricted. The application also states that the marginal Federal income tax bracket of the prospective purchaser, after taking into account losses, if any, likely to be incurred as a result of his investment in the Units, will not be not less than 42% and he is expected to remain in that bracket, or higher, for several years.

Applicants maintain that the Partnership will raise $16,920,000 from the proceeds of the offering if all of the Units are sold, subject to discount as described in a Confidential Memorandum relating to the offering of the Units, which is attached to the application, and that the purchasers of the Units will be admitted as Investor Limited Partners (the "Limited Partners") of the Partnership. Applicants further maintain that the Partnership has contributed or will contribute approximately $13,753,782 to the Operating Partnership as its capital contribution and will use the remainder to pay certain fees and expenses.

According to the application, the General Partner will control the Partnership pursuant to the First Amended and Restated Agreement and Certificate of Limited Partnership (the "Partnership Agreement"), and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership business. The application states, however, that a majority in interest of the Limited Partners will have the right to: (i) Amend the Partnership Agreement, (ii) dissolve the Partnership, (iii) remove any General Partners, and (iv) continue the business of the Partnership with substitute General Partners, provided that such rights will not adversely affect the tax or limited liability status of the Limited Partners. The application further states that, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

The application summarizes the form and recipients of compensation to be paid to the General Partner and its affiliates. It states that all such compensation is believed to be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. It further states that the Partnership believes that such compensation meets all applicable guidelines to the extent necessary to permit the Units to be offered and sold in various states which prescribe such guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc., with respect to real estate programs.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all the provisions of the Act. In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act. Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and

organizational advantages of the limited partnership structure. Applicants state that a limited partnership would be unable to function in the manner contemplated by the Partnership if it is deemed to be an investment company under the Act. In addition, it is maintained that application of the Act would discourage two-tier limited partnership arrangements and thus eliminate the best available means of attracting private equity capital into government-assisted housing and frustrate national policy.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmmons,

Secretary.

[FR Doc. 84-5950 Filed 3-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23234; 70-6951]

New England Electric System, etc.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper, Open Account Advances From the System Money Pool, and Exception From Competitive Bidding

February 29, 1984.

New England Electric System ("NEES"), a registered holding company, and five of its subsidiaries, Granite State Electric Company ("Granite"), Massachusetts Electric Company ("Mass Electric"), The Narragansett Electric Company ("Narragansett"), New England Power Company ("NEP"), and New England Power Service Company ("NEPSCO"), 25 Research Drive, Westborough, Massachusetts, 01581, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) thereunder.

The above-named subsidiaries propose, through March 31, 1985, to borrow from the system money pool and/or banks, and/or, in the case of Mass Electric and NEP, to issue commercial paper up to the following maximum outstanding amounts: Granite—$7,000,000; Mass Electric—$15,000,000; Narragansett—$25,000,000; NEP—$195,000,000; and NEPSCO—$3,500,000. The proceeds of the proposed borrowings are to be used: (i) To pay then outstanding notes initially issued to banks, and/or dealers in commercial paper and/or borrowings from the money pool; (ii) to provide new money for capitalizable expenditures (or to reimburse the treasury therefor); (iii) to refund bonds, pending permanent refinancing, and (iv) other corporate purposes.

Although the borrowing companies have no formal credit agreements with banks, they have made informal arrangements with a group of banks for lines of credit for various purposes, including support of commercial paper. The bank borrowings will be evidenced by notes maturing in less than one year from the date of issuance. The effective interest cost of such borrowings will be not greater than the effective interest cost of borrowings at the bank's base or prime lending rate with compensating balance requirements of 10% of the line of credit and 10% of the borrowings thereunder. It is stated that based on compensating balance requirements of about 10% to 20%, or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 12.2% to 13.3% per annum, assuming a base lending rate of 11%.

The borrowing companies propose to reduce their need for outside borrowing through the continued use of the system money pool. Under the money pool, surplus funds that may be available from day to day in the treasuries of certain of the NEES System subsidiaries are used to make loans to subsidiaries in need of short-term funds. Each member determines each day, on the basis of cash flow projections, the amount of surplus funds it has available for contribution to the pool. The surplus funds are transferred to NEPSCO which are made pursuant to open account advances. Those companies able to issue commercial paper will pay the weighted monthly average of the rates on outstanding commercial paper of all money pool members. During any month when no such commercial paper is outstanding, the rate is the monthly average of the rate for high grade 30-day commercial paper sold through dealers by major corporations as published in the *Wall Street Journal*. Borrowing members without the ability to issue commercial paper will pay interest at a rate of 125 basis points above the rate paid by members who do have the ability to issue commercial paper but in no event greater than the monthly average of the base lending rate of the First National Bank of Boston.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 23, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-5949 Filed 3-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23235; 70-952]

New England Electric System; Proposed Issuance and Sale of Short-Term Notes to Banks

February 29, 1984.

The New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(2) promulgated thereunder.

NEES proposes to issue and sell up to a maximum aggregate outstanding principal amount of $25 million of short-term notes from time to time through March 31, 1985. The proposed borrowings by NEES will be evidenced by notes payable maturing in less than one year from the date of issuance.

Borrowings wil be made in any of the following manners:

(i) NEES may maintain funds in the banks which represent compensating balances or may pay fees to the banks in lieu of such compensating balance requirements. The effective interest cost of such borrowings will not be greater than the effective interest cost of borrowings at the bank's base or prime lending rate with compensating balance requirements of 10% of the line of credit and 10% of any borrowings thereunder.

(ii) NEES may negotiate borrowings without compensating balances or the payment of fees at an effective interest cost equivalent to the compensating balances or the payment of fees. The effective interest cost to NEES is expected to be no greater than the effective interest cost of bank borrowings at the bank's base lending rate based on compensating balance requirements of 10% of the line of credit and 10% of any borrowings thereunder. In no event will the rate be greater, at the time of borrowing, than the limit on the effective interest cost under paragraph (i) above.

(iii) Borrowings may be made at fixed rates, which may be greater than the then current prime rate, but in no event greater than the limit on the effective interest cost under paragraph (ii) above. Such borrowings may be without prepayment privileges.

Based on compensating balance requirements of about 10 to 20%, or fees equivalent thereto, the effective interest cost of bank borrowing under (i) and (ii) would be approximately 12.2% to 13.8% per annum based on the current prime rate of 11%.

The application-declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 23, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-5948 Filed 3-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20703; File No. SR-NSCC-84-1]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of a Proposed Rule Change by National Securities Clearing Corporation

February 29, 1984.

National Securities Clearing Corporation ("NSCC") submitted a proposed rule change on January 24, 1984, pursuant to Rule 19b-4 under the Securities Exhange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), that amends Section II.B.2.(b) of NSCC's Procedures relating to NSCC members' use of the Add-by-Seller process.[1] NSCC currently receives trade data from market regulators' automated trading systems, such as the New York Stock Exchange's ("NYSE") Designated Order Turnaround ("DOT") System. Such direct receipt of locked-in data eliminates the need for NSCC members to provide trade data to NSCC, thereby facilitating the trade comparison process and significantly reducing the incidence of uncompared trades.[2] Some members, however, have been submitting redundant trade data to NSCC through the Add-by-Seller procedure. If NSCC failed to omit such data manually, duplicative trades could result. NSCC believes that prohibiting this use of the Add-by-Seller process for locked-in trades [3] will eliminate this inefficient use of its resources and will avoid any confusion that could result from the submission of redundant trade data.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register.** Persons desiring to make a written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-84-1.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-5951 Filed 3-5-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The Add-by-Seller process enables NSCC members to resolve unilaterally uncompared trades. *See* § II.B.2. of NSCC's Procedures for a description of the Services.

[2] For example, in connection with the DOT System, the trade data of the initiating side, *i.e.*, the DOT side, automatically matches the specialist's trade data because of the established price and trade parameters of the DOT system. Thus, the DOT side of the trade is "locked-in." On the other hand, the trade on the TOD side, *i.e.*, the trade between the specialist and the broker-dealer on the exchange floor, is handled like any other New York or American Stock Exchange trade. The TOD trade is not "locked-in," and related trade data is thus included in both the exchange's and the member's trade comparision streams to NSCC.

[3] For TOD-side trades, however, all NSCC relevant trade reconciliation mechanisms, including Add-by-Seller, would continue to be available.

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980 Forms Under Reveiw 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 proposal 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: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: New, regular submission
Title of Information Collection: Evaluation Survey of Floodplain Management in the Tennessee Valley Region
Frequency of Use: Annually
Type of Affected Public: State and local governments, and businesses or other for-profit
Small Businesses or Organizations Affected: No
Federal Budget Functional Category Code: 452
Estimated Number of Annual Responses: 48
Estimated Total Annual Burden Hours: 72
Estimated Annual Cost for appropriated funds: $75,870

Need For and Uses of Information: This proposed information collection from local government officials and business representatives regarding the success of their floodplain management program will be gathered by interview. The information is needed by TVA to evaluate its own program and to determine future community assistance. The information collected will be shared with the Federal Emergency Management Agency and the Federal Insurance Administration.

Dated: February 28, 1984.

John W. Thompson,

Manager, Corporate Services Senior Agency Official.

[FR Doc. 84-6023 Filed 3-5-84; 8:45 am]

BILLING CODE 8120-06-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. 22; Notice 84-2]

Standard Time Zone Boundaries; Operating Exception for the Burlington Northern Railroad

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Operating exception.

SUMMARY: The Burlington Northern Railroad is granted an exception from the standard time of the time zones created by Congress. The exception permits operation under central time from the Montana-Idaho boundary to Sandpoint Junction, Idaho, despite the fact that the affected area is in the Pacific time zone. It does not, however, permit the railroad in its public schedule and notices to show the area as being in other than the Pacific time zone.

EFFECTIVE DATE: Sunday, April 29, 1984.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Background. Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. She also has authority (delegated to the General Counsel) to grant to a railroad an exception from the time zones to permit for *internal purposes only* operation of a line of railroad on one time despite the fact that it crosses a time zone boundary. This ability to express operations in a single time renders railroad operations more efficient and less hazardous by lessening confusion.

The request. The Burlington Northern Railroad Company has formally requested that it be granted an operating exception permitting internal operation entirely on mountain time of the Third Subdivision of its Rocky Mountain Division, extending from Missoula, Montana (in the mountain zone) to Sandpoint Junction, Idaho (Pacific zone). Control of these trains is in a single dispatching territory and under the control of one dispatching office, and crews are operating trains across the mountain-Pacific time zone boundary. The railroad maintains that its personnel are experiencing confusion in understanding and implementing train order and directions to track, bridge, and building forces, and to signal and communications employees along the line in question, especially with respect to the effective time of such orders and directives. Further, it alleges that misunderstanding of the times that orders and directives are to be observed could lead to dangerous operating conditions.

Decision. DOT's experience indicates that confusion about the precise time of train orders and similar railroad directives can cause hazardous conditions. In fact, it was to reduce this hazard, among other reasons, that the railroads operating in the United States and Canada instituted time zones 100 years ago. The exception is therefore granted. It does not, however, permit the railroad in its public schedule and notices to show the area as being in other than the Pacific time zone. The grant of the exception, therefore, does not affect the public.

Authority: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Public Law 97-449, 15 U.S.C. 260-64; 49 CFR 1.59(a).

Issued in Washington, D.C., on February 23, 1984.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 84-6012 Filed 3-5-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Emergency Locator Transmitter (ELT); Availability of Technical Standard Order and Request for Comment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order and request for comment.

SUMMARY: Proposed TSO-C91a prescribes the minimum performance standard that emergency locator transmitter (ELT) equipment must meet in order to be identified with the marking "TSO-C91a."

DATES: Comments must identify the TSO file number and be received on or before May 8, 1984.

ADDRESS: Send all comments on the proposed Technical Standard Order to: Federal Aviation Administration, Policy and Procedures Branch, AWS-110, Aircraft Engineering Division, Office of Airworthiness—File No. TSO-C91a, 800 Independence Avenue, SW., Washington, D.C. 20591.

Or deliver comments to: Room 335, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS-110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8395.

Comments received on the proposed Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed TSO may be obtained by contacting the person under "For Further Information Contact." TSO–C91a references Radio Technical Commission for Aeronautical (RTCA) Document Nos. DO–183 dated May 13, 1983 for the minimum performance standard, DO–160A dated January 25, 1980, for the environmental conditions and test procedures, and DO–178 dated November 18, 1981, for the software requirements. RTCA Documents Nos. DO–183, DO–160A and Do–178 may be purchased from the Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005.

Issued in Washington, D.C. on February 28, 1984.

Thomas E. McSweeny,

Acting Manager, Aircraft Engineering Division.

[FR Doc. 84–5886 Filed 3–5–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Washington County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Washington County, Oregon.

FOR FURTHER INFORMATION CONTACT: Richard R. Arnold, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 520 Center Street NE., Salem, Oregon 97301. Telephone (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation (ODOT) and Washington County, will prepare an Environmental Impact Statement (EIS) on the proposed alignment of Cornell Road from the east limits of the City of Hillsboro to 185th Avenue, approximately 3.7 miles. This project is a part of the adopted County Transportation Plan and Comprehensive Framework Plan. Growth Management strategy requires assurance of the project concurrent with the adopted land use development.

The present roadway is two lanes; the Federally sponsored portion of the project (Hillsboro City limits to Cornelius Pass Road) would provide for four travel lanes, a median, shoulder bike lanes and sidewalks on both sides. Four design options are under consideration for this segment, differing only in alignment. Between Cornelius Pass Road and 185th Avenue the present two lane roadway would be replaced by an interim three-lane facility (two travelways and a median) and ultimately to a full section arterial with the addition of two additional lanes, shoulder bike lanes and sidewalks on both sides. Four candidate alignments are currently under study for this segment of roadway which will be constructed by means of a Local Improvement District (LID).

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. Public meetings will be held, as many as necessary, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction.) The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.

Issued on February 28, 1984.

Richard R. Arnold,

Environmental Coordinator, Oregon Division, Salem, Oregon.

[FR Doc. 84–6021 Filed 3–5–84; 8:45 am]

BILLING CODE 4910–22–M

Research and Special Programs Administration

[Docket No. IRA–31]

Commonwealth of Massachusetts, Executive Office of Transportation and Construction: Application for Non-Preemption Determination

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Extension of time for public comment.

SUMMARY: This notice extends the public comment period for IRA–31 (49 FR 3166, January 25, 1984).

DATE: Comments should be received by April 16, 1984.

ADDRESSES: Comments on the application may be submitted to the Dockets Branch at: Dockets Branch, Office of Information Systems (DMT–63), Room 8426, 400 Seventh Street, SW., Washington, D.C. 20590. Indicate Docket No. IRA–31 on your submission. Three copies are requested. In addition, a copy of each comment must be sent to: Aaron K. Bikofsky, Esq., Town Counsel, Town of Framingham, Memorial Building, Framingham, MA 01701; Rita J. DiGiovanni, Esq.; Legal Counsel, Executive Office of Transportation and Construction, One Ashburton Place, Boston, MA 02108; and W. Arthur Garrity III, Esq., Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., One Center Plaza, Boston, MA 02108, and that fact certified to at the time the comment is submmitted to the Dockets Branch. (The following is suggested: "I hereby certify that copies of this comment have been sent to Mr. Aaron K. Bikofsky, Ms. Rita J. DiGiovanni, and Mr. W. Arthur Garrity, III at the addresses noted in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Vita A. Simon, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202–755–4972.

SUPPLEMENTARY INFORMATION: On January 25, 1984, MTB published a notice for comment on the by-law of the Town of Framingham, Massachusetts, which restricted the rail transport of vinyl chloride. A public comment period was scheduled to end on March 5, 1984. Because several requests for additional time have been received, MTB is extending the comment period until April 16, 1984.

Issued in Washington, D.C. on February 29, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation.

[FR Doc. 84–6011 Filed 3–5–84; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 6-84]

Notes of Series H-1989; Interest Rates

The Secretary announced on February 28, 1984, that the interest rate on the notes designated Series H-1989, described in Department Circular—Public Debt Series—No. 6-84 dated February 22, 1984, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Dated: February 29, 1984.

Gerald Murphy,

Deputy Fiscal Assistant Secretary.

[FR Doc. 84-5927 Filed 3-5-84; 8:45 am]

BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 1, 1984

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and/or to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0092
Form Number: IRS Forms 1041 and Related Schedules—Schedules D, J, & K-1
Type of Review: Existing Collection
Title: U.S. Fiduciary Income Tax Return; Capital Gains and Losses; Trust Allocation of an Accumulation Distribution; Beneficiary's Share of Income, Deductions, Credits, etc.

OMB Number: 1545-0096
Form Number: IRS Forms 1042 and 1042S
Type of Review: Existing Collection
Title: U.S. Annual Return of Income Tax to be Paid at Source (Under Chapter 3, Internal Revenue Code), and Income Subject to Withholding Under Chapter 3, Internal Revenue Code)

OMB Number: 1545-0219
Form Number: IRS Form 5884
Type of Review: Revision
Title: Job Credit

OMB Number: 1545-0122
Form Number: IRS Forms 1118 and 1118 Schedule F
Type of Review: Existing Collection
Title: Computation of Foreign Tax Credit—Corporations

OMB Number: 1545-0055
Form Number: IRS Form 1001
Type of Review: Revision
Title: Ownership, Exemption, or Reduced Rate Certificate

Alcohol, Tobacco and Firearms

OMB Number: 1512-0256
Form Number: ATF Rec 5110/9
Type of Review: Reinstatement
Title: DSP Storage Records

OMB Number: 1512-0251
Form Number: ATF Rec 5110/4
Type of Review: Reinstatement
Title: DSP Processing Record—Record of Denaturation.

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Gary Kowalczyk,

Departmental Reports Management Office.

[FR Doc. 84-6037 Filed 3-5-84; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 45
Tuesday, March 6, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1, 2
National Council on Educational Research	3

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 1:00 p.m., Thursday, March 8, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS# 5868.

The staff will brief the Commission on Enforcement Matter OSH 5868.

(For a recorded message containing the latest agenda information: call 301-492-5709).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

March 1, 1984.

[FR Doc. 84-6058 Filed 3-2-84; 12:09 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, March 7, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, N.W., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Fire Investigations Report

The staff will brief the Commission on Commission fire investigation activities.

(For a recorded message containing the latest agenda information: call 301-492-5709).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

March 1, 1984.

[FR Doc. 84-6059 Filed 3-2-84; 12:09 pm]

BILLING CODE 6355-01-M

3

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH (EDUCATION)

ACTION: The National Council on Educational Research will hold a meeting on March 8th and 9th.

STATUS: Open.

PLACE: Room 823 (Conference Room) National Institute of Education, 1200 19th St. NW., Washington, D.C.

MATTERS TO BE DISCUSSED:

1. Disorder in our Public Schools
2. Lab and Center Report
3. Director of NIE's Report
4. Report from the Committee on Education and the Family
5. Report from the Committee on Reports
6. Presentation by Dr. Kathy Au and Dr. Jeanne Chall

CONTACT PERSON FOR MORE INFORMATION CONTACT: Patricia Hines, NCER Associate, 2000 L St. NW., Washington, D.C., 202-254-7490.

March 1, 1984.

James Hinish, Jr.,

National Council on Educational Research, Acting Executive Director.

March 1, 1984.

[FR Doc. 84-6042 Filed 3-2-84; 9:32 am]

BILLING CODE 4000-01-M

Federal Register

Tuesday
March 6, 1984

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1907, 1910, 1935, and 1936

Safety Testing or Certification of Certain Workplace Equipment and Materials; Proposed Rulemaking

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1907, 1910, 1935, and 1936

[Docket No. S-110]

Safety Testing or Certification of Certain Workplace Equipment and Materials

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to initiate a comprehensive overhaul of its regulatory procedures related to the requirements for safety testing or certification of certain workplace equipment and materials now contained in OSHA's standards.

This proposal would completely revise OSHA's unimplemented regulation at 29 CFR Part 1907, and redesignate it as 29 CFR Part 1936. New Part 1936 would be entitled: "OSHA Recognition of Testing-Related Agencies and Certification Programs." It would reflect a new OSHA framework for recognition of enterprises competent to perform activities necessary to fulfill the testing and certification requirements contained in its safety standards.

In this proposal, OSHA attempts to build upon the self-regulatory efforts of the private sector, particularly in the fields of electrical and fire safety. The Agency also intends to take full advantage of other mechanisms which now exist in the private sector or in government for accreditation of testing laboratories and certification programs. OSHA has attempted to keep its long-term involvement in this activity to a minimum. However, a moderate amount of Agency involvement will be unavoidable initially, particularly in the recognition of third-party certification programs.

This proposal also includes provisions concerning the validity of testing data, the use of accredited testing laboratories when required, and the use of standard test methods and procedures. The proposal therefore includes significant changes to several definitions and requirements now in OSHA's General Industry standards, and proposes a new Part 1935 of Title 29 covering test methods and procedures.

Proposed revisions to Part 1910, "Occupational Safety and Health Standards," would establish the requirement that laboratory-based testing—other than testing conducted directly by employers—be conducted only in properly accredited laboratories.

The revisions would also remove the names of Underwriters Laboratories, Inc. (UL), and Factory Mutual Engineering Corporation (FM) from the General Industry standards. This removal would end the Agency's involvement in a situation which inadvertently may have resulted in an overconcentration of safety testing and certification activities in those two enterprises.

OSHA proposes also to update and provide uniformity to the certification-related terminology in these Part 1910 standards, and to undertake these changes in an organized manner in order to maintain current levels of safety protection.

Proposed new Part 1935, "Occupational Safety and Health Test Methods and Procedures," is intended to serve as a repository for equipment test methods and procedures specified by OSHA standards. These test methods also may be used as a basis for much of the OSHA-related testing or certification.

OSHA's regulation at 29 CFR Part 1907, "Accreditation of Testing Laboratories," previously established the criteria and procedures that OSHA intended to use to accredit independent testing laboratories which would test and certify equipment which is required to be "acceptable" or "approved" under OSHA standards. It was originally published on September 11, 1973, and proposed for revocation on June 3, 1974. OSHA has decided not to implement this regulation as originally written.

DATE: Written comments on this notice must be postmarked by May 7, 1984. Objections and requests for a hearing must be postmarked by May 7, 1984.

ADDRESS: Written comments, objections and requests for a hearing, should be submitted, in quadruplicate, to the Docket Office, Docket S-110, Room S6212, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, Telephone: (202) 523-7894.

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

SUPPLEMENTARY INFORMATION:

I. Background of the Regulation

On September 11, 1973, OSHA published a new Part 1907 of Title 29 of the Code of Federal Regulations (38 FR 25150). Entitled "Accreditation of Testing Laboratories," Part 1907 established criteria and procedures which OSHA intended to use to accredit independent testing laboratories.

Each of these OSHA-accredited laboratories was to be sanctioned by the Agency as the equivalent of the "nationally recognized testing laboratory." This unique term was used originally in materials produced by the National Fire Protection Association (NFPA).

Many of the NFPA national consensus standards and codes had been adopted by OSHA, as authorized under section 6(a) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655(a). Certain of these standards required product testing, safety evaluations, and approvals (or certifications) by a nationally recognized testing laboratory in order for specified products (equipment, materials or installations) to be acceptable for installation or use.

However, the original NFPA consensus standards did not reflect a comprehensive approach to the requirements for product testing, evaluation or certification. In particular, these standards did not define "nationally recognized testing laboratory." Nevertheless, elsewhere in NFPA documents, various organizations were listed as being such, including UL, FM and several others. At the same time, some other standards did not use this laboratory term at all, but simply required product approval by UL and/or FM, or UL alone.

Adoption of these various standards by OSHA left the Agency with the responsibility to organize, or at least attempt to systematize, the aspects in those standards related to product testing, evaluation or certification.

In certain of its standards, OSHA provided a definition of "nationally recognized testing laboratory" but provided only UL and FM as examples; additonal related definitions were also provided as necessary.

OSHA then decided to establish its own system of laboratory accreditation for the purposes of controlling participation of other equivalent entities under its standard. In September 1973, Part 1907—establishing such a system—was adopted under section 8(g)(2) of the Act, 29 U.S.C. 657(g)(2).

Because of a perceived need to act without delay to accredit these laboratories, the regulation was promulgated without notice and comment (38 FR 25150). After publication, however, interested persons were given an opportunity to comment on the rule through written submissions.

Over 130 written submissions were received. In addition, approximately 200 pages of testimony, 32 exhibits, and numerous post-hearing comments were received as a result of an informal hearing.

After reviewing these submissions, OSHA concluded that several major problems needed resolution. One was whether this Agency should change its requirement that all such laboratories be independent from manufacturers and vendors. Another was whether this Agency had sufficient resources to implement the regulation properly. In light of these problems, OSHA decided to reconsider the entire matter of accreditation and seek the aid of an advisory committee. On June 3, 1974, in order to give such an advisory committee the widest possible scope in its deliberations, the Agency proposed to revoke the regulation (39 FR 19507).

The notice of proposed revocation invited interested persons to submit written comments on the proposal by July 3, 1974. In response, 165 written submissions were received. An informal hearing was then held, which resulted in 245 pages of testimony, 30 exhibits, and post-hearing comments.

Through their comments, parties raised several major issues. Among these were: (1) Whether revocation would produce anticompetitive results, such as delay in product approval or increased charges for this service; (2) whether the rule as promulgated established barriers to international trade; (3) whether this Agency should revoke the rule and simply accept the results of other laboratory accreditation systems, which were then in the process of being developed; and (4) whether the rule should be retained, with amendments to specific provisions, such as the requirement that all OSHA-accredited laboratories be independent from manufacturers and vendors.

The record on the proposed revocation closed July 31, 1975 (40 FR 27691). From that time until the Agency resumed activity on this matter in early 1982, this regulation was held in abeyance. No advisory committee was appointed, and OSHA neither revoked, amended, nor implemented Part 1907.

Later in 1982, this static situation led one testing laboratory to sue, asserting that OSHA should either implement Part 1907 or delete its product evaluation and acceptability requirements, including the specific references to UL and FM. OSHA subsequently entered into a settlement agreement with that laboratory and agreed to initiate rulemaking looking toward (1) deletion of references to UL and FM in its standards, and (2) the creation of a workable procedure for designation of enterprises whose product evaluation activities would be acceptable to OSHA.

On January 4, 1983, OSHA published an Advance Notice of Proposed Rulemaking: Request for Comments (48 FR 270). The Notice solicited information regarding the appropriate content, scope and format of a complete revision of 29 CFR Part 1907 and complementary changes to 29 CFR Part 1910.

Written responses were received from 37 persons. Most respondents encouraged OSHA to proceed with its intention to resolve the question of whether to implement, amend or revoke Part 1907. Most also reiterated their previously-stated positions for or against (1) Federal government activity in this area, (2) activity by OSHA, (3) implementation of 29 CFR Part 1907 as written, (4) minor revision by OSHA of the current rule, or (5) complete revision.

A preproposal draft, dated June 15, 1983, was circulated to those who had responded to the January 1983 ANPR, with request for comments. A total of 19 written responses were received.

This proposal for revision draws upon all of these sources (the original Part 1907, public comments during 1973–1975, and comments on the ANPR and preproposal draft) to design a system that will protect worker safety with as little direct Agency involvement in certification and laboratory enterprises as possible.

During the development of this proposal, some questioned how the public can clearly understand OSHA's role in the product evaluation and approval process, and the Agency's requirements for testing and certification, when its own terminology has been so inexplicit in the past.

Since this criticism has merit, the Agency has prepared a brief summary of the concepts used in preparing this proposed revision and includes it as Exhibit 1 in Part IV of the *Supplementary Information.*

II. Proposed Revision

The goals of this new OSHA proposal are: (1) To assure that products required to be tested or certified are reliably tested or certified, (2) to implement requirements and procedures which are administratively workable; and (3) to take advantage of recent developments by others both in organizing and evaluating product certification systems and in accrediting laboratories for testing.

Proposed Amendment to Part 1907

OSHA is proposing to thoroughly revise Part 1907, and to redesignate it as a new Part 1936. This Part would establish an "OSHA recognition" system which would leave the actual accreditation of testing laboratories and certification programs to other public or private entities, in most cases. Part 1936 would establish two categories of testing-related organizations: (1) OSHA-recognized laboratory accrediting agencies, and (2) OSHA-recognized third-party certification programs.

The term "laboratory accrediting agency" is self-explanatory. OSHA proposes, in Part 1936, to define "third-party certification program" as an organized system which (1) uses a validating laboratory other than one controlled by either the manufacturer or the buyer, and (2) validates the certification for safety of equipment, materials or services, by means of tests, examinations, periodic inspections, and the authorized use of its controlled marks.

Proposed Amendment to Part 1910

In addition, a new section (§ 1910.7) will be proposed for inclusion in Subpart A in Part 1910. This proposal would provide the means whereby safety testing or the certification for safety of specified workplace equipment and materials—all conducted under private-sector auspices—would be acceptable for OSHA compliance purposes.

Since OSHA is not a testing or certifying organization, OSHA believes that the most appropriate means to provide assurance to employers and workers, and to itself, that specific equipment or material will conform with the Agency's requirements is to require valid testing data and valid certifications. The Agency proposes that whenever OSHA standards require that equipment be tested or certified, the validity of the testing or certification is the prerequisite of the equipment's acceptability.

This entire activity would be based on fundamental OSHA requirements for the validity of testing data combined with whatever level of product manufacturing quality control is considered necessary for worker safety under each of OSHA's safety standards. The use of these procedures would be required only when testing or certification for safety is required by OSHA standards.

The proposed § 1910.7 would provide the linkage needed between (1) the product testing or certification requirements in the various OSHA safety standards in Part 1910 and (2) the results obtained either by employees themselves, or by accredited laboratories, or by the certification bodies which will be recognized under

the procedures being proposed in Part 1936.

For OSHA's purposes, "testing" means employing the required means to determine conformance of a piece of equipment or material with applicable test standards.

"Accredited testing" of equipment and materials would mean any testing, and inspection if necessary, conducted by a laboratory accredited either to test the specific product or to test the product using a specified test.

Each employer would be authorized under proposed § 1910.7 to conduct or arrange any necessary testing using an appropriate testing facility. An appropriate testing facility must be either one under the direct control of the employer or one which is accredited by an OSHA-recognized laboratory accrediting agency.

"Certification" of equipment and materials refers to the process which results in a formal attestation—after appropriate testing, quality-controlled production, and periodic inspection—that a product meets specific standards for safety.

For certification to be acceptable for OSHA purposes, this proposal also would require (in Part 1936) that the testing for certification of equipment or materials be performed:

(1) In accordance with OSHA-designated standards, and

(2) By a testing facility which is either:

(a) Accredited for that safety testing by an OSHA-recognized laboratory accrediting agency, or

(b) Participating in an OSHA-recognized third-party certification program for safety certification of that equipment or material.

Accredited testing and certification are not mutually exclusive concepts; in many instances they are closely related. For example, where manufacturer self-certification is allowed in OSHA standards, test data generated in accredited testing laboratories would provide a valid base upon which a manufacturer's conformance declaration (the self-certification document) can be developed.

In addition, any equipment certified under an OSHA-recognized third-party certification program would be acceptable also under any OSHA testing or self-certification requirements.

Recognition Provisions in Part 1936

The Agency proposes to achieve its safety-related product evaluation goals by using two recognition mechanisms proposed in Part 1936:

(1) Recognition of laboratory accreditation systems and other agencies which accredit these testing laboratories which intend to perform OSHA-related testing or certification activities.

(2) Recognition of third-party certification programs which validate product certifications and which, in effect, control and set the quality performance requirements for any and all laboratories participating in their programs for these certified products.

In cooperation with OSHA, these OSHA-recognized entities would produce a group of third-party validators and accredited testing laboratories which would provide the valid testing data and conformance-related documentation needed.

OSHA would not accredit testing laboratories directly under proposed Part 1936. Although "accreditation" was part of the title of Part 1907, many have questioned in the past whether the Agency should have attempted to engage in such a formal approval activity for testing laboritories. OSHA would propose now to adopt a "recognition" concept and to use "accreditation" to describe the end result of the action of other responsible agencies.

The Agency believes that proper accreditation by non-OSHA accreditors (private sector and Federal), which are recognized by OSHA, will be sufficient to assure the competence needed for the safety testing required in OSHA's standards. These accreditation actions would be performed in accordance with national consensus standards and international guides and voluntary activities. The Agency identifies in this proposal several systems for laboratory accreditation which will be recognized, and also includes a procedure for recognizing additional laboratory accrediting agencies.

OSHA would recognize third-party certification programs, using the voluntary certification standard (ANSI Z34.1–1982) as a base.

Since the Agency believes that every safety-oriented third-party certification program should include the use of an identifiable "validating laboratory," Agency reviews of these programs would encompass this OSHA requirement.

In addition, the Agency believes that certification program operations do include, in most situations, an internal laboratory evaluation process (or de facto "accreditation") for the laboratories of many participating manufacturers. Program "recognition" would thereby afford a secondary-level accreditation (even though unwritten and unofficial) for those laboratories conducting or participating in those recognized programs. This therefore allows the Agency to include the results of these testing activities within its "valid test data" concept and requirement.

In brief, OSHA's primary activities under Part 1936 would result in formal recognitions by the Agency of two types of organizations:

(1) OSHA-recognized laboratory accrediting agencies;

(2) OSHA-recognized third-party certification programs.

Note.—The proposal for Part 1936, while establishing certain requirements for any self-certification activity, does not include involvement by OSHA or any OSHA-recognition under the self-certification activity or requirement provisions.

Other Important Provisions in Part 1936

In proposed Part 1936, the Agency combines its review of applications with the opportunity for public review and comment before final decisionmaking on "OSHA recognition" is made for each applicant. All affected sectors should take part, as needed, in this phase, which has been designed specifically to elicit the views of employers and their organizations, workers and their represenatives, state and local governments, other Federal agencies, standards organizations and code bodies, and the public. The Agency includes provisions for an impartial public hearing and decision in writing on any public objections raised. OSHA would use this procedure for deciding on recognition for both laboratory accrediting agencies and third-party certification programs.

The proposal also includes another procedure for fostering a continuing cooperative arrangement with these "OSHA-recognized" entities. The Agency proposes to document its ongoing relationship with each of these recognized entities and their programs through a written Cooperative Agreement. This would be a working document which would specify any supplemental understandings reached with the Agency concerning routine questions and operating arrangements, but which would remain secondary to the formal recognition letter from OSHA. This would all be kept in written record by OSHA and will be accessible under normal government provisions for public access to Agency records.

The Agency also proposes to publish a list of "OSHA-Recognized Laboratory Accrediting Agencies," and "OSHA-Recognized Third-Party Certification Programs." These would be published as Appendices to this regulation, and would be updated quarterly in the **Federal Register** as needed.

Additional Amendments to Part 1910

The Agency also intends, in this proposal, to amend nine additional subparts of Part 1910 to clarify certain already existing requirements concerning the use of third-party certification programs. OSHA also intends to eliminate references to specific third-party testing/inspection organizations; to provide uniformity and consistency in terminology; and to provide necessary cross references to Part 1936.

Part 1910 currently contains an assortment of terms and references related to the acceptability (through testing and "approval") of installations, equipment and materials. Some of this varying terminology results from the fact that the standards adopted under Section 6(a) of the OSHA Act came from many different sources.

In this proposal, OSHA has attempted to address all situations in the current text of the Part 1910 subparts which contain requirements for the testing and certification (or "approval") of equipment, materials and installations by "nationally recognized testing laboratories" or by UL and FM.

Appropriate revised wording is included for each specific instance where such a requirement appears. The public is invited to identify any provisions in Part 1910 where such requirements are now in effect, but which the Agency may have inadvertently failed to include in this proposed change. These would be included in the final rule, modified in a manner similar to that for the standards which the Agency has already identified.

Terms: Acceptable and Approved

In the proposed revision to certain subparts of Part 1910, the Agency uses the terms "Acceptable" and "Approved." There appears to be considerable public interest in having clearer definitions provided for these code-based terms as they relate to OSHA's activities and to the OSHA-related activities of manufacturers, testing laboratories, and certifiers

Some commenters have raised serious questions during the development of this proposal concerning precisely how and on what basis various entities can claim the responsibility or authority to "approve" products—as these approval requirements were developed by the voluntary standard code bodies. They also claim that this is a problem since those same code bodies were (and are) without the authority themselves to require approval, and have historically been reluctant (with some good reason) to engage directly in such testing, certification or approval activities themselves.

This Agency proposes that "acceptable" be used to characterize the status of equipment and materials which have met the testing or certification requirements contained in OSHA's safety standards. This concept of acceptability reflects the fact that the Agency, in its standards, clearly requires certification or testing of certain workplace equipment and material, but does not perform either function itself. Instead, its proposal for Part 1936 provides that the certification or testing activities may be performed by the private sector or other government agencies.

The term "approved" on the other hand is applied to situations where an agency exercises its authority to control product testing, marketability, or permanent installation. These approval requirements may or may not allow, for example, product certification by non-agency entities. Frequently, the approving agency itself conducts necessary tests before approval is given, or arranges for contracted agents or licensees to perform them. Occasionally, the role of the private sector entities—such as those OSHA is proposing to recognize under Part 1936—is highly controlled or almost non-existent.

OSHA believes that its increased emphasis on "acceptable" will allow it to maintain a sharp primary focus on the safety aspects of workplace equipment, while allowing the voluntary private sector to participate in product evaluation activities to its fullest capacity. Nevertheless, these adjustments to terminology and definitions, in themselves, do not preclude OSHA from assuming the role of product approver in future standards should the demands of workplace safety make such an agency role necessary. One clear contributor to such a decision would be demonstrated unacceptable performance by private sector entities or other government agencies in the testing or certification of products for workplace safety.

The uniform definitions being proposed by the Agency should eleminate confusion as to any possible role by testing laboratories or certification bodies in determining the compliance status of equipment or installations as far as OSHA inspections or other OSHA-sponsored voluntary compliance efforts are concerned.

Terms: Types of Laboratories

In the final rule for Part 1910, the Agency also intends to implement a uniform OSHA methodology and terminology related to its requirements for safety testing or certification of specific installations, equipment and materials.

In particular, the Agency proposes to avoid mentioning the term "testing laboratory" in its safety standards in relation to any ordinary (non-certification) testing requirements therein. Further, the use of the term "nationally recognized testing laboratory" would be discontinued also throughout OSHA's Part 1910 safety standards under this proposal, together with any direct references to UL and FM by name.

Instead, the Agench has categorically classified all UL, FM, testing laboratory, and "nationally recognized testing laboratory" terms and requirements as having been third-party certification requirements under its safety standards. The terminology in Part 1910 is therefore being adjusted to accommodate this, using a new term "qualified testing laboratory" whenever the aforementioned terms were previously used.

For example, where OSHA standards in Part 1910 now specify a "nationally recognized testing laboratory" or UL or FM, these will be converted to "qualified testing laboratory" terminology, which would be interpreted to mean a "validating laboratory" within an OHSA-recognized third-party certification program.

Throughout the Part 1910 subparts, the Agency proposes to utilize three minor variations of the "qualified testing laboratory" term. Each is defined as a validating laboratory in the third-party certification program, but each would be slightly different, either in orientation or structure, depending upon the requirements of the subpart of Part 1910 in which it is being used:

(1) Qualified testing laboratory—a validating laboratory which simply must meet the requirements in Part 1936.

(2) Qualified fire testing laboratory—a validating laboratory which meets Part 1936 requirements plus certain additional requirements derived from the standards in Part 1910 and the NFPA Fire and Life Safety Codes.

(3) Qualified electrical testing laboratory—the same as (2) above but oriented primarily towards the NFPA National Electrical Code.

This set of definitions derives from two general sources:

(1) the general understanding of the term "nationally recognized testing laboratory (NRTL)" as used—historically and currently—in consensus standards, and in OHSA standards; and

(2) the actual operational capacities and procedures of these NRTLS's today, as illustrated by UL and FM.

The Agency acknowledges that the qualities and functions included in its "qualified testing laboratory" definitions clearly differ from those normally ascribed to "testing laboratories" and those usually included as criteria in laboratory accreditation programs. However, since the term "testing laboratory" has historically been used in consensus standards, and more recently in these OSHA safety standards, this terminology would be retained for continuity. But it would be tied into the third-party certification program requirements in Part 1936 by its definition.

In summary, the proposed revisions to the nine other subparts of Part 1910 are intended to:

(1) Delete specific-name references to UL and FM;

(2) Update terminology to better reflect recent developments in national consensus standards and OSHA's standards; and

(3) Make additional "complementary changes" in the text of Part 1910 to:

(a) Establish more uniformity of terminology,

(b) Provide a better understanding for the affected public, and

(c) Facilitate reference to, and implementation of the results of, proposed Part 1936.

This proceeding will not address whether a particular requirement for testing or certification should be in effect, or whether a similar requirement should be created for any other situation covered by Part 1910. Nor will the Agency consider claims of economic burden or impact of these already-imposed standards requirements.

The changes to OSHA safety standards to be effected by this rulemaking are limited at this time to Part 1910. OSHA intends to make needed revisions to the construction standards in Part 1926, the maritime standards in Parts 1915, 1917 and 1918, and the agricultural standards in Part 1928 in subsequent proceedings. This sequence will enable the Agency to conclude the present rulemaking more speedily than if other Parts were covered. In addition, the Agency will be able to take advantage of its experience with the revised recognition system in the subsequent amendments to the other Parts.

Timing Considerations for These Changes

The timing of these changes to Part 1910 will be closely coordinated with the rulemaking on proposed Part 1936 in order to assure the continuance of current safety protection.

Rather than propose to delay the effective date of the changes to Part 1910 for several years, the Agency intends to make all proposed changes almost concurrently. To accommodate this, the Agency proposes to provide a temporary three-year "grandfather" provision for UL and FM within Part 1936. Therefore, the effective date of the revision of the nine subparts in Part 1910 will be delayed only 120 days from the effective date of the other provisions being proposed.

In this way, the Agency will have removed the offending references in its safety standards for general industry and implemented its uniform terminology for these purposes, all of which will serve as a prototype for similar activity to be initiated under its other safety standards mentioned above.

This procedure will allow the two temporarily recognized enterprises, UL and FM, to continue in their safety-related activities without pause or interruption, and give these large enterprises time to review their extensive operations against new Part 1936 requirements and to plan and prepare their applications without unnecessary haste.

In the meanwhile, OSHA will be implementing its new procedure, under Part 1936, and will be accepting and processing applications from prospective new participants.

Proposed Establishment of Part 1935

Since these changes to Part 1910, once initiated, will presumably lead to increased interest in test standards, methods and procedures, the Agency would also propose to establish a new Part 1935. Entitled "Occupational Safety and Health Test Methods and Procedures," this Part will serve as a repository or single, central source for those test standards methods and procedures which are used to comply with OSHA's standards. In the future, and on an as needed basis, applicable test standards, methods, or procedures will be set forth only in Part 1935 and then be referred to (under amended or new rulemaking) by OSHA's standards in Part 1910 and other Parts of Title 29, Code of Federal Regulations.

Consulsion

The Agency's purpose in proposing this revision is to allow an expansion of particpation by qualified organizations in the entire range of OSHA-required safety testing and certification. The Agency does not seek to control or systematize this Nation's product evaluation industry or laboratories under the guise of creating an "OSHA-recognition" system. OSHA will maintain its involvement with certifiers and testing laboratories only to the extent necessary to fulfill its statutory mandate: providing for improved safety and health in the Nation's workplaces through standards-setting and related enforcement and assistance activities.

No new product testing or certification requirements are proposed in this revision. Such requirements continue to be set out in applicable standards, such as those in Part 1910. Existing Part 1910 standards that now require approval of products or processes will continue to do so. Specific product-related requirements are not contained in proposed Part 1936 (nor were they in Part 1907).

However, the effect of the revisions proposed for Part 1910 and the proposed Part 1936 will be to greatly facilitate compliance with these previously set requirements. Oversight of the testing and certification activities of the private sector undertaken in response to OSHA's requirements may have been neglected somewhat by OSHA previously. One reasonable justification might be found in the widely acknowledged expertise and experience of UL and FM. The acceptability of these private-sector activities must now be more precisely specified and evaluated, due to the anticipated entrance of new enterprises into the OSHA testing and certification framework. Proposed Part 1936 particularly should be viewed solely as a facilitating regulation for this purpose.

Within three years after a final rule is issued, all laboratories engaged in OSHA-related testing and certification activities would begin operating at a comparable quality level—some accredited formally and others operating under equivalent requirements in third-party certification programs. This would be the direct result of the requirements being proposed here, and the combined efforts of OSHA and other currently involved agencies, public and private.

The ultimate result achieved under this proposal would be the holding of formal accreditation by:

(1) All laboratories engaging in:

(a) OSHA-related commercial testing and

(b) Testing for manufacturer certification (self-certification) of equipment and materials for workplace safety, and

(2) All validating laboratories in OSHA-recognized third-party certification programs.

This entire accreditation process required by OSHA would take approximately ten years to complete after promulgation, with the assistance of responsible private and public agencies other than OSHA.

When these proposed regulations become final rules, OSHA could routinely accept the data and results of private-sector certification and testing activity related to workplace equipment and materials, when that activity is carried out pursuant to these requirements. Further, such data and results would be acceptable regardless of whether the safety testing or certification is performed by the commercial, business and industrial sector, or by another government agency. This would thereby preserve marketplace flexibility for the private sector and the authority of any other domestic agencies to require or conduct testing or certification for safety of specified products.

III. Summary and Explanation of Proposed Regulation

A. Format and Structure

The revision the Agency proposes encompasses four related but separate standards areas:

1. *Proposed addition to Part 1910, Subpart A*, concerning valid testing and certification for OSHA purposes.

2. *Proposed revisions to nine subparts of Part 1910* (General Industry Safety and Health Standards) including:

a. Subpart D—Walking-Working Surfaces;

b. Subpart E—Means of Egress;

c. Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms;

d. Subpart H—Hazardous Materials;

e. Subpart L—Fire Protection;

f. Subpart N—Materials Handling and Storage;

g. Subpart Q—Welding, Cutting, and Brazing;

h. Subpart R—Special Industries (Telecommunications); and

i. Subpart S—Electrical.

3. *Proposed Part 1935* covering OSHA test methods and procedures.

4. *Proposed Part 1936*—replacing current Part 1907 and including five main subject areas:

a. General provisions, including purpose and definitions (Subpart A);

b. Third-party certification requirements, and the criteria and procedures for OSHA recognition of programs (Subparts B, C and D);

c. Self-certification requirements (Subpart E);

d. Requirements for accredited testing, and the criteria and procedures for OSHA recognition of laboratory accrediting agencies (Subparts F, G and H); and

e. Additional administrative requirements affecting all entities (Subpart I).

A summary of the key concepts utilized in this proposal, and the implementation schedule for the proposal, are included as Exhibits 2 and 3 respectively in Part IV of this **SUPPLEMENTARY INFORMATION.**

B. Amendments to Part 1910—Occupational Safety and Health Standards

1. *Subpart A—General*

Section 1910.7 Valid testing data and certifications for safety.

The purpose of this proposed section is to establish the requirement for valid safety testing data or certifications which OSHA will accept where requirements for testing or certification exist in Part 1910 of this title. This section would include certain of these requirements and also reference proposed Part 1936.

Paragraph (a) would reinforce current practice that employers are required to assure the safety of equipment in conformance with OSHA requirements and are required to use OSHA-specified tests. The proposal allows an employer to directly conduct these required tests, but only those tests for which it is qualified.

The paragraph also requires that any testing laboratory used by the employer, other than one under its direct control, must be accredited for such testing by an OSHA-recognized laboratory accrediting agency or system. (The requirements related to this recognition procedure are being proposed in Part 1936.)

As proposed, this requirement—that employers using commercial testing laboratories for OSHA-related testing use only those which are accredited—would become effective two years after the final rule is issued.

Paragraph (a)(5) also provides that any equipment or installation which has been certified through certification programs operating under the provisions in Part 1936 will also be "acceptable" in terms of any testing requirement in Part 1910. The proposal envisions both types of certifications—"third-party certifications" and "self-certifications"—being acceptable under these testing requirements. This would be the purpose for the "otherwise acceptable" clause in paragraph (a)(5), since there are no OSHA recognition procedures being proposed in Part 1936 for self-certification.

Note.—Self-certification is not considered comparable for safety purposes to third-party certification and shall not be substituted therefor if third-party certification is required in OSHA safety standards. However, for ordinary testing requirements in OSHA standards, a manufacturer's self-certification conducted under the provisions of Part 1936 may be used by an employer to document such testing.

Paragraph (b) sets out proposed requirements concerning the certification of products for safety.

Paragraph (b)(1) would provide that equipment could be certified in one of two possible ways, either under the auspices of a "third-party certification" program or through "self-certification" by manufacturers and vendors. However, the choice would be specifically determined by OSHA in its standards. In addition, this paragraph indicates that testing for self-certifications must be accomplished by the appropriate type of accredited laboratory, as detailed further in Part 1936.

Proposed paragraphs (b)(2) and (b)(3) reflect a requirement that all of these certifications would be done by entities other than the employer.

Under paragraph (b)(2), the employer must be able to demonstrate that the certifications were based on OSHA-specified testing and certification requirements. For OSHA's purposes, an employer would not be allowed, under paragraph (b)(3), to "self-certify" or to independently validate the certification of products destined solely for its own workplaces. However, an employer's accredited laboratory could participate in an OSHA-recognized third-party certification program to the extent permitted under the terms of the program.

Proposed paragraph (b)(4) provides that products which have been certified through OSHA-recognized third-party certification programs will also be acceptable in terms of any self-certification requirements.

The Agency welcomes comments on these particular provisions in paragraph (b) and their ramifications.

Proposed paragraph (c) provides that only the test results and certifications resulting from the requirements of this section and this Part 1910, and Parts 1935 and 1936, would be routinely acceptable for OSHA compliance, purposes, to the extent that the facilities and equipment are properly installed, used and maintained in workplaces. The Agency notes that the text of this paragraph allows it leeway not to accept automatically these testing data or

product certifications should safety-related circumstances warrant.

Paragraph (d) would limit these requirements and procedures to OSHA safety standards only, by excluding their application at this time from the health standards requirements in Subpart Z of this Part.

As regards employer-conducted ordinary testing done in employer-controlled laboratories, as described in paragraphs (a)(2) and (a)(3), this proposal does not require that the employer-controlled laboratory be accredited, since this is not required currently. However, such an accreditation would put the employer laboratory on a par with others which conduct similar testing, and would seem desirable both to employers and employees, and to OSHA.

The Agency welcomes comments in this regard. In particular, should an OSHA regulation require the accreditation of all such employer laboratories? What would be its rationale? Would there be an economic or social benefit anticipated thereby? As an alternative could another type of provision be added which would more clearly encourage accreditation, rather than require it? If so, within what practical time period?

Lastly, as regards paragraph (a)(4), the Agency requests comments on whether it should concern itself at all with requirements for, and procedures related to, the accreditation of laboratories for product testing.

Proposed paragraph (a)(4) would restrict OSHA-related commercial testing to those laboratories which have acceptable accreditation, i.e., formal accreditation for that testing from an agency recognized by OSHA. The accreditation requirement would begin two years after the final rule date.

Is such an across-the-board limitation still considered necessary for workplace safety purposes? Could the sought-after valid test be assured through other means? Would such other means be compatible with existing Agency standards and testing requirements, and with the OSH Act itself?

Is there any other mechanism available which would enhance product safety testing, but would (1) have less direct cost impact on individual testing laboratories subject to this accreditation requirement, or (2) entail less involvement federally, or at least by OSHA, in this aspect of product evaluation industry activity?

If the proposal were implemented, would overall employer compliance be facilitated or hindered by this requirement being placed on these commercial service providers? Would employee safety be increased, diminished, or unaffected thereby?

2. *Related Subparts in 29 CFR Part 1910*

(a) Subpart D—Walking-Working Surfaces.

Section 1910.28 Safety requirements for scaffolding would be revised to delete the names of Underwriters Laboratories (UL) and Factory Mutual Engineering Corporation (FM) from four paragraphs in the standard. It is proposed to use a new term "Qualified testing laboratory" in their stead.

The four paragraphs proposed for revision—(f)(2), (g)(3), (h)(2), and (i)(1)—would contain new phasing which would require that the particular items of equipment mentioned in each be certified as conforming to OSHA-designated standards, with testing by a qualified testing laboratory.

The Agency believes that these changes are appropriate. The terminology currently in these paragraphs includes such phrases as "* * * machines that meet the requirements of * * *," "* * * such machines shall be of a type tested and approved by * * *," and "* * * shall be of a type tested and listed by * * *" In the past, OSHA has interpreted these terms as requiring more than "testing" per se, and now proposes to treat them as requiring OSHA-recognized third-party certification.

Therefore, the Agency proposes to simply substitute its third-party certification program requirements, as contained in proposed § 1910.7 and Part 1936, using the "Qualified testing laboratory" definition as the bridge to third-party certification.

Section 1910.21 Definitions would be amended to include a new paragraph (f)(37) which would define this new term. Qualified testing laboratory would mean the validating laboratory in a third-party certification program which has been recognized by OSHA under the procedure in Part 1936.

The Agency requests comments on this approach to the requirements in its scaffold standard in Subpart D, and any recommendations for improved text and uniformity for these four paragraphs.

(b) *Subpart E—Means of Egress.*

Section 1910.35 Definitions, would be revised in paragraph (h) to define "Approved" as being acceptable to the Assistant Secretary for Occupational Safety and Health.

This definition is being revised in order to conform to a proposed uniform definition of Approved which will be used throughout the OSHA safety standards in Part 1910.

Also, new paragraphs (k) and (l) would be added to § 1910.35 to provide definitions for "Acceptable" as used in the proposed definition of Approved, and "Qualified fire testing laboratory" as it is used in the proposed definition of Acceptable.

Acceptable would be defined in paragraph (k) to require demonstration of third-party certification for any products specified in Subpart E as required to be Approved. That certification would be based on three criteria:

(1) Being free from recognized hazards,

(2) Being in conformance with applicable standards,

(3) Being suitable for installation and use in accordance with Subpart E requirements.

The validating testing would be controlled by a "Qualified fire testing laboratory" as part of an OSHA-recognized third-party certification program.

Paragraphs (k)(ii) and (k)(iii) would propose to provide alternative approaches to acceptability when there is no OSHA-recognized certification program available for these Subpart E requirements.

In (k)(ii), OSHA would accept documentation of action taken by another Federal agency to accept equipment or installations after appropriate testing.

In (k)(iii), OSHA would accept documentation on custom-made and one-of-a-kind equipment which has been self-certified by its manufacturer, or field-certified by a qualified fire testing laboratory.

"Qualified fire testing laboratory" would be defined in paragraph (l) as a validating laboratory in an OSHA-recognized third-party certification program which is independent of manufacturers and consumers, which can properly examine equipment for safety, and which can, to the extent needed, exercise control over or provide services related to experimental testing, factory inspections of products, field usage surveys (with provisions for product recalls if needed) and controlling the use of certification marks (or other procedures).

The proposal for Subpart E reflects the Agency view that the approach for this subpart must be compatible with its proposal for Subpart H—Hazardous Materials and Subpart L—Fire Protection. The Agency requests comments on its approach to these requirements in its fire-related means of egress standards in Subpart E, and any recommendations for improved text for the paragraphs being revised or added.

(c) *Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms.*

Section 1910.67 Vehicle-mounted elevating and rotating work platforms would be revised in paragraph (b)(2). The paragraph deals with field modifications of "aerial lifts," and reads, in part, "provided the modification has been certified in writing by the manufacturer or by any other equivalent entity, such as a nationally recognized testing laboratory * * *"

The proposal would substitute "qualified testing laboratory" for the term "nationally recognized testing laboratory," which is not defined in Subpart F.

The proposal would add new paragraph (a)(10) to provide the definition for "Qualified testing laboratory" as the validating laboratory of an OSHA-recognized third-party certification program.

The Agency notes here that paragraph (b)(2) of § 1910.67 clearly requires certification but that it also allows either of the two methods (third-party or self-certification) to be used.

The Agency solicits comments on whether to further amend paragraph (b)(2) in order to avoid the possibility of a future problem in defining "other equivalent entity." Under the terms of proposed § 1910.7 and Part 1936, the entirety of this requirement could be contained in revised text which would read "certified in writing either by the manufacturer or by a qualified testing laboratory, to be in conformity with all applicable provisions of ANSI A12.2–1969 and this section * * *" Would such terminology be more appropriate, especially since it would parallel paragraph (iii) in the proposed uniform definition of Acceptable?

(d) *Subpart H—Hazardous Materials.*

Revision is proposed for certain definitions in the standards on hydrogen (§ 1910.103), flammable and combustible liquids (§ 1910.106), spray finishing using flammable and combustible materials (§ 1910.107) and dip tanks containing flammable or combustible materials (§ 1910.108).

Paragraph § 1910.103(a)(ii) would redefine "Approved" as acceptable to the OSHA Assistant Secretary, and paragraph § 1910.103(a)(iii) would delete "Listed." The same changes are proposed for Approved and Listed in paragraphs § 1910.106 (a)(35) and (a)(36), § 1910.107 (a)(8) and (a)(9), and § 1910.108 (a)(3) and (a)(4).

All revised definitions of Approved would delete the names of UL and FM. In addition, the current definition in § 1910.103(a)(ii) (hydrogen) may have suffered a typographical error earlier, in that it reads "listed or approved by the following nationally recognized testing laboratories:" UL and FM. This is compared with § 1910.106(a)(35) which reads "approved, or listed by at least one of the following nationally recognized testing laboratories:" UL and FM. In fact, each of the four definitions of Approved reads slightly differently. Resolution of this situation is proposed in this rulemaking by using the new Approved definition and by a proposed new section § 1910.113.

Section 1910.113 Acceptability-related requirements is a new section being proposed for Subpart H. Paragraph (a) proposes the same definition for "Acceptable" as described under Subpart E—requiring third-party certification, with testing by a qualified fire testing laboratory—except that it also refers to "installations" as well as "equipment."

Paragraph (b) proposes a definition of "Labeled." Labeled would refer to equipment to which a mark (label or symbol) has been attached indicating conformance with appropriate standards or performance in a specified manner. Labeling is a procedure in a third-party certification program controlled by the validating laboratory (the "qualified fire testing laboratory").

Paragraph (c) proposes a revised definition of "Listed" to replace those deleted in §§ 1910.103(a)(iii), 1910.106(a)(36), 1910.107(a)(9), and 1910.108(a)(4). Listed would refer to equipment and materials included on a list published by the qualified fire testing laboratory (or the OSHA-recognized third-party certification program). The listing indicates that the equipment conforms with appropriate standards or is suitable for use in a specified manner. Listing is an activity in a third-party certification program which provides a public record of product status under these programs.

Both paragraphs (b) and (c) were derived from similar definitions of Labeled and Listed contained in Subpart L—Fire Protection (§ 1910.155(c)(3)) and Subpart S—Electrical (§ 1910.399 (a)(75) and (a)(77)), and incorporate revisions as also proposed herein. The Agency intends that uniform definitions for Labeled and Listed throughout OSHA's safety standards result from this rulemaking.

Paragraph (d) proposes to use the same definition for "Qualified fire testing laboratory" as was described under Subpart E.

(e) *Subpart L—Fire Protection.*

Section 1910.155 Scope, application and definitions applicable to this subpart would be revised to amend paragraph (c)(3) to conform to the previously stated uniform definition of Approved.

In addition, four new paragraphs are proposed for § 1910.155(c) to include therein the uniform fire-related definitions for Acceptable, Labeled, Listed, and Qualified fire testing laboratory, as described previously.

(f) *Subpart N—Materials Handling and Storage.*

Section 1910.178 Powered industrial trucks, in this subpart, would be revised in paragraph (a)(7) to define "approved industrial truck" to mean a truck which has been certified for its intended use after having been successfully examined or tested for fire safety purposes by a qualified fire testing laboratory, using OSHA-specified standards for this purpose.

This would delete the references to UL and FM. In addition, it would revise the current reference to "using nationally recognized testing standards."

Proposed new paragraph(a)(8) would define Qualified fire testing laboratory using the uniform definition previously described.

Another proposed revision, for paragraph (a)(3) of § 1910.178, would revise the first part of this paragraph, and delete the remainder. The revision proposes that approved trucks bear a mark indicating certification, with testing by a qualified fire testing laboratory. The remainder of the paragraph, including the reference to paragraph 405 of ANSI standard B56.1–1969, is considered now to be unnecessary and is proposed for deletion.

Subpart N has never included definitions for Acceptable, Approved, Listed and Labeled. Since the ANSI standard dates back to 1969, with subsequent adoption by OSHA, the Agency believes that a mechanism is in place and operating sufficiently well that it is unnecessary to add these definitions here. Also, since the requirement directly affects only one clearly identifiable product or product class, there may be no apparent need to include the various acceptability options available through the uniform definition of Acceptable being proposed for use elsewhere in Part 1910. The Agency would welcome comments and suggestions on this abbreviated approach being proposed for Subpart N.

(g) *Subpart Q—Welding, Cutting, and Brazing.*

Section 1910.251 Definitions would be revised to substitute the uniform definition of Approved in paragraph (b), to redesignate the existing paragraph (c) as new paragraph (e), and to add, as

paragraphs (c) and (d), the previously discussed uniform definitions of Acceptable and Qualified fire testing laboratory.

(h) *Subpart R—Special Industries. Section 1910.268 Telecommunications.* Paragraph (g)(2) (Telecommunication lineman's body belts, safety straps and lanyards) would be revised to substitute the uniform term "qualified testing laboratory" for the current "nationally recognized testing laboratory" in paragraph (g)(2)(i)(A). The same adjustment would be proposed in paragraph (j)(4)(iv)(G) (Derrick trucks and similar equipment).

Also, paragraph (j)(4)(iv)(G) includes the term "or other equivalent entity" twice. The Agency noted this term in the discussion of Subpart F, and requests comments again on whether to delete the phrase.

Finally, the Agency proposes to add a new paragraph (35a) defining "Qualified testing laboratory" as the validating laboratory in an OSHA-recognized third-party certification program.

(i) *Subpart S—Electrical. Section 1910.399 Definitions applicable to this subpart* is proposed for revision as follows:

(1) Paragraph (a)(1) redefines Acceptable using a definition parallel to the one currently included, but with some major differences:

(*A*) It deletes the illustrative examples of UL and FM.

(*B*) It substitutes the term "qualified electrical testing laboratory" for "nationally recognized testing laboratory."

(*C*) It establishes that "certification" will be the method of indicating that an electrical product has been "accepted, or certified, or listed, or labeled, or otherwise determined to be safe."

In addition to these definitional changes, paragraph (i) of Acceptable also indicates that this certification will be "third-party certification" through the required use of a qualified electrical testing laboratory.

The conditions in paragraph (ii) related to acceptability in situations where installations or equipment are not being tested or inspected under an OSHA-recognized third-party certification program would remain essentially the same as now. However, the wording would reinforce the need for suitable testing and documented acceptance by the non-OSHA agency involved.

The potential exception in paragraph (iii) for custom-made equipment still allows for self-certification by the manufacturer, but would also allow the employer the optional use of a third-party certification program's "qualified electrical testing laboratory" to determine and certify conformance of such equipment or installations.

The Agency notes that the definition of Acceptable as used for electrical safety purposes closely tracks that used for fire safety (ref: Subpart E discussion). However, there is one substantial difference in paragraph (ii) of these definitions. OSHA's electrical safety standards historically have recognized acceptances made by State and local agencies, while OSHA's fire safety standards have not. These proposed revisions maintain this difference. The Agency would welcome comments on this provision in the electrical safety standards.

(2) The uniform definitions of Approved, Qualified electrical testing laboratory, and Labeled and Listed (modified to reflect the "Qualified electrical testing laboratory" term) are also being proposed for inclusion here.

(3) Finally, the current term "Approved for the purpose" related to specific equipment would be replaced by a proposed term "Identified." This would be defined as equipment which was recognized as suitable for a specific purpose, function, use, environment, or application, as described in Subpart S of Part 1910, after testing and determination as such by a qualified electrical testing laboratory.

C. Part 1935—Occupational Safety and Health Test Methods and Procedures

OSHA is proposing to add a new Part 1935 to Title 29 of the Code of Federal Regulations. The purpose of this Part is to eliminate the need for repeated incorporations by reference of occupational safety and health test methods and procedures. It is also intended that this Part be used in order to avoid including lengthy or detailed test methods and procedures within the various occupational safety and health standards themselves. This proposal would establish this new Part for these purposes, but would leave it vacant at this time.

By including all test methods and procedures in Part 1935, OSHA may simply reference these test methods when any OSHA standards (such as the OSHA General Industry, Construction and Maritime Standards) deal with this type of requirement, rather than duplicate them within those standards. The Part can also serve as a place to include American Society for Testing and Materials, American National Standards Institute and National Fire Protection Association and other consensus standards, allowing the text of the OSHA standards to reference these standards. This avoids the need to repeat the consensus standards within the OSHA regulations. This particularly attractive, since many of these consensus standards are presently referenced numerous times in the present standards.

The Agency requests interested persons to comment on the advisability of establishing this part in which to include test methods and procedures.

As a related question, OSHA is aware of claims by others that certain safety standards lack the necessary specificity as to performance standard or test standard/method against which each product or material is required to be tested or certified for safety. In addition, some have questioned in the past whether the Agency can place upon employers a standards-related compliance requirement, i.e., a test standard, method or procedure, which has not been developed through the standards-setting process of section 6(a) or 6(b) of the OSH Act.

The Agency firmly believes that this required safety testing and certification activity must be based on requirements expressed in OSHA standards, or must be conducted in accordance with other specifications or with directives issued in writing by OSHA, in order that the products may be "acceptable." In certain circumstances, this could entail the use of consensus or other test standards which OSHA as of yet has not formally adopted or incorporated by reference. Comments are solicited on this question.

D. Part 1936—OSHA Recognition of Testing-Related Agencies and Certification Programs

1. *Subpart A—General Provisions*

Section 1936.1 Purpose and scope. Proposed § 1936.1 prescribes requirements and procedures which should result in valid certification of equipment and materials when safety certification is required in OSHA standards, and valid testing data when testing is required. This regulation would apply to certification programs and laboratory accrediting agencies (and indirectly to testing laboratories) that wish to participate in the process of certifying equipment or materials as safe, or performing tests, when certification or testing is required by OSHA safety standards.

Those requirements for certification or testing are contained in the safety standards located in Parts 1910, 1915, 1917, 1918, 1926 and 1928 of this Chapter; they are not contained within proposed Part 1936.

Under this proposal, OSHA would establish two categories of recognized entities:

(1) Third-party certification programs, and

(2) Laboratory accrediting agencies and systems.

Each would be evaluated against criteria established in this regulation under a procedure which allows each applicant to apply for recognition and have its program evaluated by OSHA and the public for this purpose.

While this regulation would bind all "recognized" organizations, and other enterprises associated with them or accredited by them, to specific activities and performance requirements for the sake of workplace safety, the regulation itself is voluntary. No one would be required to apply or to continue participating in Part 1936 practices. Nor are any requirements placed directly upon employers under this Part.

OSHA recognition would not relieve the recognized entities from the necessity of observing and complying with existing Federal, state, and local laws, ordinances, and regulations that may be applicable to their operations, including consumer protection and antitrust laws.

In this regard, the Agency specifically requests comments on the following questions:

(1) What effects upon state and local laws, if any, would result from implementation of the proposed rule?

(2) Are there benefits that flow from present industry practice that would be lost if Part 1936 were promulgated as presently proposed?

Since organizations recognized under this proposal may very well include foreign entities, the Agency feels required to provide considerable procedural detail throughout the regulation—details which may seem fairly obvious or simply the usual order of business for many participants. Such detailing may have an additional advantage, however, to domestic operators should questions of reciprocity in trade-related procedures arise in the future.

Both foreign and domestic entities are affected by proposed Part 1936. In this regard, the Agency requests comments on whether the proposed procedures and practices are sufficiently compatible with the activities of domestic private sector and national consensus organizations, and other Federal agencies, as regards Title IV (on the standards code) of the Trade Agreements Act of 1979 (the GATT Agreements on Technical Barriers to Trade).

In addition, the Agency requests information on existing international programs for the accreditation of third-party certification programs and of testing laboratories (testing/inspection bodies). What is, or what should be, their relationship with domestically-operating third-party certification program accreditors (e.g., American National Standards Institute) and laboratory accreditors (e.g., National Bureau of Standards' NVLAP)?

What role, if any, would the International Laboratory Accreditation Conference (ILAC) be expected to perform? What use should be made of bilateral agreements on laboratory accreditation (e.g., the recent NBS agreement with Australia's NATA)? Are there lists of accredited foreign laboratories which should be accepted by the United States? Would this acceptance be automatic or as part of a safety testing laboratory accreditation procedure? How would a private sector laboratory accrediting agency engage in such bilateral activity? What provisions should be made concerning laboratories which operate multinationally, or through subsidiaries or with cooperating foreign laboratories under contract?

For certified equipment, are the concepts and arrangements reflected in the current voluntary standards on certification (ANSI Z-34), and the ANSI accreditation system for third-party certification programs, pertinent to the product certification activities in other nations?

Does this Agency's proposal, which reflects many domestic considerations, easily apply to the certification systems used by other nations, or to any related international systems operating today? Similarly, are there bilateral agreements in the certification program area, and are there foreign or international certification systems which should be accepted automatically by the United States?

What provisions would be made for third-party certification programs where the validating laboratory could be a third-party testing/inspection body with multinational operations? Would domestic recognition of that certification/validation program by this Agency be applicable to all operations, no matter in which nation they might be conducted?

In summary, in this Agency's proposal sufficiently compatible with existing working arrangements on trade questions, nationally and internationally? Conversely, have considerations focused on worker safety and health been adequately provided for throughout these trade-related activities or are additional actions by this Agency required?

Section 1936.2 Definitions. This section includes definitions of terms used in more than one section of the regulation; terms used only once are defined where they appear in the text. The definitions of numerous terms, such as "accreditation," "certification," "third-party certification program," and "validating laboratory," have been distilled from several descriptions of each term found in publications of the testing and certification community, Federal and state governments, and international organizations.

Commenters have noted that it is perhaps in the area of "certifiation" where the concept and it proposed definitions are most susceptible to public misinterpretation or misunderstanding. Some questioners have asked whether such terms as "certifier," "to certify," and "third-party certification program" are perhaps too circular in their definitions. The Agency has attempted to distill the essence of the multiple definitions utilized by the voluntary standards sector, the testing and certification community, Federal and State governments, and international organizations.

But the Agency has found that there does seem to be a certain imprecision in certification concepts and standards documents at this time. For example, the Agency would prefer to use the term "validation" when describing the type of activity performed by the third party in third-party certification programs. Public comment is requested in regard to determining a validator's proper role in this process.

OSHA also feels that there remains something as yet not fully explored or described within the scope of a manufacturer's responsibility an activity under certification standards, whether self-certification or third-party certification. For example, a more comprehensive concept of "quality assurance/control" tied directly to the production process would be most welcome. Public comment is requested to assist the Agency in regard to determining a manufacturer's propoer role in this process.

The Agency welcomes comments on these definitions and others, to clarify and define all activities involved in testing and certification which are included in this proposal.

Note.—The discussion in Exhibit 1 is intended to provide an additional frame of reference against wihch the definitions, relationships, requirements and procedures included in the proposed rules can be examined. The Agency particularly requests

comments on the definitions in the proposed rules in order to assist it in attaining the highest degree of adequacy, appropriateness and clarity possible.

Section 1936.3 Prerequisites for valid safety certification. This section proposes that the two types of possible certification (third-party and self-certification) must meet the OSHA-specified requirements in this Part when used.

This section specifies that for OSHA-related third-party certification, testing is limited to laboratories participating in OSHA-recognized third-party certification programs. For self-certification, testing will be limited to the appropriate type of testing laboratory (as further described below in Subpart E). All certification testing would be required to follow OSHA specifications.

Three additional certification-related requirements are proposed:

(1) Validation testing and controlled marking,

(2) Suitable follow-up program, and

(3) Overall system control and prevention of abuse.

Paragraph 1936.3(b) states that it applies where certification is "mandated or allowed" by OSHA standards. The reason for a reference to situations in which certification is "allowed" it to permit certification under an OSHA-recognized third-party certification program to be uncontestably acceptable in any test-requirement situation.

2. *Subpart B—Third-Party Certification—OSHA Requirements*

Section 1936.100 Acceptable third-party certification. This section establishes that, where third-party certification is required or allowed by OSHA standards, only equipment certified through third-party certification programs recognized by OSHA shall be acceptable.

Paragraph (b) states that, to be recognized, a third-party certification program must conform to sections 6 and 7 of the ANZI Z34–1982 standard, operate according to publicly-available written procedures, include a qualified and experienced validating laboratory which performs its validation activity, and adequately address all product-related requirements and meet the criteria set forth in Subpart C of Part 1936.

Paragraph (c) proposes that the Agency retain a discretionary right to recognize programs which will achieve the intended and desired results although the program may deviate insubstantially from the four specific requirements included under paragraph (b) above.

Paragraph (d) proposes future accreditation requirements related to components of recognized third-party certification programs.

Initially, OSHA's review of a certifier's application for approval under Part 1936 will include the evaluation of a third-party certifier's validating laboratory and any other laboratories which are considered "critical" to the validation procedures used in the program, as well as its system for evaluating (or "accrediting") any and all other participating laboratories.

Paragraph (d) would provide, however, that effective approximately July 1, 1990, all validating laboratories, and any "critical" laboratories, must have gained accreditation from an OSHA-recognized laboratory accreditation system, under § 1936.301, before the third-party certification program applies for either initial or renewed OSHA recognition.

As regards a manufacturer's laboratory which performs testing under the auspices of a recognized third-party certification program, paragraph (d)(1) requires the accreditation of only "critical" laboratories. These are defined as any which the program has identified as performing specialized or unique tests critical to the validation procedure used in that program. (For that reason, "critical" laboratories will have been evaluated previously by OSHA, particularly as part of the application review procedure.) This required accreditation will allow OSHA to discontinue these evaluations of "critical" laboratories, including subcontracted laboratories.

The proposal does not require that non-critical manufacturer laboratories be accredited at any time. The Agency acticipates that these facilities will be evaluated initially, and continually, by the third-party certification programs themselves. It expects that each laboratory will continue to meet the general laboratory evaluation criteria utilized by the recognized program or its participation will have been terminated by that program. Based on these assumptions, the Agency believes that these participating manufacturer laboratories will operate at an acceptable quality level and that the need for them to obtain formal accreditation (with its accompanying costs) is not demonstrated.

Nevertheless, in a sense similar to the situation with employer laboratories performing testing, the accreditation of manufacturer testing laboratories being utilized in third-party certification programs would put them on a par with others which conduct similar testing. In addition, there is nothing in this proposal which would prevent a third-party certification program from requiring, on its own, the formal accreditation of all participating testing laboratories, whether critical or non-critical, whether manufacturer-controlled or independent. The Agency welcomes comments in this regard.

Paragraph (d)(1) proposes that effective approximately July 1, 1993, each validation program itself must also have been accredited, but within a system yet to be determined. Although such system may not yet exist, OSHA anticipates that a consensus development will occur in which ANSI or another appropriate group will develop final criteria for evaluation and accreditation of such programs before the effective date. The ultimate result being sought is to totally remove OSHA from any role in the accreditation of laboratories or certification programs, either formally or informally.

The Agency is proposing an approximate 10-year phase-in for this requirement in order (1) to allow the Agency to complete the initial series of recognitions which will be required to make its new system operational, and (2) to avoid the impact of any delay by the private sector or the national consensus bodies in the final development of accreditation programs for this distinct category of testing/certifying organization.

Section 1936.101 Temporary recognition of certain certification programs. This section proposes to provide temporary recognition to UL and FM for up to three years after promulgation.

Paragraph (a) would have the effect of transferring the written recognition now included in the various subparts of Part 1910 to Part 1936. It would establish a termination date for the current situation, while allowing a reasonable transition period for these two key organizations.

The Agency expects that these two enterprises can easily complete the recognition process within the period allowed. The maximum time projected for a final decision on recognition (including the public review and comment period, and a hearing) is approximately 18 months, with the minimum being four to six months.

This period also would allow the Agency the opportunity to initially process applications from new participants which presumably will be less extensive than those which it anticipates will be submitted by UL and FM.

Paragraph (b) would provide for the automatic excision of this section from

the Code of Federal Regulations four years after its issuance as a final rule. This would serve to guarantee that this temporary recognition provision would have a fixed term, and to assure that the names of UL and FM, if recognized, would thereafter appear only with other recognized colleagues in Appendix D to Part 1936.

Comments are requested from the public, particularly on the time period being proposed.

3. *Subpart C—Third-Party Certification—Criteria for Validation Activity*

Section 1936.110 Capability and competence. This section includes minimum criteria which all applicant programs must meet to be considered for OSHA recognition. These criteria are based on national consensus documents and international guides.

They include: a direct relationship between the program's certification capability and the requirements of OSHA standards; demonstrated experience; documented testing and certification procedures; a master file of related OSHA standards; ample facilities and equipment; a legally recognized organization with independence from producers or vendors; capability to evaluate related testing facilities and quality control programs being used in the program; preparation of written test reports; experienced personnel and adequate staff; publications system; and other capabilities, including calibration and records management.

The Agency also request public comment and suggestions concerning the criteria for (1) experienced personnel and adequate staff and (2) financial security, as each relates to the operation of third-party certification programs. If the proposed criteria are too restrictive, as some have claimed, how should they be amended?

Section 1936.111 Identification and control of certified equipment. Proposed § 1936.111 includes criteria related to operational aspects of product certification.

Paragraph (a) requires a registered certification mark and mentions necessary characteristics such as coding, non-transferability, and unit application.

Actual physical control of the mark is covered under paragraph (b). This also proposes that the program alone must make determinations on manufacturer compliance and that each program must include certain due process provisions.

Paragraph (b) also addresses various actions which OSHA understands to be integral to efforts by third-party certification programs to avoid misuse of the mark and to assure continued equipment safety.

The Agency requests comments on whether notifications to purchasers concerning nonconforming items, with recall action also possible, are now encompassed under the terms of contractual arrangements between the manufacturer and existing third-party certification programs. If they are not, should they be? If they are or should be, what is their rational? Whether they are or not, should OSHA specify such action here?

Paragraph (c) provides detail on the contents of the writen certification reports expected for each product, and ensures that copies can be made available to OSHA when requested.

Paragraph (d) addresses follow-up activity, which may vary by the type of product and the specifications in the standard being used. The practices involved may also vary depending on the certifying organization's procedures and practices.

In most situations, follow-up will include appropriate sampling of actual products at preplanned intervals by factory inspection, field surveys, or other audit techniques. It would also include inspection and audit of product engineering and production facilities processes and procedures. The follow-up requirement includes front-end testing and monitoring for newly participating manufacturers (as opposed to new products). Finally, all follow-up would be expected to include provisions to investigate actual product failures, with a written report available for OSHA if requested.

While OSHA is not formally proposing this at this time, comments are also requested on whether the Agency should establish an additional criterion for the validation activity which would reflect a proposed requirement that materials and components certified through one OSHA-recognized third-party certification program be acceptable to other such recognized programs, without retesting or recertification.

Under § 1936.111, a proposal as to how to handle the question of certifications acquired through other programs could be required from each third-party certification program as part of its application, and would be subject to review and comment on a case-by-case basis in the Subpart D procedure (Section 1936.121—Review and decision process).

As an alternative, this requirement could be placed straightforwardly in § 1936.3. However, the Agency believes that while there is a certain logic to this alternative (following from the basic "valid testing data" and "valid certification" premises upon which this proposed Part 1936 is based), this provision would be more germane, and more easily resolvable, if it were included in this section.

4. *Subpart D—Third-Party Certification—Procedure for OSHA Recognition of Programs*

Section 1936.120 Applications. This section indicates that persons or organizations conducting existing third-party certification programs may apply to OSHA for recognition. No Federal form will be required, but the applicant will be expected to provide sufficient information for a decision to be made. Technical details include a filing address and information on amending or withdrawing applications once submitted.

Section 1936.121 Review and decision process. The Agency proposes a detailed regulatory procedure for agency technical review and public review and comment on all applications submitted under this Part.

This procedure encompasses a provision for written acceptance of applications in paragraph (a) and a review for sufficiency of the information in the initial application in paragraph (b).

Evaluation of the application under paragraph (c) will be based on onsite surveys of (1) administrative and technical capability and (2) testing facilities and quality assurance practices. The evaluation protocols will be based on national consensus documents and/or international guides, adapted by OSHA to reflect product requirements or any other valid special conditions. Each onsite review will be documented with a written report which will accompany the application. Contractor personnel or agency staff may be used by OSHA for these purposes.

Paragraph (d) provides for internal agency review of the completed application and written survey reports. Each application would be reviewed to assure adequacy and to project anticipated performance by the applicant. For potentially negative decisions, applicants will be notified and allowed to submit amendments.

A concept of substantial compliance is being proposed as the norm for decisionmaking on these applications. The quantity and quality aspects of the application and the results of the two onsite surveys would be compared against the OSHA requirements and criteria in Subparts B and C of this Part.

Substantial compliance would require general adherence to the typical pattern required in Subparts B and C, and a projected performance level which would meet the requirements associated with acceptable product certification. The Agency would retain the flexibility to recognize third-party certification programs which deviate slightly from the criteria generally required.

The Agency requests comments on this proposed review and decisionmaking process. In particular, comments on the appropriateness of decisionmaking within an "adequacy" context as it relates to these applicant enterprises are welcomed. Is the Agency's anticipation that the programs of most applicants may exceed its requirements and criteria a reasonable one? It it is, would that justify more stringent requirements or more criteria, or more demanding and complicated ones?

The Assistant Secretary will make a preliminary decision under paragraph (e) on recognition, positive or negative. This then will be published in the **Federal Register** for public review and comment. States operating approved State plans and other Federal agencies also will be notified of this **Federal Register** action.

Paragraph (f) provides for a 60-day comment period and requires that comments be submitted in writing. Any non-OSHA entity, including the applicant, may submit such comments.

Absent negative comment (in relation to the effect of the intended action), the Assistant Secretary would make a final decision under paragraph (g). If the comments include public objection, the matter will be referred to an Administrative Law Judge of the Department of Labor for an expedited hearing and decision on the factual basis and merit of the negative comment. This record will be referred back to the Assistant Secretary for a final decision, which will complete agency action on the application.

Section 1936.122 Terms and conditions of recognition. Paragraph (a) of this section provides that OSHA will give the recognized third-party certification program a written letter, detailing the scope of the recognition, any special conditions imposed, and the dates of the five-year recognition period.

Paragraphs (b), (c), and (d) address renewals, expansion of recognition to new areas, and voluntary terminations.

In paragraph (e) provision is included for possible revocation for cause by OSHA, including provision for due process notifications to the recognized entity.

Section 1936.123 Cooperative agreement with OSHA. This section provides that the recognized entity will enter into a no-fee written arrangement with OSHA, under paragraph (a), to organize and facilitate routine activities between the two parties.

Termed a cooperative agreement, it would address situations and conditions pertinent to the certification-related activy of both OSHA and the recognized program but extraneous to the question of recognition, both in the application and review process, and in the actual recognition letter. (A tentative model text for such an agreement is provided as Exhibit 4 in Part IV if the **SUPPLEMENTARY INFORMATION.**)

The Agreement would provide the focus for the continuing development of techniques and activities in the testing and certification arena, and will signify OSHA's continuing commitment to these safety-related processes. Matters suitable for specification under the agreement are mentioned in paragraph (b) and would include such matters as voluntary reporting and cooperative data exchanges, special studies, and proficiency testing program arrangements. Paragraph (c) would require the recognized entity to allow unscheduled reviews or audits of its laboratory by OSHA, an activity not now specified clearly in national consensus and international documents.

Paragraph (d) would provide for a term of five years for the agreement, with one extension.

The Agreement would also be included as a factor for evaluation in future renewals or expansions of recognition by OSHA. The provisions of proposed paragraph (e) would allow OSHA to renew its recognition of a third-party certification program with which it has a cooperative agreement for a second five-year period, without having to undertake the formal procedures of § 1936.121. Paragraph (e) also would allow expansion of the scope or area of program activity similarly during that period of agreement.

The special conditions set forth in paragraphs (d) and (e) appear justifiable in the atmosphere of close cooperation envisioned, and would avoid procedural costs to government and recognized programs while maintaining a timely review and reaffirmation cycle.

Proposed paragraph (f) would limit the period of the initial agreements to be developed with UL and FM to a period of no more than three years. This tracks the three-year temporary recognition provided under § 1936.101(a). A new agreement would then be negotiated, and a new agreement cycle would begin. Paragraph (f) would also be excised automatically after four years under the provisions of § 1910.101(b).

The Agency specifically requests comments on this cooperative agreement concept. In particular, would the alternative—all possible requirements, criteria, procedures and practices specifically detailed in Federal regulations (29 CFR Part 1936) and specified in the recognition letter in § 1936.122(a)(1)—be cost and program effective? Would any other no-fee, documented mechanisms—besides correspondence files—be available for these purposes, including public access to records?

Section 1936.124 Alternative procedure for currently accredited programs. This section would make special provision for third-party certification programs which hold accreditation from the American National Standards Institute (ANSI). Paragraph (b) indicates that most procedural activity would be waived on an application received from an ANSI-accredited program, but that the public review and comment activity under §1936.121(f) and the decisionmaking procedures under §1936.121(g) will be followed for these applications.

Applicant use of the alternative procedure proposed here is not mandatory. An eligible applicant may opt not to use it and to use the regular procedure instead. On the other hand, an eligible foreign applicant might find the ANSI-first approach more cost effective.

The Agency notes that this special provision for applicants would not require OSHA to engage in any direct relationships with ANSI in this regard. Accreditation by ANSI is a private-sector matter between ANSI and third-party certification programs, serving a marketplace function.

The Agency specifically requests comments here on its proposed special procedure and the relationship between ANSI accreditation and OSHA recognition of third-party certification programs.

5. *Subpart E—Manufacturer Certification—OSHA Requirements*

Section 1936.200 Acceptable self-certification. This section details OSHA's proposed requirements for acceptable self-certification, when self-certification is required or allowed by OSHA standards. While not required by OSHA now, self-certification does have potential for increased use, especially in OSHA-required testing and in conjunction with properly accredited testing laboratories.

Acceptable self-certification would require:

(1) Conformance to ANSI Z34.2–1980;

(2) Authorization by an OSHA standard;

(3) A documented quality assurance/control system; and

(4) Use of an accredited testing laboratory.

The requirement that all laboratories involved in OSHA-related testing for self-certification be accredited would become effective two years after the final rule is issued.

A manufacturer's laboratory could provide the testing for its self-certification program, if accredited. In this situation, OSHA would rely upon the requirement in the national consensus standard (ANSI Z34.2–1980) and international guides that a written conformance declaration be prepared for the product being self-certified, combined with a proposed agency requirement in Part 1936 that testing for self-certification purposes be conducted only in accredited laboratories according to testing requirements in OSHA's standards.

In order to facilitate employer compliance assurance, a self-certifying manufacturer or vendor would be expected to provide the employer (as the purchaser) with a copy of a "conformance declaration" required by ANSI and international standards, and described in § 1936.201. Presumably a single such declaration would be prepared in writing by the manufacturer, and then copies could be made and supplied when needed.

Note.—Any proposed self-certification requirement would be considered and justified under OSHA's safety standards—in itself as it relates to specific safety requirements for a product—and not under this procedural regulation. The Agency acknowledges that self-certification could be proposed in future rulemaking for Parts 1910, 1926, etc., if a self-certification requirement is determined to be appropriate for a specific product for safety reasons; each such situation must be evaluated separately. However, it bears repeated emphasis that the Agency does not propose self-certification as an alternative method to third-party certification. This proposal presents OSHA's proposed requirements for such actions primarily in order to assist employers to adequately fulfill OSHA-retated testing requirements, and only secondarily as a possible framework for future use.

The Agency welcomes comments on these particular provisions in this section and on this approach in general. Is it porper for the Agency to set forth here the criteria for such an activity without there being a specific related requirement for self-certification existing in Part 1910 at this time? Having mentioned earlier the presumed utility to safety of having self-certified equipment and materials utilized for compliance with already existing testing requirements, are these criteria and requirements considered as generally appropriate?

Section 1936.201 Written conformance declarations. This section proposes to reinforce current voluntary practice by placing an OSHA requirement that declarations of conformity be written. It lists a minimum of six items which must be included therin, including (1) the identity of the self-certifier; (2) the equipment type and model; (3) the standard referenced; (4) laboratory identification; (5) verbatim text of the conformity statement; and (6) the date executed. These are minimal requirements, and the use of additional items required by national consensus documents and international guides would remain unaffected by the proposed OSHA rule.

Self-certifier manufacturers and vendors would be expected to maintain certification records in writing. This would reflect the current norm under national voluntary standards and international standards guides.

Section 1936.202 Special requirement for non-manufactures. In § 1936.202, OSHA proposes to reinforce a distinction between manufacturers and others who seek to self-certify, by providing that those vendors who are not responsible for the quality assurance/control system pertaining to the production of the products to be certified meet an additional requirement before their self-certification can be acceptable to OSHA.

Rather than requiring third-party certification in those cases, the Agency proposes to require that the self-certifier must use an accredited independent testing laboratory. The Agency believes that safety considerations require it to make a distinction within the ANSI term of "producer and supplier" and proposes that it be "manufacturers"and "non-manufacturers" (such as vendors, supplier and other product sellers). Paragraph (b) provides the traditional criteria related to the independent testing laboratory category.

Having identified this situation and proposed a safety-based solution, the Agency requests comments on this approach, the potential for misunderstanding or abuse of the requirements proposed, and the possibility of simply declaring "non-manufacture" (vendor, et al.) self-certification unacceptable for OSHA purposes.

6. *Subart F—Accredited Testing—OSHA Requirements*

Section 1936.300 Acceptable testing laboratories. This section details OSHA's requirements for acceptable accredited testing: current accreditation by an OSHA-recognized system or agency, documented by an accreditation letter.

Section 1936.301 Recognized accreditation systems. In § 1936.301, the Agency proposes to recognize by name the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (Commerce Department). This program was developed through public rulemaking procedures, with considerable private-sector input, and is operated under published Federal regulations.

The Agency also would plan to accept any such systems operated by other Federal agencies under their regulations, after OSHA review.

Laboratories accredited by these agencies would be acceptable to OSHA to the extent the purpose and scope of their accreditation coincides with OSHA-specified testing requirements.

Paragraph (b) of this section provides that acceptability can also be achieved through non-Federal, private sector systems if they are recognized by OSHA. The Agency proposes three requirements for such laboratory accrediting agencies: (1) having publicly available program documents; (2) meeting minimal OSHA criteria in Subpart G of this Part; and, (3) utilzing all appropriate national consensus or international standards criteria for assuring valid safety testing performance by individual accredited laboratories.

7. *Subpart G—Accredited Testing—Criteria for Laboratory Accrediting Agencies*

Section 1936.310 Administrative criteria. In § 1936.310, minimum administrative provisions which OSHA considers necessary for each accrediting agency are proposed. These include responsibilities for: onsite survey by accreditor; written accreditation letter to laboratory; limitation of each accreditation period to two-year maximum; maintenance of all qualifying conditions (including periodic proficiency tests when required); periodic and unscheduled inspections of laboratories; and additional procedures, including timely action and proper processing of applications, and reservation of the right to terminate

accreditations for cause, with due process.

The Agency specifically requests comments here on its proposal that accreditations should be renewed at least once every two years. OSHA projects that renewals would be considerably less costly to laboratories than reapplications. Annual renewals appear counterproductive and overly costly; would three year periods be too long a span?

Section 1936.311 Minimum technical requirements. This section contains the technical criteria OSHA considers necessary for assuring valid safety testing. The section proposes to establish them as minimal program criteria. The Agency anticipates that the required criteria will comprise but a portion of those used by laboratory accrediting agencies seeking recognition from OSHA. The criteria established by OSHA would include considerations on facilities and equipment; calibration program; personnel; quality control programs; a master file; test procedures; data sheet records; written test reports; and appropriate records.

These criteria parallel somewhat those in Subpart C for the validation activity in third-party certification programs, and are derived from national consensus documents are international guides, such as ANSI/ASTM E-548. In a much more detailed form, the criteria are included as Appendix B to Part 1936, intended as a model criteria package for both the laboratory accrediting agencies and any third-party certification program engaging in evaluation (and "accreditation") of laboratories participating in its program. (The criteria in Appendix B were formerly contained in 29 CFR Part 1907 as mandatory requirements for all OSHA-related testing and certification.)

8. *Subpart H—Accredited Testing—Procedure for OSHA Recognition of Additional Agencies*

Section 1936.320 Applications. Under paragraph (a), any person or non-Federal organization conducting an accreditation program for testing laboratories may apply for OSHA recognition. No Federal form will be required, but the applicant will be expected to provide sufficient information for a decision to be made. Technical details include a filing address and information on amending or withdrawing applications once submitted.

Section 1936.321 Review and decision process. The proposal for this section references the procedure in § 1936.121 (third-party certification). Paragraphs (a) *Acceptance,* and (b) *Review for sufficiency,* would remain unchanged.

In paragraph (c) *Evaluation of applicant,* subparagraph (c)(1)(ii) and paragraph (c)(3) will not apply, since OSHA will not conduct onsite surveys of the laboratories themselves. Paragraph (c)(2)(iii) proposes that the evaluation protocol for the onsite evaluation of the accrediting agency would be based on Subpart G, with such additions, changes and deletions as OSHA may consider needed. Two additions would be an effort to evaluate the agency's charges and fees system, and to evaluate the openness, fairness, and rapidity with which the accrediting procedures are implemented.

Paragraphs (e) *Preliminary decision by the Assistant Secretary,* (f) *Public review and comment period,* and (g) *Final decision by the Assistant Secretary,* remain unchanged from § 1936.121(e), (f) and (g).

Section 1936.322 Terms and conditions of recognition. With only minor changes of references or terms, the proposal will follow the procedures in § 1936.122 (same title).

Section 1936.323 Cooperative agreement with OSHA. With only minor changes of references or terms, the proposal will follow procedures in § 1936.123 (same title).

9. *Subpart I—Special OSHA Administrative Requirements*

Section 1936.400 Fees and charges. In paragraph (a), the Agency proposes that no fee or charge be proposed for this activity, except extraordinary costs encountered in agency activities overseas related to foreign applicants and participants. Paragraphs (b) and (c) specify how such costs would be determined, and paragraph (d) permits one potential change of hearing location which could be requested by a foreign applicant who seeks the change and would voluntarily assume the increased cost involved.

Section 1936.401 Reports and records required by OSHA. This section proposes to consolidate in one location the requirements for reports and records established by this regulation. Such requirements are detailed for five categories: (1) Recognized third-party certification programs; (2) recognized laboratory accrediting agency; (3) accredited laboratories; (4) manufacturers or vendors; and (5) employers.

The section does not classify as "OSHA-required" the legitimate work products of OSHA-recognized enterprises. The Agency notes that reports and records comprise a substantial portion of the activities of testers, certifiers, and related agencies and constitute the business of these enterprises.

Based on this premise, the Agency would consider it necessary to ask only for an annual report from each of the recognized third-party enterprises. OSHA has been assured that comprehensive documents can be easily compiled from the wealth of business-related information and data on hand.

For example, the Agency presumes (based on representation privately made to it) that such reports from third-party certifiers would naturally and routinely contain information for such topics as:

(1) The number of factory inspections;

(2) Field surveys;

(3) Laboratory check tests;

(4) Extent of examination or testing of products;

(5) Calibration program;

(6) List of certified equipment;

(7) List of equipment no longer certified; and

(8) Extent of audit of manufacturer's quality control procedures.

In terms of records, again the Agency has been told that it is "industry practice" that a validating laboratory would maintain the following records:

(1) Test and certification reports on all products tested;

(2) All data generated during testing;

(3) Equipment lists;

(4) Receiving and shipping records;

(5) Records supporting compliance with calibration program; and

(6) Records of the performance at each factory relating to compliance with requirements, for the purpose of adjusting inspection frequencies as required.

Similarly, the recognized program would maintain the following records:

(7) Records of the issuance of certification marks to manufacturers, including information on control numbers assigned to the marks.

(8) Pertinent financial records;

(9) Organization chart and personnel files, including list of all personnel job responsibility description and job training program;

(10) Quality control manuals; and

(11) A master file containing all the OSHA regulations and standards referenced therein which are applicable to the equipment for which certification has been performed.

Finally, while the Agency intends to place no specific time period requirement for any records retention, it understands industry practice to be such that:

(1) Test and certification reports on any equipment or materials certified are

retained for as long as the certification remains in force, plus two years;

(2) retention of other records is usually five years; and

(3) shipping and receiving records are usually kept only for a minimum of one year.

If the preceding is not the case, or cannot be anticipated as being fulfilled by recognized enterprises without being specified in the regulatory text, the Agency should be advised to this effect through written comments on this proposal. Well-documented input through this rulemaking will be considered justification by the Agency for the incorporation of these specific requirements into the final rule.

Similarly, the Agency has received representations that manufacturers and vendors engaging in self-certification of equipment and materials would maintain, and do maintain, records in writing which conform to the essentials of ANSI standards and ISO Guides, including such records as test reports and related manufacturing records.

Further, a self-certifier would be prepared, based on these records, to provide an employer (as purchaser, owner or lessee) with the details of the declaration of conformity, or a copy thereof, either at the time of purchase, or subsequently upon request, so that such details might be used in determining the acceptability of the product under related requirements in OSHA safety standards.

Again, the Agency requests information as to whether this is or is not the case, or whether it can reasonably anticipate that these needs will be fulfilled by self-certifying manufacturers and vendors, in order that the Agency may develop a proper requirement in the final rule.

While considerable agency effort has been expended to identify and classify all records and reports products in this activity, the Agency requests comments from members of each of the named categories, and representatives of associated groups and organizations, and the public in general, as to: the proper classification of these reports and records; their necessity to the public, to employers, and to program auditors; and the burden which any of these OSHA requirements place on the affected groups, including the costs of time for preparation or copying, and storage or submission.

Section 1936.402 Dispute resolution procedures. Paragraph (a) proposes verification of testing or certification data, not at government expense, if OSHA requests this in writing.

Paragraph (b) is established to indicate that this regulation will include provisions for resolving complaints received by the Agency concerning testing and certification practices related to safety. The paragraph is being "reserved" at this time, since the Agency has little experience in this area to date, and has focused its efforts on identifying problem areas in its current standards and developing a process to resolve them and expedite recognition of enterprises related to testing and certification. Comments are requested from the public, and particularly from other Federal agencies, on this subject area. Constructive proposals submitted for the rulemaking record will be considered for incorporation in the final rule.

10. *Appendices To Part 1936*

a. *Appendix A—Documents for Reference or Use.* The Agency proposes to include here (in the final rule and in the Code of Federal Regulations) full text copy of three national consensus standards:

(1) ANSI Z34.1–1982

(2) ANSI Z34.2–1980

(3) ANSI/ASTM E–548–76

Appropriate international guides will also be included, such as:

(4) ISO Guide 25

(5) ISO/IEC Guide 28

(6) ISO/IEC Guide 7

(7) ISO/IEC Guide 2:1980 and Addendum 1:1981

(8) ISO/IEC Guide 40 (proposed)

(9) ISO/IEC Guides 38 and 39 (proposed)

(10) ISO/IEC Guide 22(E)

As an alternative, the ISO and ISO/IEC Guides could be incorporated by reference, if they were available from other Federal source agencies.

The Agency requests comments on plans for Appendix A.

b. *Appendix B—Generic Criteria for Testing Laboratories.* This Appendix would be a non-mandatory guide for establishing a set of criteria with which to evaluate a laboratory for accreditation. The Appendix would be used along with, or instead of, ANSI/ASTM E–548 or ISO Guide 25, which are the principal American and international documents, respectively, for this activity.

The criteria in Appendix B were previously contained in 29 CFR Part 1907 as mandatory requirements for all OSHA-accredited laboratories performing testing and certification activities, and remain a valuable guide and reference today.

(The contents of this Appendix can be useful also in providing a perspective for the contents of Subparts C and G in this proposal)

The Agency requests comments on whether this Appendix B should be retained in the final rule. Several commenters have suggested that the inclusion of the texts in Appendix A would suffice.

c. *Appendix C—OSHA-Recognized* Laboratory Accrediting Agencies. This appendix would be a simple, concise listing of all laboratory accrediting agencies receiving OSHA recognition under this Part. It would be developed and updated quarterly (as needed) in the **Federal Register** and would be printed in the CFR. The listing would include notations on the methodology used by the Agency; it would not list the individual laboratories accredited by that agency.

d. *Appendix D—OSHA-Recognized* Third-Party Certification Programs. This appendix would be similar to proposed Appendix C above.

The listing would include the equipment/installation categories encompassed within the OSHA-recognition, and a description (or illustrations) or the certification marks (symbols) used. The Appendix will not list individual products by name or manufacturer.

IV. Exhibits Pertinent to This Rulemaking

Note.—These Exhibits will not appear in the final rule or in the Code of Federal Regulations.

A. Exhibit 1—Overview of Testing and Certification

This exhibit provides a brief summary of the background concepts and relationships used im preparing this proposed revision.

B. Exhibit 2—Key concepts in the OSHA Safety Testing and Certification Program

This exhibit provides a key concept summary of this proposal based on frequently discussed private sector concerns.

C. Exhibit 3—Implementation Schedule as Contained in this Proposal

The exhibit provides a single chart of key events which would occur under the proposed final rule.

D. Exhibit 4—Model Format for a Cooperative Agreement

The text of the model format is a boilerplate-type agreement which is being proposed for use by OSHA and the entities recognized under this Part.

Exhibit 1—Overview of Testing and Certification

The following is a brief summary of the concepts used as background in preparing this proposed revision:

A. *Product testing* refers to any testing activities conducted to measure the quality, performance, or safety characteristic of industrial or consumer products.

Product testing is conducted by testing laboratories, which either may be independent entities specializing in product testing services or may be part of the manufacturer's facilities. Testing is performed to aid in product development and to determine whether a product conforms to applicable standards and specifications.

B. *Production certification* is the process of formally attesting that a product line meets specific standards for safety or performance.

Certification is a much more comprehensive process than testing. Developed out of concern for product safety or quality, certification seeks to attest not only that a prototype product meets certain standards at a particular time, but also that replicas of it consistently meet the standards to which they must conform.

Certification therefore involves quality control/inspection for the manufacturing operations, and may involve periodic retesting, inspection, and surveillance, in addition to the initial product testing. Certification programs may be developed individually for each product or type of product.

Only the product manufacturer or vendor is said to "certify" the product, since manufacturers and vendors are the only organizations ultimately liable, in marketplace terms, if the product fails to met the specified standards, particularly since the manufacturer controls the production process.

The term certification is often used, perhaps unfortunately, as a catchall for either self-certification by the manufacturer, or third-party certification.

C. *Third-party certification.* Many of these "certification" programs are run by third parties (i.e., organization that are independent of both the manufacturer, considered by ANSI as the "second party," and the consumer (or employer), the "first party"). These programs are often referred to as third-party certification programs. The program organizers—the "sponsors" or "certification bodies"—are typically trade associations or professional societies, government agencies, or independent laboratories.

D. *Validation* is the process by which a third party separately determines that a product complies with certain requirements. Product validation involves performing, as opposed to organizing, a certification program. Validation may be performed by the certification body, or by a separate independent organization—a validating laboratory—contracted by the program for that purpose.

Again if manufacturers and vendors are the only organizations that can certify a product, then third parties actually can only validate the manufacturer's claim of compliance. Therefore, the term "third-part validation"—instead of third-party certification—is used by some in order to to avoid conveying any impression that the third-party "certifies" a product.

Product testing is clearly a component of the validation process also. Under "validation," testing is performed by a laboratory which may be a validator's in-house laboratory, a contracted independent laboratory, or a manufacturer's laboratory where testing is audited (or "witnessed") by the validator.

E. *Testing laboratories* refers to any testing facility, including everything from a small laboratory facility to the largest of testing organizations, in which anything from the simplest test on a single product to activities covering the entire range of certification services may be performed. The term "validating laboratory" is used by some to distinguish those laboratories performing a validation function related to product evaluation and certification from all others in the testing laboratories group.

In third-party certification, the validating laboratory (and any testing laboratories participating in the program) would perform initial and follow-up tests and inspections as necessary to verify that a manufacturer's products consistently meet the standards to which it is claimed they conform. The manufacturer cooperates with all testing and validation laboratories involved in the evaluation process. If a product meets the criteria, the manufacturer is permitted to affix a mark or label to that product. The mark is controlled by the validating laboratory or the certification body itself.

F. *Accreditation.* The performance of testing laboratories may be evaluated by various accreditation agencies in order to provide manufacturers, other users of their services, and other interested parties with a guide to their competency. Laboratory accreditation is the formal evaluation and attestation that a laboratory is competent to perform specific tests and/or services related to testing.

Virtually all accreditations are very specific, i.e., a laboratory is accredited to perform specific tests or services, usually in conjunction with a specific third-party certification program. Laboratories will frequently have several accreditations.

Accreditation is most frequently a voluntary process, performed at the request of the laboratory seeking accreditation. However, the use of accredited organizations for product testing or certification frequently is mandated or recommended by jurisdictional authorities and code bodies.

G. An *accreditation agency* may be a trade association, a private or publicly funded organization formed specifically to perform accreditation, or a Federal, state, or local jurisdictional agency. Frequently, "accreditation" is performed of necessity by the certification body operating a third-party certification program.

Each accrediting agency has developed or adopted its own performance and organizational standards against which to evaluate laboratories seeking accreditation. If the performance standards and organizational criteria are met, the laboratory is formally accredited by that agency. It is then subject to periodic reinspection and/or proficiency testing to ensure continued compliance with the accreditation standards.

H. *Accreditation programs (or systems)* are evolving out of a common concern on the part of government, business and consumers about the validity of test data.

There are numerous accreditation programs throughout the United States being conducted by Federal, state, and local government agencies. Others are operated by professional societies or trade associations. Many others are privately funded and operated.

The various systems differ in their accreditation criteria and procedures, and in the types of testing or other services for which they accredit. Most accreditation programs are designed to meet the very specific and limited needs of a particular community or agency. Most accredit laboratories for performing one or more of a very limited range of tests.

To date, only two organizations have been created as service agencies to develop laboratory accreditation programs in a broad spectrum of testing areas. These two organizations are (a) the National Voluntary Laboratory

Accreditation Program (NVLAP), established within the National Bureau of Standards, Department of Commerce in 1976, and (b) the American Association for Laboratory Accreditation (AALA), founded in 1978 with public and private funds.

Notes:

1. A useful and informative reference document—entitled Laboratory Accreditation: Future Directions in the United States (NBS Special Publication 632, March 1982)—is now available directly from the National Bureau of Standards, Office of Product Standards Policy, Washington, D.C. 20234; (301) 921-3431. A review of the highlights of the NBS Special Publication, and the national and international standards documents and guides related to testing and certification, should provide helpful assistance to many reviewers.

2. On February 15, 1984, the National Bureau of Standards published a Notice in the **Federal Register** entitled "Guideline Documents Implementing Federal Standards Policy" (pages 5792-5803). Two of these documents are generally applicable to agency regulatory programs that require statements of conformance to specific standards or specifications.

Entitled "Guidelines for Federal Agency Use of Private Sector Third-Party Certification Programs" (page 5799) and Guidelines for Federal Agency Use of Self-Certification by Producer or Supplier (page 5802), these documents reflect Federal Standards Policy as set out in Office of Management and Budget (OMB) Circular A-119, dated October 26, 1982. Copies of these two guidelines are available from the National Bureau of Standards at the address above, or (301) 921-3751, and should also provide helpful assistance to reviewers.

Exhibit 2—Key concepts in the OSHA Safety Testing and Certification Proposal

I. Testing (Part 1910)

A. OSHA-required safety testing is subdivided into two categories:

1. "ordinary" testing
2. testing for certification

B. Ordinary safety testing can be done by the employer.

C. Within two years, if the employer uses a commercial testing laboratory, the laboratory must be accredited.

D. The accreditation must be from an OSHA-recognized laboratory accreditation system.

II. Certification (Part 1936)

A. OSHA-required safety certification is subdivided into two categories:

1. self-certification
2. third-party certification

B. The type of certification required in each instance is specified in Part 1910.

C. An employer cannot certify.

D. *Self-certification for safety:*

1. No recognition requirement is included for self-certifiers.

2. Laboratories performing testing for self-certification purposes may include manufacturers' facilities and commercial providers (including "independent" laboratories).

3. Non-manufacturing vendors must use only "independent" testing laboratories for self-certification testing.

4. Within two years, all laboratories conducting self-certification testing must be accredited by an OSHA-recognized accreditor.

E. *Third-party certification for safety:*

1. OSHA recognition is required for third-party certification programs.

2. Each recognition period is five years.

3. Two existing programs (UL and FM) are being "grandfathered" into OSHA recognition for three years.

4. Other programs may apply at any time.

5. Testing for third-party certification purposes must be done only by laboratories participating in the OSHA-recognized third-party certification program.

6. Within six years, all validating laboratories (including subcontracted or "critical" laboratories) must be accredited by an OSHA-recognized accreditor.

7. Within nine years, the program's validation program must be accredited by a responsible body acceptable to OSHA.

III. Laboratory Accreditation (Part 1936)

A. OSHA recognition is provided for laboratory accreditation systems and agencies.

B. Each recognition period is five years.

IV. Standards Requiring Certifications (Part 1910)

A. Current standards requirements for testing, approval, etc., by UL or FM or "nationally recognized testing laboratories" are considered third-party certification requirements.

B. Nine subparts in Part 1910 contain such requirements and are being amended to better identify them to public and to standardize their terminology.

C. Certain other standards do appear to allow self-certifications as a means for compliance with OSHA-required testing.

V. Test Methods and Procedures (Part 1935)

A. The requirements for testing or certification will remain in Part 1910.

B. In the future, OSHA-related test methods and procedures will be promulgated separately in new Part 1935, and will be referenced when needed in the safety standards (General Industry, Construction, etc.).

Exhibit 3—Implementation Schedule as Contained in this Proposal

Effective Date:

- Implementation of § 1910.7 and Parts 1935 and 1936 begins
- Begin three-year period during which UL and FM certified equipment will be acceptable for all OSHA testing and certification requirements
- Third-party certification programs may submit applications for recognition under Part 1936 (Subpart D)
- Laboratory accrediting agencies may submit applications for recognition under Part 1936 (Subpart H)
- Testing laboratories may seek accreditation from OSHA-recognized laboratory accrediting agencies

+120 Days:

- Implementation of revisions to nine subparts of Part 1910

+2 years:

- "Outside" testing laboratories used by employers for OSHA-testing must have been accredited (OSHA requirement—Part 1936, Subpart E and § 1910.7)
- OSHA-related self-certifications can be based only on testing performed in laboratories which have been accredited (OSHA requirement—Part 1936, Subpart E and § 1910.7)

+3 years:

- UL and FM certification programs must have been recognized by OSHA, and participating manufacturer and subcontract laboratories evaluated by them using Appendix B-type criteria (OSHA requirement—Part 1936)

+6 years:

- Each validating laboratory—and subcontracting or critical laboratories (but excluding non-critical manufacturer laboratories)—must have been accredited by an OSHA-recognized

accreditor before program renewal or initial recognition by OSHA

+9 years:

- All validation programs in third-party certification must have been accredited by an appropriate agency acceptable to OSHA before each program renewal or initial recognition by OSHA

Exhibit 4—Model Format for a Cooperative Agreement

COOPERATIVE AGREEMENT
between the

_____

and the *Occupational Safety and Health Administration (OSHA) of the United States Department of Labor*

This cooperative agreement (under Section 8(g)(2) of the Occupational Safety and Health Act of 1970) establishes the conditions under which OSHA/USDOL and the _____ will engage jointly in a cooperative program to foster increased worker protection through equipment testing, quality control/assurance, and certification.

As an OSHA-recognized third-party certification program, the _____ will act as a conduit for representing the desires of, and providing services to, manufacturers and vendors participating in its program. Any special projects undertaken pursuant to this agreement will be described in writing, signed and dated, and attached to this agreement.

These projects would derive from the potential agreement areas mentioned in 29 CFR 1936.123: voluntary reporting; joint resolution of problems encountered; cooperative exchanges of data, reports, and information; special studies; proficiency testing programs; etc.

The Director of Technical Support will have primary responsibility for OSHA. Other OSHA units and staff (national and regional), and other OSHA-funded projects, as well as other OSHA-recognized programs operating under similar cooperative agreements, will be asked to provide other services and support, as may be needed or requested. This shall remain a no-fee agreement at all times.

This agreement is effective upon signature of both parties and will end on _____, unless extended by mutual consent. It may be terminated at any time by written notice by either undersigned party.

Agreed to:
For _____

_____

Signature _____
Date _____

_____

_____

For the Occupational Safety and Health Administration:
Signature _____
Date _____
Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor _____

V. Regulatory Assessment

A. Regulatory Impact Assessment

1. *Summary.* In accordance with Executive Order No. 12291 (46 FR 13193, February 17, 1981), OSHA has assessed the potential economic impact of this proposed regulation. OSHA has determined that this proposed regulation is not a "major" action requiring a Regulatory Impact Analysis (RIA). Based upon the available information, OSHA has estimated that the total first year cost of compliance with this proposed regulation would be from $1.45 million to $2.68 million, and the yearly costs of compliance thereafter would be from $800,000 to $1.41 million. This proposed regulation would substantially increase competition in the affected markets while maintaining the necessary level of employee safety.

2. *Background.* Under Executive Order 12291, OSHA is required, in general, to submit any Notice of Proposed Rulemaking (NPRM) for "all rules other than major rules" to the Director of the Office of Management and Budget (OMB) at least ten days prior to publication in the **Federal Register.**

OSHA has had to expedite the publication of the proposed Laboratory Accreditation Regulation pursuant to an order issued by the United States District Court for the District of Maryland (MET Electrical Testing vs. Raymond Donovan—Civil #Y-82-1133) which directed the Agency to issue a proposed regulation by July 18, 1983. Through negotiations with plaintiff's legal counsel, OSHA has been granted a short extension of that court ordered date.

Nevertheless, this extension has been insufficient to allow OSHA to collect the data necessary for a complete RIA. In light of the data currently available to OSHA, the economic impact estimates presented in this preamble are rough estimates which are likely to be refined as OSHA receives additional information.

In light of the court considerations, OSHA is, therefore, publishing this preamble while collecting additional information that will be used in the Preliminary Regulatory Impact Assessment (PRIA). The PRIA will be made available with sufficient time, to the extent permitted by future court deadlines, for public comment. OSHA solicits further comments on the estimates presented in this preamble and those comments will be addressed and incorporated into the PRIA.

3. *Data Sources.* The primary source for this section is the December 1983, Draft Final Report by Energy Resources Company, Inc. (ERCO) entitled, "Supporting Analysis for Economic Impact Study of Proposed OSHA Part 1936 Standards and Associated Changes." In addition, OSHA has utilized the Docket which had been complied in response to OSHA's January 4, 1983, Advance Notice of Proposed Rulemaking (ANPR) on the Accreditation of Testing Laboratories.

4. *Industry Profile.* Those most significantly affected by this proposed regulation would include the following: (1) The employers and employees using products which OSHA requires to be tested or certified for use in certain workplace situations; (2) the manufacturers of those products; (3) domestic and foreign testing laboratories; (4) Third-party certifiers; (5) accrediting agencies; (6) product liability insurers; and (7) authorities enforcing state and local building codes.

As this proposed regulation is not concerned with whether any specific product certification requirement in Part 1910 is necessary, detailed information concerning the affected employers and employees is not need.

The type of products that OSHA requires be tested or certified to meet certain standards are such items as electrical wiring and equipment, valves and other equipment used in the handling of hazardous substances, equipment necessary for fire protection, motor vehicles used in hazardous conditions, etc.

These products are manufactured by firms of all sizes and are sold in all types of markets. They are generally used in many situations other than those directly regulated by OSHA; e.g., electrical equipment must not only meet OSHA requirements or public safety requirements. In addition, manufacturers have products examined by testing laboratories in order to meet demands by product liability insurers as well as to improve the product.

Based on the ERCO report, OSHA has estimated that in 1983, the total project value of products that will be certified or tested for safety considerations would be approximately $20 billion to $30 billion, of which approximately $2 billion to $3 billion would be the value of products affected by OSHA standards.

For the purposes of this assessment, domestic testing laboratories are classified as being either: (1) Manufacturer-affiliated or (2)

independent. Independent testing laboratories are classified as being either: (1) profitmaking or (2) non-profit. Nearly all of these domestic testing laboratories are privately owned and operated.

A manufacturer-affiliated laboratory (e.g., Westinghouse, General Motors, etc.), is owned by a manufacturer and used primarily to test the manufacturer's own products for quality, safety, or other attributes.

OSHA does not currently have data that would allow an estimate to be made of the number of an employment in manufacturer affiliated laboratories because a testing laboratory is, typically, a branch within the company. OSHA invites interested parties to submit data on these topics.

An independent testing laboratory (e.g., Underwriters Laboratories (UL), Factory Mutual Research Corporation (FM), MET Electrical Testing, etc.), is a laboratory that is not owned by a manufacturer and is one that tests products for many different firms.

A profitmaking independent testing laboratory is one run as a typical profitmaking business, whereas a non-profit independent testing laboratory (government controlled or privately controlled) charges its clients only enough to cover expenses.

Based upon the ERCO report, OSHA has estimated that in 1983, there are approximately 2,500 independent testing laboratories of which 2,275 are profitmaking and 225 are non-profit. Total receipts for these laboratories are approximately $950 million in 1983 of which profitmaking laboratories will receive around $820 million and non-profit laboratories will receive roughly $130 million.

Total employment in these independent laboratories is approximately 38,500. Most of these laboratories are very small entities—45 percent have four or fewer employees and 85 percent have fewer than 20 employees. About 82 percent of these laboratories will have revenues of less than $500,000.

Most of these small laboratories specialize in very specific types of tests and very specific products. Even the larger testing laboratories tend to have specialty areas and do not test every product category.

Only eight laboratories employ more than 250 workers and of those only three employ more than 1,000. These eight laboratories will generate approximately 20 percent of the total testing laboratory revenues.

Both domestic and foreign testing laboratories are affected by this proposed regulation. The Canadian Standard Association (CSA) is the only foreign organization that has entered the American product testing market to any significant degree. Its program is recognized by several state and local building code agencies. OSHA also has little information concerning the laboratories and invites interested parties to submit data on these topics.

Third-party certifiers engage not only product testing but also product retesting and onsite inspection of the manufacturer facility. Their certification programs often use testing laboratories (particularly UL) to organize and run their programs for industrial products. Both the UL and the FM programs make extensive use of personnel and equipment in manufacturers' laboratories to perform testing while the UL or FM representative observes that the tests are performed in accordance with the required procedures. Based on the ERCO report, OSHA has estimated that the value of the services performed by these in-house testing laboratories during these certification-related visits is between $10 million and $20 million per year.

Laboratory accreditation programs are primarily designed to meet the specific and limited needs of a particular agency or locality. They accredit a laboratory to perform specific tests and/or validations, generally in conjunction with a specific third-party certification program. There are 26 Federal systems run by 14 departments, 20 state and local systems, 24 professinal or trade association systems, and over 50 privately operated systems.

Currently, only two organizations—the National Voluntary Laboratory Accreditation Program (NVLAP) established by the National Bureau of Standards (NBS) in 1976 and the American Association for Laboratory Accreditation (AALA) established in 1978—have been created as agencies to develop laboratory accreditation for a broad spectrum of testing areas.

The remaining two groups (product liability insurers and authorities enforcing state and local building codes) also could be affected by the proposed regulation.

Although OSHA cannot compel a state or local building code authority to accept all certifications that would be acceptable to OSHA, the proposed regulation may influence some of these authorities to do so. ERCO has reported that some of the state and local building code authorities have indicated that they would be likely to adjust their practices following a rule change by OSHA, and also accept enterprises that are recognized by OSHA. As there are many of these state and local building code agencies, making access to them easier for certifying bodies and testing laboratories (i.e., less costly in terms of the time and expense in applying for these multiple recognitions) would significantly expand these markets for them.

OSHA has no information concerning how product liability insurers would treat certification programs recognized by OSHA under this proposed regulation. OSHA does not expect, however, that there would be any significant change in insurers' behavior.

5. *Annual Market Projection.* The market for product testing and certification directly affected by the OSHA requirements has been estimated by OSHA, based upon the ERCO report, to have total sales of between $78 million and $102 million. Of that total, $48 million goes to UL, $5 million to FM, $20 million to $40 million to manufacturer-affiliated laboratories, and $5 million to $9 million to independent testing laboratories.

As has been described, nearly all product testing and certification conducted for OSHA-related purposes is also performed to comply with state and local building code requirements, as well as with product liability insurance demands. Consequently, to the extent that those other systems also require UL or FM, any resultant market changes engendered by this proposed OSHA regulation would not likely open the entire $78 million to $102 million market to every OSHA-recognized third-party certification program or accredited testing laboratory.

Nevertheless, OSHA recognition of a third-party certification program would provide these organizations with credentials demonstrating competence and capability. These credentials would then, in turn, give these organizations a competitive foothold for the total yearly testing market business of $950 million.

Finally, this market also includes the testing and certification of foreign manufacturer products for safety. Based upon the ERCO report, this foreign product share of the market is approximately $13 million of which UL has approximately $12 million. As UL is already well established in these countries, OSHA has concluded that it is unlikely that independent testing laboratories from this country would be able to make significant inroads into UL's market immediately. OSHA has no information concerning how foreign national testing laboratories and certification programs would react to this proposed regulations.

6. *Current Regulatory Environment.* OSHA has examined the existing

regulatory environment from two perspectives. The first perspective is whether the intent of the Part 1910 provisions requiring product testing or certification—ensuring that workers have safe equipment—has been met. The second perspective is the economic impact of the existing requirements.

With respect to the first perspective, OSHA has found that the existing system has generated safe products and equipment. Thus, the safety intentions underlying the certification requirements in Part 1910 have been met.

With respect to the second perspective, OSHA has examined the economic impacts from two aspects: equity and efficiency. The first aspect, equity, questions whether the existing provisions have given some enterprises an unfair competitive advantage in the product testing and certification validation market. The second aspect, efficiency, questions whether the OSHA requirements have provided the necessary level of worker safety in a cost-effective manner.

With respect to equity, the OSHA provisions requiring that some products can only be third-party certified by UL or FM have effectively, although inadvertently, created a duopoly. A manufacturer must use UL or FM if the manufacturer intends the products to be sold for use in workplaces to employers who would be, in turn, subject to the OSHA standards. Thus, OSHA has directly diverted product testing business to UL and FM from other potential providers.

In addition to that direct diversion, there are two ways in which the existing provisions also have indirectly diverted business to UL and FM. In the first way, if the manaufacturer has to use UL or FM in order that a particular product meet an OSHA requirement, then it is likely to be more efficient for the manufacturer to use UL or FM as the testing laboratory for all products. This is likely even if the manufacturer wants to test these products for other reasons, such as compliance with insurance requirements or state and local building codes. The second way is that the various authorities enforcing state and local building codes may be so influenced by OSHA's existing position permitting only UL and FM to test and validate equipment that these authorities may have retained or even adopted similar provisions. Thus, if the manufacturer intends to sell the product in these states and localities, the manufacturer must use UL or FM as the testing laboratory.

With respect to efficiency, since the existing OSHA standards have resulted in a duopoly, the economic consequence of any such situation can be expected to be economic inefficiency; i.e., too few products would be tested at too high a price.

From the manufacturer's point of view, the price of testing entails not only the direct testing service charges, but also the length of time taken by the testing process. In other words the time spent by the manufacturer waiting for his product to be tested is time during which the product is not being sold and the manufacturer is not receiving the income necessary to offset the expenses of designing the product, establishing a production line, etc. In line with that observation, some of the manufacturers who reponded to the ANPR complained of what they preceived as excessive delays in getting their products tested and validated.

In addition to the time components, there is the issue of the actual fees charged in the testing and certification industry. OSHA has determined that within the likely range of testing laboratory fees, manufacturer demand for testing services is highly price inelastic because, in general, the price for testing services is a very small component of the overall costs of the product and, as such, even a relatively large price increase would likely not cause a manufacturer to abandon the testing service.

The current situation therefore contains little incentive for serious cost containment. Even non-profit participants such as UL and FM need not be overly concerned with costs because they can charge the manufacturers enough to cover these costs, within limits, and maintain non-profit status.

OSHA does not intend to suggest in any way that UL and FM have operated improperly. However, OSHA does suggest that—as a byproduct of increasing competition in this market—all testing laboratories and certification bodies may find new and innovative ways of testing and certifying products more rapidly and at lower costs than is currently being done.

7. *Proposed Regulatory Enivironment.* The proposed regulation has been designed to fulfill two purposes. The first goal is to redress the economic imbalance which has been the consequence of OSHA's inability previously to establish workable criteria for a "nationally recognized testing laboratory" The second goal is to maintain the existing level of worker safety.

This proposed regulation (29 CFR Part 1936) creates administrative procedures which can result in following: (1) A laboratory accrediting agency can become OSHA-recognized; (2) a testing laboratory can be accredited by an OSHA-recognized laboratory accrediting agency or system; and (3) a certfication body operating a third-party certification program can become OSHA-recognized. The extensive detail in these procedures is necessary in order for OSHA to ensure that applicants receive due process and that only qualified enterprises engage in OSHA-required testing and certification activities.

In order to be able to redress the aforementioned economic imbalance, OSHA has evaluated the economic impact of the proposed regulation upon the four types of organizations that would be primarily affected: accrediting agencies; third-party certifiers; manufacturers; and testing laboratories.

The estimated costs of compliance with the proposed regulation is first discussed in general terms on the basis of provisions and is then discussed in more detail on the basis to type of organization affected. Greater detail will provided in the PRIA which will be available from the OSHA docket.

Cost by Provisions

The baseline used by OSHA to estimate the costs of compliance is current industry practices.

With respect to the costs required by the proposed provisions involving recordkeeping, ERCO has reported that it is current practice for a testing laboratory to provide its manufacturer client with a detailed report concerning the test procedure, the test results, and possible suggestions for improving the product.

Another current practice, as reported by ERCO, is that the testing laboratory keeps a file copy of these reports for five years (or more) in order to be prepared for possible product liability litigation. Given these current industry practices, OSHA has determined that there would be minimal costs of complying with the provisions in the proposed regulation that require these records to be made available.

ERCO has also reported that in many cases a test procedure being used by a laboratory is not in writing, as would be required. Thus, OSHA has estimated that, on average, testing laboratories would incur costs of compliance with this provision.

The only new cost of compliance associated with records or reports required by the proposed regulation would be the time and effort expended to complete the applications necessary for accreditation or recognition.

The other major cost of compliance areas are the costs of acquiring all the testing standards relevant to the areas in which the testing laboratory, the third-party certification programs, and the accreditation agencies would be involved, and the site visits to be made by the overseeing organization.

These costs of compliance, however, would be incurred only by those testing laboratories and other organizations that choose to enter this market. OSHA has not required every testing laboratory, third-party certifier and accrediting agency to meet these provisions. Rather, these provisions would need to be met by only those that choose to participate. OSHA has determined that those testing laboratories and organizations that make this choice would do so on the expectation that it would be profitable; i.e., they expect to earn more in testing fees than they expect to lose in the costs of compliance. This proposed regulation can be seen therefore, as improving the profitability of many of those participating while maintaining the integrity of the standards requiring product testing.

Costs by Type of Organization

• *Third-party certifiers (except UL).* Based upon the ERCO report, OSHA has estimated that approximately 30 to 65 Certification bodies would seek OSHA recognition for their third-party certification programs. OSHA has estimated that from 5 to 20 trade associations would seek this program recognition, in addition to 25 to 45 validating-type laboratories.

The average costs of compliance to a validating-type laboratory seeking OSHA-recognition of its third-party certification program would be around $21,410 in the first year and $12,635 in each year thereafter. The total costs of compliance are estimated to be from $0.535 million to $0.963 million in the first year and from $0.316 million to $0.569 million in each year thereafter.

• *Testing laboratories.* OSHA estimates that only 25 to 50 laboratories of the approximately 500 to 1,000 manufacturer-affiliated testing laboratories which would participate in these OSHA-recognized third-party certification programs would be expected to obtain accreditation after having been determined to be "critical" by these recognized programs.

An additional 30 to 70 laboratories also will decide to seek accreditation from OSHA-recognized accrediting agencies. These include 25 to 35 commercial testing laboratories engaged in the general OSHA-related market, and 5 to 20 manufacturer-affiliated laboratories intended for self-certification activity.

Based upon the ERCO report, OSHA has estimated that the average incremental costs of compliance to a manufacturer-affiliated testing laboratory considered "critical" by an OSHA-recognized third-party certification program would be about $8,775 in the first year and $5,200 each year thereafter.

This is similar to the estimated $8,400 first-year cost for a similar accreditation of an independent testing laboratory not operating a third-party certification program, as well as the $9,450 first-year cost for a manufacturer-affiliated laboratory to be accredited by an OSHA-recognized accrediting agency for the purpose of testing for manufacturer self-certification of products (where allowed). The estimated later-year costs for each are $4,625 and $5,875, respectively.

Thus, the total incremental costs of compliance for these affected laboratories are estimated to be from $0.491 million to $1.066 million in the first year and from $0.280 million to $0.606 million in each year thereafter.

• *Laboratory Accreditors.* The average incremental costs of compliance to an organization seeking to become an OSHA-recognized accrediting agency would be approximately $3,075 in the first year and $550 in each year thereafter.

OSHA estimates that at least one organization will request recognition in this category. However, OSHA has no definite information concerning the number of agencies and organizations that would seek to become OSHA-recognized accrediting agencies at this time.

• *Private Sector (without UL).* Consequently, the cost of compliance to the private sector, with the exception of UL, affected by this proposed regulation would range from $1.029 million to $2.032 million in the first year and from $0.597 million to $1.176 million in each year thereafter.

As these are estimated average costs of compliance, the actual costs to any particular testing laboratory or other organization may differ. In particular, third-party certification programs covering a multitude of different types of products and involving numerous manufacturers would likely generate greater costs of compliance than those third-party certification programs covering a few specialized products produced by a few manufacturers. With the one exception of UL, OSHA has not estimated these costs for any specific group involved.

• *Underwriters Laboratories.* ERCO has reported that UL's current practices would comply with nearly all of the substantive elements of the proposed regulation. The one substantive element that would impose costs of compliance would be the provision requiring written test standards for all products. UL currently uses unwritten "desk standards" to test some products. The other costs of compliance to UL would be incurred as a result of the time and effort needed to complete the applications for OSHA recognition as a third-party certifier and the formal accreditation of their in-house validating laboratory.

Based on the ERCO report, OSHA has estimated that the incremental costs of compliance to UL of becoming an OSHA-recognized third-party certification program would be approximately $29,700 in the first year and $15,600 for each year thereafter.

For the UL in-house validating laboratory to be accredited later by an OSHA-recognized accrediting agency, UL would incur first year costs of compliance of approximately $25,800, and annual cost of compliance of $13,250.

The total incremental costs of compliance to UL with the proposed regulation would be about $55,350 in the first year and $28,850 in each year thereafter.

By way of comparison, UL had total estimated revenues of $95 million in 1982 which implies that the average costs of compliance would be about 0.05 percent of the UL revenues.

8. *Federal OSHA Costs.* In addition to the costs incurred by private-sector organizations participating in this system, OSHA would also incur monitoring and managing costs. The proposed regulation contains two general areas that would require OSHA to expend resources. The first general area covers administrative management, including the annual reports submitted by the third-party certifiers and accrediting agencies to OSHA. The second general area covers the onsite OSHA surveys of the administrative side of all applicant programs, the onsite surveys of applicant third-party certifier's validating laboratories, and any onsite monitoring conducted of recognized organizations.

With respect to the first general management area, OSHA has determined that this could be accomplished by three persons at an estimated yearly cost of approximately $150,000. In addition to routine program administrative requirements, OSHA would keep current lists of recognized

accreditation agencies and recognized third-party certification programs. It would ensure that information concerning accredited testing laboratories, certified products, etc., is available to the public and, particularly, to employers.

With respect to the second general area, OSHA has not determined whether these surveys would be conducted by OSHA personnel or by expert consultants. Consequently, OSHA has estimated the costs on a per site visit basis.

For the administrative onsite evaluation, OSHA has determined that, on average, this could be completed in one day by one evaluator. For the validating laboratory onsite evaluation, OSHA has determined that, on average, this could be completed in one day by two evaluators. The costs incurred by OSHA would be composed of salary and fringes, travel, and overnight lodging for the evaluators.

In addition, a written evaluation of each inspection would be required. OSHA has determined that the written evaluation of the administrative side would take, on average, five days and the written evaluation of the validating laboratory would take, on average, a week.

Based on those assumptions, the costs to OSHA of the onsite inspections and the written reports would be about $5,100 per visit to the third-party ceritifier and from $219,000 to $446,000 in the first year. The yearly costs thereafter for monitoring purposes would range from $30,000 to $50,000 for unscheduled onsite visits/surveys and written reports.

Thus, the estimated total costs to OSHA of managing and monitoring the system would range from $369,000 to $596,000 in the first year and from $180,000 to $205,000 for each year therafter.

In comparison to potential government costs of monitoring and managing Part 1907, the cost of monitoring and managing Part 1936 would be substantially lower because proposed Part 1936 does not require OSHA to inspect each testing laboratory seeking or requiring accreditation, whereas Part 1907 would. Based on the determination by OSHA that an onsite inspection of a testing laboratory would take, on average, one day by one evaluator and a written report would take, on average, two days to prepare, the potential cost-savings to the government of substituting proposed Part 1936 for Part 1907 would be from $1.425 million to $2.317.

9. *Total Costs of Regulation.* In concluding the costs of compliance discussion, OSHA has estimated that the total social (private and public) costs of compliance with the proposed regulation would be from $1.453 million to $2.683 million the first year, and from $0.806 million to $1.410 million for each year thereafter. Thus, OSHA has concluded that the proposed regulation would not be a "major" action as defined by the criteria in Executive Order 12291.

10. *Expected Benefits.* The primary economic benefits expected from this proposed regulation would be a reduction in product testing fees and in product testing time. The main beneficiaries would be the product manufacturers and those qualified testing laboratories and certifying bodies that had been unable formerly to compete in these markets. A potential secondary beneficiary is that downstream user of the manufacturer's product if the manufacturer passes along some of his cost-savings. The primary groups that would be adversely affected would be UL and FM.

Consequently, in order to obtain some quantitative estimates of these potential benefits, OSHA is soliciting information on beneficial and adverse effects, including changes, if any, in certification and testing fees, number and types of products tested, expension into new product testing markets, etc.

Even though OSHA does not have a quantitative basis demonstrating that this proposed regulation would provide new benefits to the economy, OSHA does have a quantitative basis for its expectation that there would be net benefits. This basis is that no individual certifying body, testing laboratory or other organization would have to participate in the program. To the extent that any of these enterprises would enter these markets, it is self-evident that they would enter with the expectation of making a profit or, at least, breaking even.

In addition, economic theory strongly supports the contention that the greater the degree of competition, the more efficient the market (excepting cases of natural monopoly), and the greater the gains to the economy.

OSHA has, therefore, determined that this proposed regulation, if adopted as a final rule, would provide increased economic efficiency while maintaining the necessary level of employee safety.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 [5 U.S.C. 60 et seq.], the Assistant Secretary has assessed the impact of the proposed regulation and concludes that it would not have a significant adverse impact upon a substantial number of small entities. In fact, this proposed regulation, by opening a market previously closed to small testing laboratories, would likely have a positive impact upon them. As 82 percent of these testing laboratories have yearly revenues of less than $500,000 the consequence of the proposed regulation allowing them to compete in a market with sales estimated at between $78 million and $102 million could have a positive effect upon these small entities. In addition, a testing laboratory that does not want to participate in this system would not incur any costs of compliance. Thus, this proposed regulation would not adversely affect any small entity and would likely benefit small entities.

C. Paperwork Reduction

On March 31, 1983, the Office of Management and Budget (OMB) published a new 5 CFR Part 1320, implementing the information collection provisions of the Paperwork Reduction Act of 1983 (44 U.S.C. 3501 et seq.[48 FR 13666]). Part 1320, which became effecting on April 30, 1980, sets forth procedures for agencies to follow in obtaining OMB clearance for information collection requirements in proposed and final rules. In particular, § 1320.13 requires agencies to submit information requirements contained in proposed rules to OMB not later than the date of publication of the proposal in the **Federal Register.** It also requires agencies to include a statement in the Notice of Proposed Rulemaking, indicating that such information requirements have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act.

In accordance with the provisions of the Paperwork Reduction Act and the regulations issued pursuant thereto, OSHA certifies that it has submitted the information collection requirements contained in this proposed revision to its current standards and regulations to OMB for review under Section 3504(h) of that Act. Comments on these information collection requirements may be submitted by interested parties to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for OSHA.

VI. Public Participation

OSHA requests the submission of all comments, information, and regulatory suggestions related to this proposed revision.

Since the time period available to OSHA for this comment period is limited due to a court-imposed

timetable, written data, views and arguments concerning the proposal should be prepared and submitted as quickly as possible, and must be postmarked on or before May 7, 1984.

They should be submitted in quadruplicate to the Docket Officer, Docket No. S-110, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding and will be considered in developing the final rule. While the Agency cannot acknowledge these submissions individually, the writer can confirm their receipt in the Docket by contacting the Docket Office directly—(202) 523-7894.

The record of this proceeding will incorporate all previous rulemaking efforts related to 29 CFR Part 1907, Accreditation of Testing Laboratories. It will include Docket S-100 written comments, hearing record and exhibits (entire rulemaking record from September 11, 1973 through August 11, 1975) and Docket S-105 written comments (ANPR, January 4, 1983).

Pursuant to Section 6(b)(3) of the Act and 29 CFR 1911.11(b) and (c), interested persons may also file objections to the proposal, requesting an informal public hearing with respect thereto in accordance with the following conditions:

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before May 7, 1984 and submitted to the Docket Office at the above address;

3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken, and must state the grounds therefor.

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

Reviewers are encouraged to undertake and complete their activity in light of the comment/objection closing date indicated above. Due to timetable constraints, the Agency would prefer not to be asked to extend this time period and requests public cooperation in this regard.

VII. List of Subjects in 29 CFR Parts 1907, 1910, 1935 and 1936

Administrative practice and procedure, Certification, Consumer protection, Intergovernmental relations, Labeling, Laboratories, Occupational safety and health, Safety, Testing, and Trade practices.

VIII. Authority

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, N.W., Washington, DC 20210.

Accordingly, pursuant to sections 6(b) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911, it is proposed to remove 29 CFR Part 1907 from 29 CFR, to expand and amend certain provisions of 29 CFR Part 1910, and to add new Parts 1935 and 1936, as set forth below.

Signed at Washington, DC, this 29th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1907—[AMENDED]

1. It is proposed to remove Part 1907 from Title 29 of the Code of Federal Regulations.

PART 1910—[AMENDED]

2. It is proposed to amend 29 CFR Part 1910 by adding a new § 1910.7 to read as follows:

§ 1910.7 Valid testing data and certifications for safety.

(a) Where requirements for testing are imposed under this Part:

(1) Only OSHA standards, national consensus standards referenced therein, or OSHA-specified test methods and procedures, shall be used in required testing.

(2) The employer shall be able to demonstrate that such tests or inspections have been based on OSHA-specified test requirements and have been conducted successfully with positive results.

(3) The employer shall use the caliber of personnel appropriate for the testing required, including properly qualified or trained personnel, as may be required by the OSHA specifications.

(4) Where such testing requires the use of laboratory facilities, the employer may use any properly equipped and operating testing laboratory, including a laboratory under the employer's own control. However, effective (*two years after publication of the final rule*), an employer's use of a laboratory other than its own for testing shall require that the laboratory being used holds accreditation through an OSHA-recognized laboratory accrediting system or agency under Part 1936 of this title.

(5) Any equipment or installation which bears an appropriate certification for safety resulting from a certification program recognized by OSHA under Part 1936 of this title, or otherwise acceptable to the Assistant Secretary, shall be considered as "acceptable" for the purposes of any testing requirements under this Part.

(b) Where requirements for certification of equipment or installations for safety are imposed under this Part:

(1) Equipment and installations shall be certified in one of two ways, as indicated in the appropriate OSHA standard in this Part: (i) Certified with third-party validation under an OSHA-recognized third-party certification program, or, (ii) self-certified by a manufacturer or vendor using valid test data (but only if self-certification is specifically allowed by an OSHA standard and if the required testing has been performed by the appropriate type of accredited testing laboratory).

(2) The employer shall be able to demonstrate that certifications have been based on OSHA-specified testing and certification requirements and have been conducted successfully with positive results.

(3) An employer may not independently certify or validate the certification of a product destined solely for the employer's own workplace. However, where requirements call for third-party certification, an employer's laboratory holding accreditation through an OSHA-recognized laboratory accrediting system or agency under Part 1936 of this Title may participate in the activity to the extent permitted by the OSHA-recognized third-party certification program.

(4) Any equipment or installation which bears an appropriate certification for safety resulting from an OSHA-recognized third-party certification program under Part 1936 of this title shall also be considered as "acceptable" for the purposes of any self-certification requirements under this Part.

(c) OSHA will accept testing data and product certifications as valid, and without need for further validation, only when generated according to the requirements of this Part and Parts 1935 and 1936 of this title. These testing and certification results—when applied to

facilities and equipment which are required under OSHA safety standards to be acceptable to OSHA—can be presumed (by employers, workers, safety personnel, and others) to indicate such acceptability, to the extent that the facilities and equipment are properly installed, used, and maintained in workplaces.

(d) The provisions of § 1910.7 shall not apply to Subpart Z of this Part.

3. It is proposed to further amend Part 1910 of 29 CFR, effective 120 days after the effective date for § 1910.7 and Part 1936, as set forth below:

Subpart D—Walking—Working Surfaces

1. In § 1910.21, a new paragraph (f)(37) would be added and would read as follows:

§ 1910.21 Definitions.

* * * * *

(f) * * *

(37) *Qualified testing laboratory.* The validating laboratory of an OSHA-recognized third-party certification program under Part 1936 of this title.

* * * * *

2. In § 1910.28, paragraphs (f)(2), (g)(3), (h)(2) and (i)(1) would be revised and would read as follows:

§ 1910.28 Safety requirements for scaffolding.

* * * * *

(f) * * *

(2) The scaffold shall be provided with hoisting machines that are certified as conforming to OSHA-designated standards, with testing by a qualified testing laboratory.

* * * * *

(g) * * *

(3) When hoisting machines are used on two-point suspension scaffolds, such machines shall be certified as conforming to OSHA-designated standards, with testing by a qualified testing laboratory.

* * * * *

(h) * * *

(2) The hoisting machine and its supports shall be of a type certified as conforming to OSHA-designated standards, with testing by a qualified testing laboratory.

* * * * *

(i) * * *

(1) The scaffolding, including power units or manually operated winches, shall be certified as conforming to OSHA-designated standards, with testing by a qualified testing laboratory.

* * * * *

Subpart E—Means of Egress

In § 1910.35, paragraph (h) would be revised, and new paragraphs (k) and (l) added, which would read as follows:

§ 1910.35 Definitions.

* * * * *

(h) *Approved.* Acceptable to the Assistant Secretary of Labor for Occupational Safety and Health.

* * * * *

(k) *Acceptable.* An installation or item of equipment is acceptable to the Assistant Secretary of Labor, provided that it is properly used and maintained, if an employer can demonstrate that:

(1) The installation or equipment has been tested or inspected by a qualified fire testing laboratory, and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard, as evidenced by an appropriate certification; or,

(2) With respect to an installation or equipment of a kind which no qualified fire testing laboratory tests or inspects, the installation or equipment has been accepted—after proper testing or inspection—by another Federal agency and found in conformance with the provisions of the applicable National Fire Protection Association Fire Code, with appropriate documentation of that acceptance; or

(3) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use only by that employer, if it has been determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection, or has been tested or inspected by a qualified fire testing laboratory and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard.

(l) *Qualified fire testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this title which: (1) Is completely independent of manufacturers, vendors and employers subject to this standard, (2) has the capability for properly examining and identifying equipment and materials as described in this subpart in accordance with OSHA-designated standards, and (3) provides, to the extent needed for the particular equipment or materials tested, such controls or services as: (i) Experimental testing for safety of specified items of equipment and materials referred to in this standard to determine conformance with appropriate test standards or performance in a specified manner; (ii) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (iii) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (iv) controlled procedure for identifying the listed and/or labeled equipment or materials tested.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

In § 1910.67, a new paragraph (a)(10) would be added, and paragraph (b)(2) revised, to read as follows:

§ 1910.67 Vehicle-mounted elevating and rotating work platforms.

(a) * * *

(10) *Qualified testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this title.

(b) * * *

(2) Aerial lifts may be "field modified" for uses other than those intended by the manufacturer, provided the modification has been certified in writing by the manufacturer or by any other equivalent entity, such as a qualified testing laboratory, to be in conformity with all applicable provisions of ANSI A92.2–1969 and this section, and to be at least as safe as the equipment was before modification.

* * * * *

Subpart H—Hazardous Materials

1. In § 1910.103, paragraphs (a)(1)(ii) would be revised, and (a)(1)(iii) would be removed and reserved to read as follows:

§ 1910.103 Hydrogen.

(a) * * * (1) * * *

(ii) Approved—Acceptable to the Assistant Secretary of Labor for Occupational Safety and Health. (See § 1910.113.)

(iii) [Reserved]

* * * * *

2. In § 1910.106, paragraphs (a)(35) would be revised and (a)(36) would be removed and reserved to read as follows:

§ 1910.106 Flammable and combustible liquids.

(a) * * *

(35) Approved means acceptable to the Assistant Secretary of Labor for Occupational Safety and Health. (See § 1910.113.)

(36) [Reserved]

* * * * *

3. In § 1910.107, paragraph (a)(8) would be revised, and paragraph (a)(9) would be removed, to read as follows:

§ 1910.107 Spray finishing using flammable and combustible materials.

(a) * * *

(8) *Approved.* Acceptable to the Assistant Secretary of Labor for Occupational Safety and Health (see § 1910.113).

(9) [Removed]

* * * * *

4. In § 1910.108, paragraph (a)(3) would be revised, and paragraph (a)(4) would be removed, to read as follows:

§ 1910.108 Dip tanks containing flammable or combustible liquids.

(a) * * *

(3) *Approved.* Acceptable to the Assistant Secretary of Labor for Occupational Safety and Health (see § 1910.113).

(4) [Removed]

* * * * *

Section 1910.113 would be added to read as follows:

§ 1910.113 Acceptability-related requirements.

(a) *Acceptable.* An installation or item of equipment is acceptable to the Assistant Secretary of Labor, provided that it is properly used and maintained, if an employer can demonstrate that:

(1) The installation or equipment has been tested or inspected by a qualified fire testing laboratory, and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard, as evidenced by an appropriate certification; or

(2) With respect to an installation or equipment of a kind which no qualified fire testing laboratory tests or inspects, the installation or equipment has been accepted—after proper testing or inspection—by another Federal agency and found in conformance with the provisions of the applicable National Fire Protection Association Fire Code, with appropriate documentation of that acceptance; or

(3) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use only by that employer, if it has been determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection, or has been tested or inspected by a qualified fire testing laboratory and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard.

(b) *Labeled.* Equipment or material to which has been attached a label, symbol, or other identifying mark of a qualified fire testing laboratory indicating conformance by the equipment with appropriate standards or performance by the equipment in a specified manner.

(c) *Listed.* Equipment or materials included in a list published by a qualified fire testing laboratory, which listing indicates that the equipment either conforms with appropriate standards or has been tested and found suitable for use in a specified manner.

(d) *Qualified fire testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this title which: (1) Is completely independent of manufacturers, vendors and employers subject to this standard, (2) has the capability for properly examining and identifying equipment and materials as described in this subpart in accordance with OSHA-designated standards, and (3) provides, to the extent needed for the particular equipment or materials tested, such controls or services as (i) experimental testing for safety of specified items of equipment and materials referred to in this standard to determine conformance with appropriate test standards or performance in a specified manner; (ii) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (iii) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (iv) controlled procedure for identifying the listed and/or labeled equipment or materials tested.

Subpart L—Fire Protection

In § 1910.155, paragraph (c)(3) would be revised, and new paragraphs (c)(43), (c)(44), (c)(45) and (c)(46) would be added, to read as follows:

§ 1910.155 Scope, application and definitions applicable to this subpart.

* * * * *

(c) * * *

(3) "Approved" means acceptable to the Assistant Secretary of Labor for Occupational Safety and Health.

* * * * *

(43) "Acceptable." An installation or item of equipment is acceptable to the Assistant Secretary of Labor, provided that it is properly used and maintained, if an employer can demonstrate that:

(i) The installation or equipment has been tested or inspected by a qualified fire testing laboratory, and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard, as evidenced by an appropriate certification; or,

(ii) With respect to an installation or equipment of a kind which no qualified fire testing laboratory tests or inspects, the installation or equipment has been accepted—after proper testing or inspection—by another Federal agency and found in conformance with the provisions of the applicable National Fire Protection Association Fire Code, with appropriate documentation of that acceptance; or

(iii) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use only by that employer, if it has been determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection, or has been tested or inspected by a qualified fire testing laboratory and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard.

(44) *Labeled.* Equipment or material to which has been attached a label, symbol, or other identifying mark of a qualified fire testing laboratory indicating conformance by the equipment with appropriate standards or performance by the equipment in a specified manner.

(45) *Listed.* Equipment or materials included in a list published by a qualified fire testing laboratory, which listing indicates that the equipment either conforms with appropriate standards or has been tested and found suitable for use in a specified manner.

(46) *Qualified fire testing laboratory.* The validating laboratory of a third-party certification program recognized

under Part 1936 of this Title which (i) is completely independent of manufacturers, vendors and employers subject to this standard, (ii) has the capability for properly examining and identifying equipment and materials as described in this subpart in accordance with OSHA-designated standards, and (iii) provides, to the extent needed for the particular equipment or materials tested, such controls or services as (A) experimental testing for safety of specified items of equipment and materials referred to in this standard to determine conformance with appropriate test standards or performance in a specified manner; (B) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (C) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (D) employing a controlled procedure for identifying the listed and/or labeled equipment or materials tested.

Subpart N—Materials Handling and Storage

In § 1910.178, paragraphs (a)(3) and (a)(7) would be revised and a new paragraph (a)(8) added, which would read as follows:

§ 1910.178 Powered industrial trucks.

(a) * * *

(3) Approved trucks shall bear a label or some other identifying mark indicating certification, with testing by a qualified fire testing laboratory.

* * * * *

(7) As used in this section, the term "approved truck" or "approved industrial truck" means a truck certified for the intended use after being successfully tested for fire safety purposes by a qualified fire testing laboratory using OSHA-specified standards for this purpose.

(8) As used in this section, the term "qualified fire testing laboratory" means the validating laboratory of a third-party certification program recognized under Part 1936 of this Title which: (i) Is completely independent of manufacturers, vendors and employers subject to this standard, (ii) has the capability for properly examining and identifying equipment and materials as described in this subpart in accordance with OSHA-designated standards, and (iii) provides, to the extent needed for the particular equipment or materials tested, such controls or services as (A) experimental testing for safety of specified items of equipment and materials referred to in this standard to determine conformance with appropriate test standards or performance in a specified manner; (B) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (C) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (D) controlled procedure for identifying the listed and/or labeled equipment or materials tested.

* * * * *

Subpart Q—Welding, Cutting, and Brazing

In § 1910.251, paragraph (b) would be revised, paragraph (c) redesignated paragraph (e), and new paragraphs (c) and (d) added, to read as follows:

§ 1910.251 Definitions.

* * * * *

(b) "Approved" means acceptable to the Assistant Secretary of Labor for Occupational Safety and Health.

(c) "Acceptable." An installation or equipment is acceptable to the Assistant Secretary of Labor, provided that it is properly used and maintained, if an employer can demonstrate that:

(1) The installation or equipment has been tested or inspected by a qualified fire testing laboratory, and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard, as evidenced by an appropriate certification; or,

(2) With respect to an installation or equipment of a kind which no qualified fire testing laboratory tests or inspects, the installation or equipment has been accepted, after proper testing or inspection by another Federal agency and found in conformance with the provisions of the applicable National Fire Protection Association Fire Code; or

(3) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use only by that employer, if it has been determined to be safe for its intended used by its manufacturer on the basis of test data which the employer keeps and makes available for inspection, or has been tested or inspected by a qualified fire testing laboratory and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard.

(d) *Qualified fire testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this title which: (1) Is completely independent of manufacturers, vendors and employers subject to this standard, (2) has the capability for properly examining and identifying equipment and materials as described in this subpart in accordance with OSHA-designated standards, and (3) provides, to the extent needed for the particular equipment or materials tested, such controls or services as: (i) experimental testing for safety of specified items of equipment and materials referred to in this standard to determine conformance with appropriate test standards or performance in a specified manner; (ii) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (iii) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (iv) controlled procedure for identifying the listed and/or labeled equipment or materials tested.

* * * * *

Subpart R—Special Industries

In § 1910.268, paragraphs (g)(2)(i)(A) and (j)(4)(iv)(G) would be revised, and paragraph (s)(35a) added, to read as follows:

§ 1910.268 Telecommunications.

* * * * *

(g) * * *

(2) * * *

(i) * * *

(A) Hardware for lineman's body belts, safety straps, and lanyards shall be drop forged or pressed steel and shall have a corrosion resistant finish tested to meet the requirements of American Society for Testing and Materials B117–64 (50-hour test). Surfaces shall be smooth and free of sharp edges. Production samples of lineman's safety straps, body belts and lanyards shall be certified by a qualified testing laboratory, as having been tested in accordance with and as meeting the requirements of this paragraph.

* * * * *

(j) * * *

(4) * * *

(iv) * * *

(G) Modifications or additions to the derrick and its associated equipment that alter its capacity or affect its safe operation shall be made only with written certification from the manufacturer, or other equivalent entity, such as a qualified testing laboratory, that the modification results in the equipment being safe for its intended use. Such changes shall require the changing and posting of revised capacity and instruction decals or plates. These new ratings or limitations shall be as provided by the Manufacturer or other equivalent entity.

* * * * *

(s) * * *

(35a) *Qualified testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this title.

* * * * *

Subpart S—Electrical

1. In § 1910.399, paragraphs (a)(1), (a)(7), (a)(75) and (a)(77) would be revised and (a)(2) and (a)(22) would be revised and (a)(2) and (a)(22) would be removed and reserved to read as follows:

§ 1910.399 Definitions applicable to this subpart.

(a) *Definitions applicable to §§ 1910.302 through 1910.330.*

(1) *Acceptable.* An installation or equipment is acceptable to the Assistant Secretary of Labor, provided that it is properly used and maintained, if an employer can demonstrate that:

(i) The installation of equipment has been tested, inspected or examined for safty by a qualified electrical testing laboratory, and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard, as evidenced by an appropriate certification; or

(ii) With respect to an installation or equipment of a kind which no qualified electrical testing laboratory tests or inspects, the installation or equipment has been accepted by another agency (Federal, State, municipal or other local authority) responsible for enforcing the occupational safety provisions of the National Electrical Code, with appropriate documentation of that acceptance, after having been suitably tested or inspected and having been found in conformance with that Code; or

(iii) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use only by that employer, if it has been determined to be safe for its intended use by its manufacturers on the basis of test data which the employer keeps and makes available for inspection, or has been tested or inspected by a qualified electrical testing laboratory and has been determined to be free from recognized hazards and in conformance with applicable standards, and determined to be suitable for installation and use in accordance with this standard.

(2) [Reserved]

* * * * *

(7) *Approved.* Acceptable to the Assistant Secretary of Labor for Occupational Safety and Health who is the authority having jurisdiction to enforce this Subpart.

* * * * *

(22) [Reserved]

* * * * *

(75) *Labeled.* Equipment or materials to which has been attached a label, symbol, or other identifying mark of a qualified electrical testing laboratory indicating conformance by the equipment with appropriate standards or performance by the equipment in a specified manner.

* * * * *

(77) *Listed.* Equipment or materials included in a list published by a qualified electrical testing laboratory, which listing indicates that the equipment either conforms with appropriate standards or has been tested and found suitable for use in a specified manner.

* * * * *

2. New Paragraphs (a)(68a) and (a)(99a) would be added to § 1910.399 and would read as follows:

§ 1910.399 Definitions applicable to this subpart.

(a) * * *

(68a) *Identified (as applied to equipment).* Recognized, after determination by a qualified electrical testing laboratory, as suitable for a specific purpose, function, use, environment, or application where described as a requirement in this standard.

* * * * *

(99a) *Qualified electrical testing laboratory.* The validating laboratory of a third-party certification program recognized under Part 1936 of this Title which: (i) Is completely independent of manufacturers, vendors and employers subject to this standard, (ii) has the capability for properly examining and identifying equipment and materials as described in § 1910.303(b) in accordance with OSHA-designated standards, and (iii) provides, to the extent needed for the particular equipment or materials tested, such controls or services as: (A) Experimental testing for safety of specified items of equipment and materials referred to in this standad to determine conformance with appropriate test standards or performance in a specified manner; (B) inspecting the run of such items of equipment and materials at factories for product evaluation to assure conformance with the test standards; (C) service-value determinations through field inspections to monitor the proper use of labels on products, with provisions for recall in the event a hazardous product is installed; and (D) controlled procedure for identifying the listed and/or labeled equipment or materials tested.

* * * * *

4. It is proposed to add a new Part 1935 to 29 CFR to read as follows:

PART 1935—OCCUPATIONAL SAFETY AND HEALTH TEST METHODS AND PROCEDURES

Subpart A—General

Sec.

1935.1 Scope and purpose.

1935.2 Definitions.

Subpart B—Building, Structures, Walking and Working Surfaces

1935.10–1935.110 [Reserved]

Subpart C—Powered Personnel Lifts, Platforms, and Scaffolds

1935.111–1935.210 [Reserved]

Subpart D—Ventilation and Dust Control

1935.211–1935.310 [Reserved]

Subpart E—Compressed and Liquefied Gases

1935.311–1935.410 [Reserved]

Subpart F—Flammable, Combustible and Explosive Materials

1935.411–1935.510 [Reserved]

Subpart G—Fuel-Burning Equipment

1935.511–1935.610 [Reserved]

Subpart H—Test Methods and Procedures For Personal Protective Equipment

1935.611–1935.810 [Reserved]

Subpart I—Illumination, Signs, Signals, and Barricades

1935.811–1935.910 [Reserved]

Subpart J—Fire Protection

1935.911–1935.1010 [Reserved]

Subpart K—Materials Handling Equipment

1935.1011–1935.1110 [Reserved]

Subpart L—Machinery, Power Tools and Welding

1935.1111–1935.1210 [Reserved]

Subpart M—Electrical Equipment and Devices

1935.1211–1935.1310 [Reserved]

Subpart N—Construction and Demolition Methods

1935.1311–1935.1410 [Reserved]

Subpart O—Shipyard Processes

1935.1411–1935.1510 [Reserved]

Subpart P—Vehicles and Heavy Equipment

1935.1511–1935.1610 [Reserved]

Subpart Q—Commercial Diving Operations

1935.1611–1935.1710 [Reserved]

Subpart R—Toxic and Hazardous Substances

1935.1711–1935.1810 [Reserved]

Subpart S—Environmental and Mechanical

1935.1811–1935.1910 [Reserved]

AUTHORITY: Sections 6(b) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR part 1911.

Subpart A—General

§ 1935.1 Scope and purpose.

(a) This part contains test methods and procedures associated with occupational safety and health standards in general industry, maritime and construction.

(b) The purpose of this part is to eliminate the need for multiple incorporations by reference of occupational safety and health test methods and procedures. It is also intended that this part be used to avoid the need to include lengthy or detailed test methods and procedures in the Occupational Safety and Health Standards for General Industry, Maritime and Construction, and that this part serve as a composite of accepted test methods and procedures for occupational safety and health.

§ 1935.2 Definitions.

(a) *To test.* To employ the required means to determine conformance of a piece of equipment or materials with applicable test standards.

(b) *Test method.* The technical procedures and activities required in testing specific equipment.

(c) *Test procedure.* A document which details the implementation of a test method.

(d) *Test standard.* A document specified by OSHA—such as an OSHA standard, a national consensus standard approved by the American National Standards Institute (ANSI) or a pertinent international standard—which specifies the safety requirements for a specific piece of equipment or class of equipment. Such requirements are utilized in the preparation of test methods for testing this equipment. Some test standards prescribed test methods and procedures.

Subpart B—Buildings, Structures, Walking and Working Surfaces (§§ 1935.10 Through 1935.110) [Reserved]

Subpart C—Powered Personnel Lifts, Platforms, and Scaffolds (§§ 1935.111 Through 1935.210) [Reserved]

Subpart D—Ventilation and Dust Control (§§ 1935.211 Through 1935.310) [Reserved]

Subpart E—Compressed and Liquefied Gases (§§ 1935.311 Through 1935.410) [Reserved]

Subpart F—Flammable, Combustible and Explosive Materials (§§ 1935.411 Through 1935.510) [Reserved]

Subpart G—Fuel-Burning Equipment (§§ 1935.511 Through 1935.610) [Reserved]

Subpart H—Test Methods and Procedures for Personal Protective Equipment (§§ 1935.611 Through 1935.810) [Reserved]

Subpart I—Illumination, Signs, Signals, and Barricades (§§ 1935.811 Through 1935.910) [Reserved]

Subpart J—Fire Protection (§§ 1935.911 Through 1935.1010) [Reserved]

Subpart K—Materials Handling Equipment (§§ 1935.1011 Through 1935.1110) [Reserved]

Subpart L—Machinery, Power Tools and Welding (§§ 1935.1111 Through 1935.1210) [Reserved]

Subpart M—Electrical Equipment and Devices (§§ 1935.1211 Through 1935.1310) [Reserved]

Subpart N—Construction and Demolition Methods (§§ 1935.1311 Through 1935.1410) [Reserved]

Subpart O—Shipyard Processes (§§ 1935.1411 Through 1935.1510) [Reserved]

Subpart P—Vehicles and Heavy Equipment (§§ 1935.1511 Through 1935.1610) [Reserved]

Subpart Q—Commercial Diving Operations (§§ 1935.1611 Through 1935.1710) [Reserved]

Subpart R—Toxic and Hazardous Substances (§§ 1935.1711 Through 1935.1810) [Reserved]

Subpart S—Environmental and Mechanical (§§ 1935.1811 Through 1935.1910) [Reserved]

5. It is proposed to add a new Part 1936 to 29 CFR to read as follows:

PART 1936—OSHA RECOGNITION OF TESTING—RELATED AGENCIES AND CERTIFICATON PROGRAMS

Subpart A—General Provisions

Sec.
1936.1 Purpose and scope.
1936.2 Definitions.
1936.3 Prerequisites for valid safety certification.

Subpart B—Third-Party Certification—OSHA Requirements

1936.100 Acceptable third-party certification.
1936.101 Temporary recognition of certain certification programs.

Subpart C—Third-Party Certification—Criteria for Validation Activity

1936.110 Capability and competence.
1936.111 Identification and control of certified equipment.

Subpart D—Third-Party Certification—Procedure for OSHA recognition of Programs

1936.120 Applications.
1936.121 Review and decision process.
1936.122 Terms and conditions of recognition.
1936.123 Cooperative agreement with OSHA.
1936.124 Alternative procedure for currently accredited programs.

Subpart E—Manufacturer Certification—OSHA Requirements

1936.200 Acceptable self-certification.
1936.201 Conformance declarations.
1936.202 Special requirement for non-manufacturers.

Subpart F—Accredited Testing—OSHA Requirements

1936.300 Acceptable accredited testing laboratories.
1936.301 Recognized accreditation systems.

Subpart G—Accredited Testing—Criteria for Laboratory Accrediting Agencies

1936.310 Administrative criteria.
1936.311 Minimum technical requirements.

Subpart H—Accredited Testing—Procedure for OSHA Recognition of Additional Agencies

1936.320 Applications.
1936.321 Review and decision process.
1936.322 Terms and conditions of recognition.
1936.323 Cooperative agreement with OSHA.

Subpart I—Special OSHA Administrative Requirements

1936.400 Fees and charges.
1936.401 Records and reports required by OSHA.
1936.402 Dispute resolution procedures.

Appendix A. Documents for Reference or Use
Appendix B. Generic Criteria for Testing Laboratories
Appendix C. OSHA-Recognized Laboratory Accrediting Agencies
Appendix D. OSHA-Recognized Third-Party Certifications Programs

Authority: Sec. 6(b) and 8(g)(2) Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655). Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911.

Subpart A—General Provisions

§ 1936.1 Purpose and scope.

(a) This Part prescribes requirements and procedures which will contribute to assuring valid certification of equipment and materials when safety certification is required in OSHA standards, and to assuring valid testing data when safety testing is required in OSHA standards.

(b) The requirements for certification or testing of equipment or facilities, and the requirement for the use of the results of this Part, are not contained within this Part. They are contained in OSHA safety standards located in:

(1) 29 CFR Part 1910—Occupational Safety and Health Standards

(2) 29 CFR Part 1915—Occupational Safety and Health Standards for Shipyard Employment

(3) 29 CFR Part 1917—Safety and Health Standards for Marine Terminals

(4) 29 CFR Part 1918—Safety and Health Regulations for Longshoring

(5) 29 CFR Part 1926—Safety and Health Regulations for Construction

(6) 29 CFR Part 1928—Occupational Safety and Health Standards for Agriculture

(c) This Part indentifies and sets criteria for two types of enterprises which OSHA will recognize:

(1) Third-party certification programs, and

(2) Laboratory accrediting agencies.

(d) This Part provides requirements and criteria OSHA will use to evaluate and recognize a third-party certification program. For a limited time, this will include the evaluation of the validation program and the program's validating laboratory by OSHA, using consensus-based generic criteria. These in turn parallel the generic which the OSHA-recognized third-party certification program is expected to use when evaluating any laboratories participating in its program.

(e) This Part identifies laboratory accreditation system recognized by OSHA and alows for the recognition by OSHA of additional accrediting agencies when requested. It also provides criteria which OSHA will use to valuate and recognize an applicant accrediting agency. These in turn parallel the generic criteria which the OSHA-recognized accrediting agency is expected to use when evaluating testing laboratories themselves for accreditation.

(f) Procedures are provided for maintenance and renewal of recognition and for Federal monitoring activities.

§1936.2 Definitions.

(a) *Accreditation.* As applied to testing and validating laboratories, accreditation means a formal evaluation and written endorsement that the laboratory is competent to perform specific tests and/or services related to testing;

(b) *Accredited testing laboratory.* A testing organization or facility which possesses valid accreditations from a laboratory accrediting agency recognized by OSHA under this Part.

(c) *Assistant Secretary.* The Assistant Secretary of Labor for Occupational Safety and Health.

(d) *Certification.* Certification means (1) the procedure by which equipment or other items become certified; and (2) the formalized attestation by a manufacturer or vendor that a product meets specific standards for safety.

(e) *Certification mark (symbol).* A sign or symbol registered with the U.S. Patent Office which is used exclusively by a certification program to identify equipment as being certified.

(f) *Certification program.* An organized system under which equipment, materials or services of manufacturers or vendors may be certified for safety on a uniform and equitable basis.

(g) *Certifier.* The person or organization that certifies the equipment or material.

(h) *To certify.* To attest that a class or category of equipment satisfies the requirement of the specified safety standard, an action taken by the certifier either independently (self-certification) or as part of an organized validation system (third-party certification).

(i) *Conformance declaration.* A document used by a manufacturer or a vendor to demonstrate self-certification outside of a third-party certification program.

(j) *Cooperative agreement.* A supplementary document executed by OSHA and each recognized entity (third-party certification program or laboratory accrediting agency) to establish the detailed working relationships and mutual commitments expected or required to support the activity of each recognized entity over the term of the recognition period.

(k) *Critical laboratory.* A testing facility or laboratory, other than a validating laboratory, which has been identified by a third party certifier as performing a specialized or unique testing/inspection function critical to its validation procedure.

(l) *Equipment.* Equipment includes materials, devices, systems, installations and product components, as well as completely assembled products.

(m) *Manufacturer.* The person or organization that initiates and carries out the process of production and assembles or otherwise fabricates a product.

(n) *Quality assurance/control.* The overall system of activities related directly to the production process intended to insure that equipment or material does in fact conform, and continues to conform throughout the production run, with the requirements of any specified standard.

(o) *Recognition.* A formal review and a positive evaluation of a third-party certification program or a laboratory accrediting agency as operating in consonance with OSHA requirements and critical.

(p) *Self-certification.* Certification by the manufacturer (or vendor), independently and on its own authority, that equipment conforms with a specified standard.

(q) *To test.* To employ the required means to determine conformance of a piece of equipment or materials with applicable test standards.

(r) *Testing laboratory.* A generic term equally applicable to all facilities and laboratories where testing is performed, regardless of such considerations as location, type of ownership, or business volume.

(s) *Test standard.* A document specified by OSHA—such as an OSHA standard, a national consensus standard approved by the American National Standards Institutes (ANSI) or a pertinent international standard—which specifies the safety requirements for a specific piece of equipment or class of equipment. Such requirements are utilized in the preparation of test

methods for testing this equipment. Some test standards prescribed test methods and procedures.

(t) *Third-party certification program.* An organized certification system which (1) uses a validating laboratory other than one controlled by either the manufacturer or the buyer, and (2) validates the certification for safety of equipment, materials or services, by means of tests, examinations, periodic inspections, and the authorized use of its controlled marks.

(u) *Third-party certifier.* The person or organization that validates the certification made by a manufacturer or vendor.

(v) *Validating laboratory.* The testing/inspection agency performing the validation process within third-party certification programs recognized by OSHA.

(w) *Validation.* The process by which a separate determination is made by a third-party that certification by the manufacturer (or vendor) is in accordance with program requirements.

§ 1936.3 Prerequisites for valid safety certification.

(a) OSHA has specified—elsewhere in its safety standards—which of the following two types of certification shall be required or allowed;

(1) Third-party certification—all five required functions in paragraph (b) of this section are performed within an organized system which specifies the activities performed by the manufacturer and a third-party validator respectively, subject to the requirements of § 1936.100 (Subpart B).

(2) Self-certification—all five required functions in paragraph (b) of this section are performed primarily by the manufacturer (or at its direction), subject to the requirements of §§ 1936.200, 1936.201, and 1936.202 (Subpart E).

(b) To be valid, certification of equipment for safety that is mandated or allowed by OSHA standards shall conform to the following:

(1) Only standards, test methods and procedures acceptable to OSHA shall be used in certification testing.

(2) Testing shall be performed only under the auspices of an OSHA-recognized third-party certification program, or by the appropriate type of testing laboratory.

(3) Validation testing and inspection, and controlled marking (or labeling and/or listing) shall be performed as scheduled or required.

(4) A suitable follow-up program, with adequate quality assurance/control provisions, shall be established and maintained to assure future production compliance.

(5) Procedures shall be established and enforced to correct situations of future non-compliance with the certification program's requirements.

Subpart B—Third-Party Certification—OSHA Requirements

§ 1936.100 Acceptable third-party certification.

(a) Where third-party certification of equipment is required or allowed by OSHA standards, only equipment certified through third-party certification programs recognized by OSHA under this Part shall be acceptable.

(b) Any third-party certification program that requests recognition from OSHA under the procedure in Subpart D shall clearly demonstrate that it satisfies all of the applicable requirements of this Part:

(1) The program is thoroughly described in a document available to the public.

(2) Third-party certification actions are rquired to conform to Sections 6 and 7 of the ANSI Z34.1–1982 standard. (See Appendix A to Part 1936.)

(3) In addition, each third-party certification program shall have its validation activity performed by a validating laboratory qualified and experienced in certification activity.

(4) Finally, each applicant program shall demonstrate that it adequately addresses all requirements for the products being certified thereunder and that the program meets the criteria for third-party validation set forth in Subpart C of this Part.

(c) The Agency shall, however, retain the flexibility to recognize programs that deviate in insubstantial ways from the requirements in paragraph (b) of this section.

(d) Prior to application by the program for renewed OSHA recognition or initial OSHA recognition under Subpart D of this Part:

(1) Effective (six (6) years after effective date), all validating laboratories in third-party certification programs, including subcontracted or "critical" laboratories, shall have gained formal accreditation by an OSHA-recognized laboratory accreditation system under § 1936.301. (Manufacturers' laboratories considered as non-critical are exempted from this requirement.)

(2) Effective (nine (9) years after effective date), the validation program in each third-party certification program, shall have gained formal accreditation by an appropriate agency acceptable to OSHA.

§ 1936.101 Temporary recognition of certain certification programs.

(a) Notwithstanding all other requirements and provisions of this Part, the following two third-party certifiers are recognized temporarily by the Assistant Secretary for a period of three years beginning (effective date of final rule) and ending on (effective date plus three years):

(1) Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062

(2) Factory Mutual Systems, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062

(b) This section (§ 1936.101) and § 1936.123(f) shall be deleted from this Part and from the Code of Federal Regulations on (effective date plus four years), without additional rulemaking for this purpose.

Subpart C—Third-Party Certification—Criteria for Validation Activity

§ 1936.110 Capability and competence.

(a) *Relationship to OSHA standards.* The program has the capability to determine to be safe and certify any, some or all of the specific equipment or installations for which certification is required or allowed under OSHA safety standards.

(b) *Demonstrated experience.* The program can demonstrate a level of competence and experience in the area of testing, quality control, and certification of specific equipment for which it is seeking recognition or in a comparable area:

(1) The technical director or the equivalent personnel of the program, in conjunction with other personnel, has a working knowledge of the applicable test standards and methods for certification of items for which the program is seeking recognition;

(2) The program can demonstrate that it has a working validating laboratory which has performed certification in the field of endeavor or in a comparable field of certification for which it is seeking recognition; and

(3) The program repeatedly employs the practices necessary to assure that the certified products conform, and conform consistently, with appropriate standards, including such activities as testing of the item, inspection at place of manufacture, observation of (or participation in) in-house testing, and consultation.

(c) *Test and certification procedures.* For each specified item to be certified, the program has the capability to develop written testing and certification procedures based on pertinent

standards and test methods of OSHA or others identified by OSHA, such as the national consensus standards approve by the American National Standards Institute (ANSI) and pertinent international standards.

(d) *Master file.* The validating laboratory maintains a master file containing all of the relevant primary OSHA standards and test standards applicable to the category of equipment for which the recognition is sought. A procedure is maintained to control the use of the master file and to insure that it is kept up-to-date.

(e) *Facilities and equipment.* The validating laboratory has available all testing facilities and necessary test and inspection equipment relevant to the specific equipment, or equipment category, for which recognition is being requested. If that laboratory uses a manufacturer's in-house laboratory or subcontracts for certain tests, it assumes the responsibility for the results of all testing. All testing equipment and facilities used are capable of uniformly producing and controlling all the test conditions specified in the applicable test standards.

(f) *Organization and independence.* (1) The entire program organization has an acceptable degree of financial security which can be demonstrated upon request.

(2) The employment security status of the personnel in the program is free of direct influence or control by a manufacturer, supplier, or vendor.

(3) The validating laboratory is legally constituted to perform certification validation (with testing and quality assurance/control), has its own distinct name, and is independent of manufacturers and vendors in that:

(i) It has no organizational, financial or commercial involvement with producers, suppliers, or vendors which would pose a potential conflict of interest; and,

(ii) It has sufficient breadth of interest or activity, so that the loss or award of a specific contract to determine conformance of a product would not be the definitive factor in the financial well-being of the organization.

(g) *Related facility evaluations.* The program (through the validating laboratory) has the capability to evaluate all participating testing facilities and laboratories, including manufacturer laboratories if any, and to evaluate quality assurance/control systems utilized by participating manufacturers, using criteria developed by or pertinent to the program. Testing laboratories with a current accreditation by an OSHA-recognized accrediting agency under Subpart F of this Part may be allowed to participate in the program without being re-evaluated by the program, if desired. In order to compare and verify various testing techniques and interpretations of requirements, testing facilities and laboratories in the program participate in any periodic proficiency test programs deemed necessary by the program.

(h) *Test reports.* For each specified item tested by a laboratory other than the validating laboratory, the laboratory conducting the test is expected to prepare and provide a written report with the following characteristics:

(1) A test report is prepared for each item of equipment or material that has been tested. The test report is signed by an authorized representative of the laboratory, who is technically competent and responsible for the quality and accuracy of the work.

(2) The test report includes the following information:

(i) Catalog or model number covered by the test;

(ii) Method used to select or provide item;

(iii) Results of all tests performed;

(iv) Copy of the test procedure or description of the test method.

(i) *Personnel.* (1) The program and the validating laboratory are adequately staffed by personnel qualified by training and experience to conduct tests and to analyze data to assure the accuracy, performance, and timeliness of testing. The personnel have a working knowledge of the applicable test standards and test methods used.

(2) There is a technical or scientific director (chief engineer) who is responsible for program schedules, manpower control and overall supervision of all test functions and personnel and who has at least a Bachelor of Science or equivalent college degree, and five years of experience in fields which he directs, and is a scientist, or a registered professional engineer.

(3) There is a technical or scientific supervisor (department manager) who is responsible for the supervision and performance of engineers and technicians within a group, and the supervisory control of planning and testing within that group, and who has at least a Bachelor of Science or equivalent technical college degree, and two years of experience in his field of responsibility.

(4) There is an engineering or scientific employee who is responsible for the technical adequacy and quality of testing performed either by himself or under his supervision, and for the performance of technicians assigned to him, and who has at least a Bachelor of Science degree or equivalent technical college degree, and on-the-job training.

(5) There is a technical staff responsible for tasks assigned in the performance of test functions and for assistance to the engineering or scientific emloyee. Each member of the technical staff has at least a high school diploma or equivalent and on-the-job training or trade school training.

(j) *Publications system.* The program operates an organized and scheduled publications system, by which a list of all equipment which has been certified by the program is published at least semi-annually.

(k) *Other.* The validating laboratory has organized, continuing programs covering:

(1) Calibration of testing and measuring equipment.•

(2) Quality control responsibilities and assignments.

(3) Qualifications and training of personnel.

(4) Follow-up system, as appropriate.

(5) Records management.

§ 1936.111 Identification and control of certified equipment.

(a) *Registered certification mark.* The program or the validating laboratory owns a registered certification mark which manufacturers are authorized to use on equipment conforming to applicable OSHA-specified requirements. The mark:

(1) Is coded, numbered or otherwise controlled to aid in detection of counterfeiting or other forms of misuse;

(2) Is not readily transferrable from one piece of equipment to another;

(3) Includes the name of the equipment classification, where this is not obvious;

(4) Is directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. If the size of a unit does not permit direct application, such a label or marking is attached to the smallest package in which the unit is marketed.

(b) *Control of the mark.* (1) The program itself makes any determinations as to manufacturer noncompliance and itself decides when to revoke the authority to use its certification mark for a specific piece of equipment, or category of equipment. Such actions do not prejudice resubmission of the item after deficiencies have been corrected. If the manufacturer defaults in its obligations with respect to its certified products, the program, at its discretion, notifies the manufacturer of its intention to terminate its certification of the specific

equipment. The program affords the manufacturer an opportunity for review and correction of the deficiency before revoking its authority to use its certification make. The program terminates its certification by written notice to the manufacturer.

(2) The validating laboratory has established all appropriate procedures needed to prevent the misuse of the program's certification mark, and has specified corrective actions to be taken to maintain the integrity of the program. These procedures and specific actions are implemented by contractual arrangement with the manufacturer, and usually include:

(i) Removal of the certification mark from any equipment found at the factory not to conform, unless such product is corrected so as to conform before it is shipped from the factory;

(ii) Notifications to purchasers by the manufacturer, and recall by the manufacturer if appropriate and considered necessary, for nonconforming items, with notice of these actions forwarded to appropriate governmental agencies;

(iii) Return of any separable certification marks or labels, and confirmation of obliteration or destruction of other means of directly applying the certification mark, when certification of an item is withdrawn or discontinued.

(c) *Certification report.* (1) Each certification report is signed by an authorized representative of the validating laboratory who is technically competent, responsible for the quality and accuracy of the work, and whose credentials have been previously presented to OSHA.

(2) The certification report includes the following:

(i) Catalog or model numbers or other identification of items covered by the investigation;

(ii) Differences in various models;

(iii) Results of all tests performed;

(iv) Signed statement that the equipment covered by the report conforms with the applicable standards; and

(v) Description of the test procedure.

(3) A copy of the certification report is forwarded to the manufacturer to serve as written notification that the equipment conforms with the applicable standards.

(4) The program can make available to OSHA, upon request, any test or certification report which has been prepared in conjunction with any equipment that has been certifed.

(d) *Follow-up activities.* (1) Where indicated and to the extent necessary, the validating laboratory maintains an adequate follow-up inspection system which includes means of inspecting and/or testing an appropriate sampling of a manufacturer's production at appropriate intervals (based on such factors as volume, complexity of manufacturing process, intended use, and extent of filed complaints) by factory inspections, field surveys, and other forms of audit procedures.

(2) The program requires and performs follow-up testing or inspection of the production of equipment which it has certified. The inspection is unannounced, with the inspection frequency based on such variables as volume, complexity of manufacturing process, and extent of field complaints. Contractual arrangements regarding these services are set between the validating laboratory and the manufacturer and limit the application of the certification mark to equipment which remains in conformance with the applicable standards.

(3) As part of the follow-up procedures, the validating laboratory:

(i) Conducts a production compliance inspection of products of a manufacturer whose products are being certified through the program continuing conformance standards;

(iii) Investigates field failures of certified equipment to assess adequacy of safety test standards, acceptance testing, and continuing conformance, and also prepares a written report, making a copy available to OSHA, upon request.

Subpart D—Third-Party Certification—Procedure for OSHA Recognition of Programs

§ 1936.120 Applications.

(a) *Eligibility.* Any person or organization conducting an existing third-party certification program may apply for OSHA recognition.

(b) *Content of application.* The applicant shall provide sufficient information and detail, precisely referenced by number and subsection, with regard to the requirements in Subpart B of this Part and the program criteria in Subpart C of this Part, for an informed decision concerning recognition to be made. The applicant should include whatever enclosures, attachments, or exhibits deemed appropriate. The application need not be submitted on a Federal form.

(c) *Filing office location.* The application shall be filed with: Directorate of Technical Support, Subpart D Application Staff, Room N3651, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

(d) *Amendments and withdrawals.* (1) An application may be revised by an applicant at any time prior to the completion of the final review and recommendation in § 1936.121(d)(7).

(2) An application may be withdrawn by an applicant, without prejudice, at any time prior to the final decision by the Assistant Secretary in § 1936.121(g)(2)(iv).

§ 1936.121 Review and decision process.

(a) *Acceptance.* All initial applications submitted will be accepted by OSHA, and their receipt acknowledged in writing.

(b) *Review for sufficiency.* (1) Each application will be reviewed initially to assure that the applicant has provided sufficient information for evaluation against all of the requirements and criteria.

(2) Where there is insufficient information, the applicant shall be given a written statement of the deficiencies and may be given a reasonable period to file the additional information. At the end of that period, an insufficient application will be considered as having been withdrawn by the applicant, without prejudice to the submission of a new application, and will be returned to the applicant without further action to the applicant by OSHA.

(c) *Evaluation of applicant.* (1) After this review, OSHA will evaluate each applicant through onsite surveys of:

(i) Administrative and technical capability;

(ii) Testing facilities and quality assurance practices.

(2) *Onsite review of administrative and technical capability.* (i) Arrangements will be made for an onsite review of the applicant's administrative and technical capabilities by OSHA at a mutually agreeable time for the purpose of verifying the representations made in the application.

(ii) This review will address such elements as logistics, communications, personnel support, training, publications, records and information, storage and security, library, and procedural guides.

(iii) The evaluation protocol will be based on the ANSI Z34.1–1982 standard, with such additions, changes or deletions as may be required in each case by OSHA.

(iv) A complete written report of the onsite review will be made including all relevant records and interviews with key personnel. The report will include recommendations for any monitoring activity by OSHA, with the frequency and purposes of any monitoring visits

specified clearly. A copy of the report will be maintained with the application at all times; a copy will be forwarded promptly by OSHA to the applicant.

(3) *Onsite survey of testing facilities and quality assurance practices.* (i) Arrangements will be made for an onsite survey of the entirety of the laboratory and testing facilities, and the quality assurance and control systems, which are "critical" to the operation of the applicant's program. The survey will include all subcontractor laboratory testing facilities used by the program. The survey may include representative manufacturing facilities where certification-related testing may be performed under an applicant's program, but only if the applicant has deemed such facility to be a "critical" laboratory.

(ii) The evaluation will be done by qualified individuals technically expert in the area of the testing and inspection involved, including non-Federal consultants/contractors acceptable to OSHA, for the purposes of evaluating the facilities, personnel, and procedures therein and veryfying the representations made in the application.

(iii) The evaluation protocol will be based on the ANSI/ASTM E 548 standard, and/or ISO Guide 25, with such additions, changes, or deletions as may be required in each case by OSHA.

(iv) A complete written report of the onsite survey will be made. The report will reference standard procedures used, and will include recommendations for any monitoring activity by OSHA, with the frequency and purposes of any monitoring visits clearly detailed. A copy of the report will be maintained with the application at all times; a copy will be forwarded promptly by OSHA to the applicant.

(4) No other type of investigation or research of the applicant will be actively undertaken by OSHA at this time.

(d) *Review for compliance with the requirements and staff recommendation.* (1) An in-depth comparative review will be made of the application and the two written survey reports for the purpose of assuring adequacy, projecting the anticipated performance level, and developing a recommendation for or against recognition.

(2) The review will be conducted under the auspices of those OSHA personnel responsible for developing the recommendation to the Assistant Secretary. OSHA staff may be assisted by non-Federal consultant/contractor staff, if necessary or desirable.

(3) A positive recommendation will ensue when the documentation shows that the applicant complies with the requirements and recognition criteria set forth in Subparts B and C of this Part.

(4) A positive recommendation will include any proposed monitoring plan.

(5) Should a negative recommendation be indicated as a result of this review, the following procedure will be used:

(i) The OSHA reviewers will notify the applicant only; no other public notice will be given.

(ii) OSHA will give the applicant a written statement detailing, with precise reference, whatever inconsistency exists between the application and the survey reports and whatever quality insufficiency exists in terms of the requirements or recognition criteria.

(iii) The Agency will specify a reasonable period within which the applicant may file a revised application.

(iv) If the information thereby provided is persuasive, a positive recommendation will ensue. Otherwise, a negative recommendation will be made.

(6) When the review is completed, a written recommendation will be made to the Assistant Secretary.

(e) *Preliminary decision by Assistant Secretary.* (1) The Assistant Secretary, or a special designee for this purpose, will make a preliminary decision for or against recognition, based on the completed application file and the written recommendation.

(2) This preliminary decision will be relayed to the applicant by OSHA directly. This decision also will be announced publicly through a notice in the **Federal Register**.

(f) *Public review and comment period.* (1) The **Federal Register** notice of preliminary decision will provide a period of not less than 60 calendar days for public review of the application record file and public written comments on the applicant's fulfillment of the criteria for recognition and any monitoring plan proposed by OSHA.

(2) Comments will be accepted from any person, including the applicant, non-OSHA federal personnel and agencies, state and local governments and personnel, individuals and interest groups, professional groups, foreign individuals and interests, and international agencies.

(3) Only comments received in writing by the end of the comment period will be considered.

(g) *Final decision by Assistant Secretary.* (1) *After public concurrence.* Absent any serious objections or substantiated negative claims from the public by the end of the public review and written comment period, the Assistant Secretary will proceed to final decision on the application.

(2) *After public objection.* If a serious objection or negative claim is raised by any person, and substantiated in writing before the end of the public review and comment period, the following procedure will be used:

(i) The Assistant Secretary will refer the objection, along with copies of the applicant record file and the public comment record to an Administrative Law Judge (ALJ) of the U.S. Department of Labor, for a hearing and decision on the merits of any serious objection in the public comment record.

(ii) Subsequently, and at the discretion of the Assistant Secretary, whether or not requested by the ALJ, OSHA may authorize Federal or contract personnel to initiate a special review of any information provided in the public comment record for presentation by OSHA at the hearing.

(iii) In accordance with departmental procedures established for administrative hearings by 29 CFR Part 18, the ALJ will conduct a hearing under expedited procedures. The location of any hearing will be determined by the ALJ, but shall be limited to locations within the continental United States. The ALJ's decision shall reference the entire record, including the applicant record file, public comment record, and hearing record.

(iv) Upon issuance of the decision, the ALJ shall forward the entire hearing and decision record to the Assistant Secretary for the final decision on the application.

(v) Parties to the hearing before the ALJ may file exceptions to the ALJ's decision with the Assistant Secretary within 30 days of the ALJ's decision.

(vi) The Assistant Secretary will review the decision provided by the ALJ and, on the basis of all available information, make a final decision on the application.

(3) *Public announcement.* The final decision of the Assistant Secretary will be announced publicly through a notice in the **Federal Register**, to be effective on the date of **Federal Register** publication. The notice will include a description of any special conditions being imposed by OSHA as part of this recognition.

(4) *Review.* There will be no further review activity within the Department of Labor from the final decision of the Assistant Secretary.

§ 1936.122 Terms and conditions of recognition.

(a) The following conditions shall be part of every recognition:

(1) The recognition of any program will be evidenced by a letter of recognition from OSHA. The letter will provide the specific details of the scope of the OSHA recognition, as well as any special conditions imposed by the OSHA, including any Federal monitoring requirements.

(2) The recognition of each program will be valid for five years, unless terminated before or renewed after the expiration of the period. The dates of the period of recognition will be stated in the recognition letter.

(3) The recognized program shall continue to satisfy all the conditions specified in this Part during the period of recognition.

(b) A recognized program may renew its recognition by filing a renewal request at the application address in § 1936.121(d) not less than 180 calendar days, nor more than one year, before the expiration date of its current application. When a recognized program has filed a timely and sufficient renewal request, its current recognition will not expire until a final decision has been made on the request. The renewal request will be processed in accordance with § 1936.121, except that OSHA may determine not to conduct an onsite survey for any renewal request.

(c) A recognized program may apply to OSHA for an expansion of its current recognition to cover areas in addition to those originally proposed and considered. The application for expansion will be acted upon and processed by OSHA in accordance with § 1936.121, except that OSHA may determine not to conduct an onsite survey for any expansion request.

(d) A recognized program may voluntarily terminate its recognition, either in its entirety or with respect to any area covered in its recognition, by giving written notice to OSHA at any time. The written notice shall state the date as of which the termination is to take effect.

(e) OSHA may revoke its recognition if a recognized program either has failed to continue to satisfy all of the conditions of recognition or has materially misrepresented itself in its original application, its renewal request, or an expansion application. When action to revoke is being considered, the provisions of §§ 1936.121(d) through (g) will apply to the maximum extent practicable, and particularly § 1936.121(d)(5). Before a recognition is revoked, the Agency will notify the recognized program of the basis of the proposed revocation and will give the program the opportunity to rebut the alleged deficiencies.

§ 1936.123 Cooperative agreement with OSHA.

(a) A no-fee cooperative agreement will be entered into by OSHA and the organization operating the program being recognized for OSHA-related purposes.

(b) The agreement will state the mutual responsibilities, obligations, and opportunities available to each party during the period of recognition. Following a simple format, it will contain agreements concerning such matters as voluntary reporting; joint resolution of problems encountered; cooperative exchanges of data, reports, and information; special studies; and proficiency testing programs.

(c) Under a cooperative agreement, each recognized third-party certification program and its validating laboratory shall grant OSHA the right to conduct unscheduled reviews or audits of the validating laboratory only, in order to assure continued compliance with the requirements for recognition, and shall cooperate in the conduct of these on-site visits.

(d) The period of a cooperative agreement will normally be for five years, running concurrently with the OSHA recognition period, with one automatic five year extension upon the mutual agreement of both parties. The agreement will then expire. Upon renegotiation, a new agreement and a new agreement period cycle will begin.

(e) A special exception to the procedures in § 1936.122 (b) and (c) is provided for OSHA-recognized programs when participating in cooperative agreements with OSHA:

(1) OSHA may renew its recognition of the program without the need for another procedure under § 1936.121, provided that OSHA determines, after suitable review of its experience under the agreement, that renewal of the recognized program would be appropriate.

(2) OSHA may expand the scope of the recognition of a program without the need for another procedure under § 1936.121, provided that OSHA determines, after suitable review, that the recognized program is capable of such expansion, and that there will be no detrimental effect thereby to the basic recognition previously provided.

(3) This action will be considered as a final decision by the Assistant Secretary under § 1936.121(g)(1) and announced publicly under § 1936.121(g)(3).

(f) As an exception to paragraphs (d) and (e) of this section, the initial cooperative agreements between OSHA and the two third-party certification programs temporarily recognized under § 1936.101(a) shall have their time period limited to no more than three years, at the end of which time they will expire.

§ 1936.124 Alternative procedure for currently accredited programs.

(a) *Currently accredited by ANSI.* Expedited decisionmaking and a minimal application format are available for use by third-party safety certification programs having current accreditation by the American National Standards Institute (ANSI). This accreditation must be evidenced in writing and will be verified with ANSI.

(b) *Revised procedures.* The following changes or deletions from the procedures in §§ 1936.120 and 1936.121 will be made when requested by an applicant program accredited by ANSI:

(1) In § 1936.120(c), the applicant may reference this section ("29 CFR 1936.124") and attach a copy of the accreditation document from ANSI and whatever additional information the applicant deems appropriate to reveal the essential characteristics of the program.

(2) The procedural requirements in §§ 1936.121 (b), (c), and (d)(1) through (d)(5) will be waived by OSHA, and a pro forma positive recommendation will be made under § 1936.121(d)(6), and accepted and announced under § 1936.121(e).

(3) In the event of written public objection during the review period in § 1936.121(f), the applicant will be afforded an opportunity to provide all pertinent materials to the ALJ under § 1936.121(g)(2)(iii). In that proceeding, disclosure of information or material by the applicant will not be required by the ALJ, nor will disclosure of any pertinent files or records of ANSI be required. A negative decision shall result in this matter if the ALJ finds that insufficient information has been provided by the applicant to allow proper review of the negative public comment.

Subpart E—Manufacturer Certification—OSHA Requirements

§ 1936.200 Acceptable self-certification.

For self-certification to be acceptable:

(a) Self-certification actions shall conform to the terms of the ANSI Z34.2–1980 standard. (See Appendix A to Part 1936.)

(b) The OSHA standard referenced for this type of action shall be one in which self-certification is indicated therein by OSHA as acceptable.

(c) The quality assurance/control system used shall be documented by the manufacturer or vendor; this documentation shall be available for inspection by OSHA if a dispute arises.

(d) Effective (*two years after publication of the final rule*), all testing laboratories used in self-certification activities shall have gained formal accreditation by an OSHA-recognized laboratory accreditation system under § 1936.301.

§ 1936.201 Conformance declarations.

(a) The self-certification shall be evidenced by a conformance declaration, in addition to any manufacturer's marking or coding which is attached to the unit. The conformance declaration shall be prepared in written form.

(b) The conformance declaration shall indicate:

(1) The name, address, and telephone number of the self-certifier (manufacturer or vendor) and the name of the contact person.

(2) The model and type of the equipment covered, and any other necessary identification.

(3) The referenced standard(s).

(4) The testing laboratory's name and location.

(5) The exact text of the conformance declaration as prepared by the self-certifier.

(6) The date the conformance declaration was executed.

§ 1936.202 Special requirement for non-manufacturers.

(a) To be acceptable, self-certification by vendors or others who are not the actual manufacturers of the equipment and therefore are not in direct control of the quality assurance/control system pertaining to the production of the item(s) to be certified shall require also that the testing of the equipment (both in prototype and at any required intervals) be performed by an independent testing laboratory other than a vendor's or manufacturer's in-house facility.

(b) A testing laboratory shall be considered independent of manufacturers and vendors if:

(1) It is legally constituted to perform testing;

(2) It can demonstrate an acceptable degree of financial security;

(3) It has no managerial affiliation with producers, suppliers, or vendors;

(4) It has a sufficient breadth of interest or activity, so that the loss or award of a specific contract to test a product against the applicable test standard would not be the definitive factor in the financial well-being of the laboratory;

(5) The employment security status of the personnel of the laboratory is free of influence or control of manufacturers, suppliers, and vendors; and

(6) The laboratory is not engaged directly in promotion of the product.

Subpart F—Accredited Testing—OSHA Requirements

§ 1936.300 Acceptable accredited testing laboratories.

For an accredited testing laboratory to be acceptable:

(a) the testing laboratory must be accredited currently for safety testing under an OSHA-recognized system or by an OSHA-recognized accrediting agency; and,

(b) the testing laboratory must possess a letter of accreditation provided by the accreditor(s) in paragraph (a) above, and conform to any supplementary, descriptive, or restrictive terms and conditions included therein.

§ 1936.301 Recognized accreditation systems.

(a) *Recognized Federal systems.* A testing laboratory is acceptable if it is currently accredited for any of the following accreditation systems:

(1) National Voluntary Laboratory Accreditation Program (NVLAP), operated by the U.S. Department of Commerce, National Bureau of Standards, under Federal regulations (15 CFR Parts 7a, 7b, and 7c).

(2) Accreditation systems operated similarly under Federal regulations by other Federal agencies, after and as they may be recognized by the Assistant Secretary of Labor for OSHA.

(b) *Non-Federal systems.* (1) A testing laboratory is acceptable if it is currently accredited for safety testing by any non-Federal national accrediting agency, public or private, recognized by OSHA.

(2) A non-Federal national accrediting agency that requests recognition by OSHA under the procedure in Subpart H shall clearly demonstrate that it satisfies all of the following requirements:

(i) The accreditation program is thoroughly described in a document available to the public.

(ii) Program operations include, as a minimum, the criteria shown in Subpart G of this Part.

(iii) The program also utilizes appropriate criteria such as found in ANSI/ASTM-E548 or ISO Guide 25 or Appendix B of this Part, for assuring valid safety testing.

Subpart G—Accredited Testing—Criteria for Laboratory Accrediting Agencies

§ 1936.310 Administrative criteria.

The non-Federal national accrediting agency seeking recognition by OSHA uses the following administrative provisions to ensure that each applicant laboratory operates properly within the terms of the accreditation system:

(a) *Onsite survey.* The accrediting agency performs an onsite survey of the applicant's laboratory facilities to verify the representations in the application concerning the criteria of accreditation. The accrediting agency makes a complete written report of the survey. The report is maintained in an appropriate file containing the application, the report, and any other written material concerning the application.

(b) *Evidence of accreditation.* The accreditation of each testing laboratory is evidenced by a letter of accreditation from the accrediting agency. The letter of accreditation identifies the specific tests, types of tests, equipment, or materials for which the laboratory is accredited.

(c) *Period of accreditation.* The accreditation of a testing laboratory is valid for a period of no more than two years, unless renewed. The dates for the period of validity are stated in the letter of accreditation.

(d) *Maintenance of qualifying conditions.* (1) Every accredited testing laboratory continues to satisfy all program criteria during the period of the accreditation.

(2) In order to compare and verify various testing techniques and interpretations of requirements, each accredited laboratory participates in periodic proficiency test programs under the direction of the accrediting agency.

(3) Each accredited testing laboratory complies with any other term or condition stated in its letter of accreditation.

(e) *Inspection of laboratories.* (1) The accredited testing laboratory grants the accrediting agency the right to conduct unscheduled inspections of the laboratory in order to assure continued compliance with the requirements for accreditation, and cooperates in the conduct of the inspections.

(2) The laboratory, upon request by the accrediting agency, agrees to verify, at its own expense, any data which it has generated.

(f) *Additional accreditation procedures.* (1) Each laboratory has the right, under the procedures of the accrediting agency, to proper processing and timely action in the following situations:

(i) Enlargement of accreditation scope,

(ii) Renewal of accreditation,

(iii) Voluntary termination or limitation of accreditation,

(2) The accrediting agency maintains the right to revoke a laboratory's accreditation for reasons of material

misrepresentation or failure to comply with conditions stated by the accrediting agency, after providing reasonable due process to the laboratory.

§ 1936.311 Minimum technical requirements.

The non-Federal national accrediting agency seeking recognition by OSHA requires that each applicant testing laboratory, in order to obtain and maintain its accreditation, fulfills without exception and at all times the following minimum technical requirements:

(a) *Facilities and equipment.* The laboratory has available all facilities and test equipment relevant to the item being tested. Such equipment and facilities are capable of uniformly producing and controlling all the test conditions specified in the applicable test standards.

(b) *Calibration program.* The laboratory uses a documented calibration program to assure the required degree of accuracy in measurements.

(c) *Personnel.* The laboratory is adequately staffed by personnel qualified by training and experience to conduct tests and analyze data to assure the accuracy and timeliness of testing. The personnel have a working knowledge of the applicable test standards and test methods used.

(d) *Quality control.* (1) The structure of the quality control program and the responsibilities of key personnel in the laboratory are described in quality control manuals. Each manual is kept current. The procedures and requirements stated therein are followed.

(2) The laboratory upon request can verify any data which it has generated.

(3) In order to compare and verify various testing techniques and interpretation of requirements, the laboratory particpates in periodic proficiency test programs.

(e) *Master file.* The laboratory maintains a master file containing all OSHA standards and test standards applicable to the category of equipment for which the accreditation is sought. The master file is kept current.

(f) *Test procedures.* For each specified type of equipment or material it tests, the laboratory uses written test procedures.

(g) *Data sheet.* The laboratory maintains data sheets and test equipment lists for all inspections and tests performed. These data sheets and lists are appropriate for the type and scope of inspection or test operation performed and sufficient in detail to provide for complete verification and evaluation of the operations and objectives.

(h) *Test report.* A test report is made by the laboratory for each submission of equipment and materials that has been tested and found to conform to applicable test standards. The test report is signed by an authorized representative of the laboratory, who is technically competent and responsible for the quality and accuracy of the work.

(i) *Records.* The laboratory maintains appropriate records:

(1) Test reports on all equipment and materials tested;

(2) All data generated during testing;

(3) Records supporting compliance with calibration program; and

(4) Quality control manuals.

Subpart H—Accredited Testing-Procedure for OSHA Recognition of Additional Agencies

§ 1936.320 Applications.

(a) *Eligibility.* Any person or non-Federal organization conducting an accreditation program for testing laboratories may apply for OSHA recognition as a laboratory accrediting agency.

(b) *Contents.* The applicant shall provide sufficient information and detail—precisely referencing, by number and subsection, the accreditation requirements and program criteria described in Subparts F and G of this Part—for an informed descision concerning recognition to be made. The applicant should include whatever enclosures, attachments or exhibits the applicant deems appropriate. The application need not be submitted on a Federal form.

(c) *Filing office location.* The application shall be filed with: Directorate of Technical Support, Subpart H Application Staff, Room N3651, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

(d) *Amendments and withdrawals.* (1) An application may be revised by an applicant at any time prior to the completion of the final review in § 1936.321(d)(7).

(2) An application may be withdrawn by an applicant, without prejudice, at any time prior to the final decision by the Assistant Secretary in § 1936.321(g)(2)(iv).

§ 1936.321 Review and decision process.

The procedure in § 1936.121 will be used also for the recognition of additional accrediting agencies, subject to revision for appropriate changes or deletions:

(a) *Acceptance.* No changes.

(b) *Review for sufficiency.* No changes.

(c) *Evaluation of applicant.* Change as follows:

(1) § 1936.121(c)(1)(ii) will not apply. OSHA will not conduct onsite surveys of the testing laboratories themselves.

(2) § 1936.121(c)(2)(iii) shall read as follows:

(iii) The evaluation protocol shall be based on at least the criteria in Subpart G, with such additions, changes or deletions as may be required in each case by OSHA. Particular attention shall be directed to evaluating the methodology and procedures which the applicant uses to develop factual information upon which to base the accreditation decision. In addition, information shall be obtained to evaluate the charges and fees system used by the accrediting agency. The specific technical criteria related to particular equipment and materials, needed to supplement the program's generic criteria, shall be reviewed. The necessary framework of openness, celerity, and fairness within which the accrediting agency receives, evaluates and processes applications shall also be evaluated.

(3) § 1036.121(c)(3) will not apply.

(d) *Review for compliance with the requirements and staff recommendation.* Change as follows:

(1) Section 1936.121(d)(1) will address only the one written survey report.

(2) Sections 1936.121(d)(2) and (d)(4) will refer to Subparts F and G of this Part.

(e) *Preliminary decision by Assistant Secretary.* No changes.

(f) *Public review and comment period.* No changes.

(g) *Final decision by Assistant Secretary.* No changes.

§ 1936.322 Terms and conditions of recognition

The procedure in § 1936.122 will be used, subject to revision for appropriate changes or deletions:

(a) Paragraph (a)—Conditions. Substitute "accrediting agency" for "program" here and throughout section.

(b) Paragraph (b)—Renewals. Change as follows:

(i) Change reference for address in first sentence to § 1936.320(c).

(ii) Change reference in last sentence to § 1936.321.

(c) Paragraph (c)—Expansion requests. Change reference to § 1936.321.

(d) Paragraph (d)—Terminations. No changes.

(e) Paragraph (e)—Revocations. No changes.

§ 1936.323 Cooperative agreement with OSHA

The procedure in § 1936.123 will be used, subject to revision for appropriate changes or deletions:

(a) Paragraph (a). Substitute "accrediting agency" for "organization operating the program."

(b) Paragraph (b). No changes.

(c) Paragraph (c). No changes.

(d) Paragraph (d). Change "program" to "accrediting agency" and change reference to § 1936.321.

(e) Paragraph (e). Change "program" to "accrediting agency" and change reference to § 1936.321.

(f) Paragraph (f). Delete; will not apply to accrediting agencies.

Subpart I—Special OSHA Administrative Requirements

§ 1936.400 Fees and charges

(a) No fees or charges will be imposed by OSHA on applicants in Subparts D and H of this Part, except for those described in this section.

(b) *Applicant located outside United States.* (1) The applicant shall be charged the following costs of onsite activity by Federal staff (or contractor) outside of the United States (under §§ 1936.121 and 1936.321):

(i) Air and/or land travel costs beyond the customary departure points (coastal international airports) in the continental United States, except for Hawaii or Alaska as appropriate on the west; and

(ii) Per diem (or "actual expenses" to the limit allowed Federally) costs for all time in excess of 72 hours from departure.

(2) All other costs shall be considered equivalent to those incurred Federally in evaluating domestic organizations.

(c) *Recognized program or agency located outside United States.* Costs of monitoring a recognized third-party certification program or a recognized laboratory accrediting agency outside the United States shall be charged to that entity as in paragraph (b) of this section.

(d) *Voluntary acceptance of costs.* An applicant located outside the United States may request that the ALJ change the hearing location to the applicant's desired location (outside the United States) if the applicant accepts the charges for Federal personnel in paragraph (b) of this section, and if all other principals agree to the request. In such circumstances, the ALJ may permit an exception to the location restriction in § 1936.121(g)(2)(iii).

§ 1936.401 Records and reports required by OSHA.

(a) *Recognized third-pary certification program.* (1) The validating laboratory (or the third-party certification program) shall furnish OSHA an annual report detailing the extent of its OSHA-related activities for the year, and covering the equipment which has been certified during the year.

(2) Appropriate records—sufficient to review and understand what transpired in OSHA-related certification actions—are maintained by the recognized program and the validating laboratory, and are retained in accordance with the program's published procedures or industry standard operating practices.

(b) *Recognized laboratory accrediting agency.* (1) The recognized accrediting agency shall furnish OSHA an annual report detailing the extent of its OSHA-related activities for the year, and covering the laboratories which it has accredited during the year and those maintaining or renewing their accreditation from previous years. The report also shall include detailed information concerning agency activity regarding field surveys and laboratory check tests.

(2) Appropriate records—sufficient to review and understand what transpired in OSHA-related accreditation actions—are maintained by the recognized program and are retained in accordance with the program's published procedures or industry standard operating practice.

(c) *Accredited laboratory.* No reports are required by OSHA from testing laboratories accredited by accrediting agencies recognized under this Part. No records are specifically required by OSHA (beyond industry standard operating practice), and there are no OSHA record retention requirements.

(d) *Manufacturer or vendor.* No reports are required by OSHA from manufacturers or vendors which participate in third-party certification programs, or which self-certify. No records are specifically required by OSHA (beyond industry standard operating practice), and there are no OSHA record retention requirements. Documentation or record requirements related to self-certification activities become mandatory only when self-certification is required in OSHA safety standards located in other Parts of this Chapter.

(e) *Employers.* Documentation or record requirements for compliance with OSHA standards, if required, will be found only in the OSHA safety standards located in other Parts of this Chapter.

§ 1936.402 Dispute resolution procedures.

(a) *Data verification.* Upon written request by OSHA, the validation laboratory in a third-party certification program or an accredited testing laboratory being utilized for a self-certification program shall verify, at its expense, any data which it has generated related to the certification for safety of equipment.

(b) *Complaints.* [Reserved]

Appendix A[1]

Documents for Reference or Use

- ANSI Z34.1–1982
- ANSI Z34.2–1980
- ANSI/ASTM E-548
- ISO Guide 25
- ISO/IEC Guide 28
- ISO/IEC Guide 7
- ISO/IEC Guide 2:1980 and Addendum 1:1981
- ISO/IEC Guide 40 (proposed)
- ISO/IEC Guides 38 and 39 (proposed)
- ISO/IEC Guide 22(E)

Appendix B—Generic Criteria for Testing Laboratories

Note:—This Appendix is non-mandatory and may be utilized along with or instead of ASTM E-548 and ISO Guide 25 as part of a laboratory accrediting agency's program criteria (Ref: 29 CFR 1936.301(b)(2)).

A testing laboratory, in order to be properly accredited, should be evaluated against each of the following conditions:

(a) *General.* (1) The laboratory maintains good housekeeping practices in office areas, test areas, storage areas (both inside and outside), and shipping and receiving areas.

(2) The laborabory maintains a current organization chart of the company, showing key personnel and the relationship between administration, operation, and quality control.

(3) The structure of the quality control program and the responsibilities of key personnel in the laboratory are described in a quality control manual. The manual includes information with regard to receiving, handling, and shipping of equipment to be tested; testing procedures; calibration program; test reports; records and files; subcontracts; and the test standards files relating to areas of accreditation. This information is explicitly contained in the manual or is referenced so that its location in the laboratory is clearly identified. The manual is kept current and the procedures and requirements stated therein are followed.

(b) *Master file.* The laboratory maintains a master file containing all OSHA standards and test standards applicable to the category or area for which the accreditation is sought. It contains information which provides a historical record of changes to these standards. A procedure is maintained to control the use of the master file and to insure that it is kept current.

(c) *Receiving, handling and shipping controls.* Controls for receiving, handling, and

[1] See item III. D. 10. of Supplementary Information for discussion of Appendix A.

shipping are in effect and include procedures for:

(1) Visual examination of samples (upon receipt) for evidence of shipping damage;

(2) Periodic review of handling capabilities and maintenance of equipment;

(3) Storage of items while awaiting disposition with regard to the safety of personnel and degree of protection to preclude the possibility of damage; and

(4) Shipping and receiving data containing the date of receipt, name of manufacturer, and other necessary data to accurately record and positively identify samples as received at the laboratory.

(d) *Test procedures.* (1) For each specified type piece of equipment or material it tests, the laboratory uses written test procedures.

(2) These procedures are based on pertinent consensus or Federal test standards, as identified by OSHA. These test procedures can be made available upon request for examination and serve as part of the laboratory evaluation.

(3) Each test procedure includes the following information, when applicable:

(i) Nomenclature and identification of the test item;

(ii) Characteristics and design criteria to be inspected or tested, including values for acceptance or rejection;

(iii) Detailed steps and operations to be taken in sequence, including verifications to be made before proceeding;

(iv) A list of measuring equipment to be used, specifying range, type, accuracy, and test in which to be used;

(v) Layout and interconnection of test equipment and test items;

(vi) Hazardous situations or operations;

(vii) Precautions to comply with established laboratory safety requirements to ensure safety of personnel, and to prevent damage to test items and measuring equipment;

(viii) Environments and other conditions to be maintained, including tolerances;

(ix) Special instructions for inspection or testing (e.g., special handling of fragile test items);

(x) Special instructions for nonconformances, anomalous occurrences or results; and

(xi) Nomenclature and designation of applicable test standard on which the test procedure is based.

(e) *Testing work records.* The laboratory maintains data sheets and test equipment lists for all inspections and tests performed. These data sheets and lists are appropriate for the type and scope of inspection or test operation performed and sufficient in detail to provide for complete verification and evaluation of the operations and objectives. Data sheets include the following minimum information:

(1) Date of test, name of test and supervising employee, nomenclature of test item and name of manufacturer;

(2) Unusual occurrences and results of each phase of testing thoroughly explained; and

(3) Signature of lead technician performing test.

(f) *Test equipment lists.* A test equipment list, which names all testing equipment used for that test, is provided before the start of the test. It includes the following information:

(1) The type and manufacturer of the equipment;

(2) The serial and/or model number of the equipment; and

(3) Date of last calibration.

(g) *Calibration program.* The laboratory uses a documented calibration program to assure the required degree of accuracy in measurements.

(1) The accuracy of all measurement instrument standards is traceable to primary standards maintained by the National Bureau of Standards of the United States of America or the national physical laboratory maintaining such standards in the country in which the laboratory is located. This traceability may be maintained through appropriate reference standards whose accuracy and stability have been certified by such agencies.

(2) The normal accuracy of the reference standard is at least four times as great as that of the instrument being calibrated. All equipment and reference standards are calibrated at least once a year, or more frequently in accordance with the instrument manufacturers' recommended schedules or the recommendations of the National Bureau of Standards.

(3) Documented evidence of calibrated standards and test equipment is maintained by the laboratory.

(i) If the laboratory uses an outside facility for calibration services, the laboratory is responsible for the adequacy and quality of that service.

(ii) The laboratory maintains certifications of instrument calibration with copies of calibration data and equipment lists.

(4) If equipment calibrations are performed in-house, the laboratory maintains written calibration procedures, and equipment folders containing routine maintenance information, values recorded during calibration, and standards equipment used for the calibration.

(5) Environmental factors critical to the calibration method are controlled during calibration processes, depending upon the physical property and degree of sensitivity of the instrument involved. The requirements for these controlled environments are stated in each calibration procedure. The environmental factors may include temperature, humidity, cleanliness, vibration, voltage, radio frequency interference, and pressure.

(6) The calibration program contains written requirements and controls for permissible error limits, labeling or tagging of calibrated equipment, and state-of-the-art measurements.

(h) *Laboratory organization and competence.* (1) The testing facility/laboratory is organized primarily to perform testing and has its own distinct identity.

(2) The laboratory can demonstrate a level of competence and experience in the area of testing for which it is seeking accreditation or in a comparable test area:

(i) The technical director or the equivalent personnel of the laboratory in conjunction with other personnel, is capable of orally presenting the laboratory's capabilities, and has a working knowledge of the applicable test standards and methods for testing of items for which the laboratory is seeking accreditation;

(ii) The laboratory can demonstrate that it is a working laboratory which has performed testing in the field for which it is seeking accreditation or in a comparable field of testing;

(iii) The laboratory is prepared to submit a minimum of three customer references and three test reports.

(3) The laboratory, if independent, has an acceptable degree of financial security. This may be shown by means of a copy of its most recently audited financial statement, and a list of bank and credit references.

(i) *Facilities and equipment.* The laboratory has available all facilities and test and inspection equipment relevant to the specific equipment or materials testing practices for which accreditation is being requested. If the laboratory subcontracts with other accredited laboratories for certain tests, it must assume the responsibility for the results of all testing. All such testing equipment and facilities are capable of uniformly producing and controlling all the test conditions specified in the applicable test standards. (A list of such facilities and testing equipment is made available to the survey team prior to its onsite inspection.)

(j) *Personnel.* (1) The laboratory is adequately staffed by personnel qualified by training and experience to conduct tests and to analyze data to assure the accuracy, performance, and timeliness of testing. The personnel have a working knowledge of the applicable test standards and test methods used.

(2) There is an engineering or scientific employee who is responsible for the technical adequacy and quality of testing performed either by that employee or under that employee's supervision, and for the performance of technicians assigned to that employee, and who has at least a Bachelor of Science degree or equivalent technical college degree, and on-the-job training.

(3) There is a technical staff responsible for tasks assigned in the performance of test functions and/or for assistance to the engineering or scientific employee. Each member of the technical staff has at least a high school diploma or equivalent and on-the-job training or trade school training.

(k) *Test reports.* For each specified item tested, the laboratory prepares and provides a written report with the following characteristics:

(1) A test report is prepared by the accredited laboratory for each item of equipment of material that has been tested.The test report is signed by an authorized representative of the laboratory, who is technically competent, responsible for the quality and accuracy of the work, and whose credentials have been previously presented to the accrediting agency.

(2) The report serves as notification that the item complies with the applicable test standards.

(3) The test report includes the following information:

(i) Catalog or model number covered by the test;

(ii) Method used to select or provide item;

(iii) Results of all tests performed;

(iv) Signed statement that the item covered by the test report conforms to the applicable test standards; and

(v) Copy of the test procedure on description of the test method.

(4) The laboratory retains a copy of the report on file with the data accumulated during the actual testing for at least five years.

(5) A copy of any report which has been prepared in conjunction with a product testing requirement of the OSHA safety standards may be made available for inspection by OSHA, upon request, if a dispute arises.

(l) *Recordkeeping.* (1) The laboratory maintains the following records;

(i) Test reports on all equipment tested;

(ii) All data generated during testing;

(iii) Records supporting compliance with calibration program;

(iv) Testing equipment lists;

(v) Receiving and shipping records;

(vi) Accreditation correspondence (application, letter of accreditation, and other pertinent documents);

(vii) Organization chart and personnel files, including a list of all jobs, a description of the responsibilities of each job, and a description of any job training programs;

(viii) Pertinent financial records;

(ix) Quality control manual(s); and

(x) A master file containing all the OSHA regulations and standards referenced therein which are applicable to the equipment for which accreditation has been granted.

(2) The minimum period of retention for the records is five years, except that shipping and receiving records are kept only for a minimum of one year.

Appendix C—OSHA-Recognized Laboratory Accrediting Agencies

(To be developed and updated quarterly in the **Federal Register**)

Will include: Methodology used.

Appendix D—OSHA-Recognized Third-Party Certification Programs

(To be developed and updated quarterly in the **Federal Register**)

Will include:

(a) Equipment/Installation Categories Encompassed.

(b) Certification Marks (symbols) Used.

[FR.Doc. 84-6040 Filed 3-5-84; 8:45 am]

BILLING CODE 4510-26-M

federal register

Tuesday
March 6, 1984

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, and 58

Safety Standards for Ground Control and Machinery and Equipment at Metal and Nonmetal Mines; Proposed Rules

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, and 58

Safety Standards for Ground Control at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update and clarify the Mine Safety and Health Administration's existing ground control safety standards for metal and nonmetal mines. It would consolidate the existing standards into a subpart of a single new Part 58.

DATES: Comments must be received on or before May 7, 1984.

ADDRESS: Send comments to the Office of Standards, Regulations and Variances; MSHA; Room 631, Ballston Towers #3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Background

The Mine Safety and Health Administration (MSHA) is proposing to revise its existing ground control standards for metal and nonmetal mines. These revisions would upgrade provisions consistent with advances in mining technology, eliminate duplicative and unnecessary standards, provide alternative methods of compliance and reduce recordkeeping requirements. MSHA believes that this review will result in more effective regulations for assuring the safety and health of persons working in mines.

On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (46 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to ground control in 30 CFR 55/56/57.3 (Section .3) were included in the priority group.[1]

On March 9, 1982, MSHA published a notice in the **Federal Register** (47 FR 10190) announcing public conferences to discuss issues related to the standards under review. The Section .3 conferences were concluded in April 1982. Many participants requested that the Agency make available to the public a preproposal draft before issuing a proposed rule. MSHA developed a preproposal draft, announced its availability in the **Federal Register** on March 11, 1983 (48 FR 10593) and invited public comment. During the review process MSHA received suggestions and recommendations from many commenters.

MSHA's review has resulted in many substantive changes consistent with commenters' suggestions and the specific goals of Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Agency proposes to reorganize Parts 55, 56, and 57 into a single Part 58 with each of the existing sections becoming a separate subpart within Part 58. Section .3 standards would be codified in Subpart B—Ground Control. This reorganization would eliminate the current repetition of identical standards in the Code of Federal Regulations (CFR) and result in each standard being reflected as a section number, the basic designating unit used by the **Federal Register**. Each proposed standard would have one of three designations: "(G)" for general standards that would apply to all areas of any mine; "(S)" for those that would apply only to surface areas of any mines; and "(U)" for those that apply only to underground areas of underground mines. MSHA believes these designations clearly define the intended scope of the standards.

The standards in Section .3 would be arranged into four related groups: Mining Methods; Scaling; Support Systems; and Safeguards. In addition, the standards would be renumbered to facilitate recodification. After the Part designation (58), the first digit represents the general subpart category; the second digit represents the related group; and the final two digits indicate the scope of each standard. To facilitate use of the definitions, they would be located at the beginning of the subpart in which they appear.

Several commenters suggested that MSHA index its standards to cross-reference related subject areas. The Agency agrees with this concept and intends to establish a comprehensive index to its metal and nonmetal standards when revisions to Part 58 are complete.

Two tables are included in this document to aid in the comparison of the existing standards with the proposed standards: a derivation table cross-referencing the proposed standard numbers in Part 58 with the existing numbers and the preproposal draft numbers, and a redesignation table cross-referencing existing standard number with the numbers of the proposed standards.

II. Discussion and Summary of the Proposed Rule

Fall of ground has historically been a leading cause of injuries and deaths in metal and nonmetal mines. Control of ground falls is made uniquely difficult because of the variety of conditions encountered and the changing nature of the forces affecting ground stability in any given operation. Nonetheless, technological advances are helping to reduce the hazards associated with insecure ground.

The Agency has considered each of these factors in developing this proposal. MSHA has carefully reviewed the possibility of a general ground control plan standard and has decided not to propose one at this time. The Agency believes that including specific requirements in individual standards appropriately addresses ground control hazards while providing for the safety of persons working in mines. The standards proposed are intended to be performance-oriented but are sufficiently specific to provide the operator with the necessary guidance to protect mine personnel.

MSHA has proposed a new rock bolt standard, section 58.3300, combining and revising four existing standards. It sets out criteria for the selection of rock bolts and accessories. Where applicable, rock bolts and accessories would conform with the provisions of ANSI/ASTM F 432-83, "Standard Specification for Roof and Rock Bolts and Accessories", published by the American Society for Testing and Materials, which is incorporated by reference. The new standard also provides for the use of rock bolts not addressed in ANSI/ASTM F 432-83. Rock bolt installation parameters and testing are addressed in the proposal. The current requirement for written anchorage test results is replaced with a requirement that the operator certify that anchorage and torque tests have been conducted.

In developing this proposal MSHA has been responsive to the many comments received concerning key provisions of the regulations. The Agency has clarified certain provisions and, where possible, has included alternative compliance provisions.

[1] Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in this document as "55/56/57."

Two new definitions and one revised definition would be included in this new subpart B. The twenty-three different standards appearing in 30 CFR Parts 55, 56, and 57 would be reduced to seventeen under the proposal. In addition, the redundancy of repeating certain standards in each Part has been eliminated.

Definitions

The proposed rule would add definitions for "rock bolt" and "rock burst" and modify the definition of "scaling." These terms would be defined in Section 58.3000.

There was no definition for the term "rock bolt" in the preproposal draft. However, some commenters indicated the need for such a definition. MSHA's proposed definition would encompass the wide variety of rock support or strengthening systems now in use, as well as those which may be developed in the future. One commenter suggested the term "rock fixture" as a new term to encompass all forms of rock bolts. MSHA believes that the proposed broad definition of "rock bolt" would be sufficient without introducing new terminology.

MSHA is proposing a new definition for the term "rock burst." A definition is appropriate to clarify the use of the term "rock burst" and to distinguish it from the term "outburst". For purposes of this subpart, the agency is restricting the application of the term "rock burst" to bursts resulting from stress build up within the rock structure, as distinguished from bursts resulting from pressurized mine gases. Several commenters felt the language "violent" and "large amounts" should be added to the preproposal draft definition in order to distinguish a rock burst from an insignificant popping unrelated to hazardous conditions. MSHA agrees and has included the language in the proposed rule.

"Scaling" is currently defined as removal of insecure material from a face or high-wall. MSHA's preproposal draft added "roof or wall", locations which are also normally scaled. Commenters pointed out that terminology used by the mining community to describe the locations varied with the type of mine and geographic area. MSHA's proposed definition deletes references to specific locations to be scaled and adds the methods by which the scaling function would be performed. MSHA also proposes to change the word "insecure" to "loose" in order to reflect the common terminology of the mining industry.

Standards

The following standard-by-standard analysis discusses the proposed rule:

Mining Methods

Section 58.3130(S) Wall, bank and slope stability.

This proposal would combine current standards 55/56/57.3–1 and .3–3 since both relate to wall, bank or slope stability. The standard appeared as 58.3–1(S) in the preproposal draft. The first three sentences of current standard 55/56/57.3–1 would be deleted since the proposed term "mining methods" in the last sentence is a generic term incorporating the criteria listed. The result is a single standard dealing with wall, bank or slope stability.

One commenter felt that the preproposal draft language could only be enforced after an accident occurred. MSHA believes that methods of detecting instability factors are available and can be the basis for enforcement before injury would occur. This proposal states the intent of the standards in performance-oriented language and identifies the hazard by using the word "stability". Several commenters suggested that the preproposal draft language should be more specific. MSHA believes the language must be broad enough to apply to the wide variety of operations encountered.

When benches are included in the "mining method" there must also be a system selected to maintain them in a hazard-free state, and when required, as catch benches. MSHA agrees with the commenter who stated that many factors contribute to the determination of bench width and height. The proposed standard provides a performance-oriented approach without restrictive limitations on width and height of benches other than those imposed by the equipment selected for the maintenance function.

Section 58.3131(S) Pit or quarry wall perimeter

This proposal would revise current standard 55/56/57.3–2 which appeared as preproposal draft 58.3–2(S). The proposed standard uses a performance–oriented approach to the correction of "fall-of-material" hazards which may exist on the perimeter of a pit or quarry. The proposal also provides flexibility for compliance. Several commenters felt the preproposal draft was duplicative of other standards and specification oriented. The proposal relates to specific fall-of-material hazards.

Some commenters stated that the preproposal draft language requiring perimeter stripping of loose material could not apply to sand and gravel operations. MSHA agrees and added the phrase "sloping to the angle of repose" as an alternative. MSHA believes hazards other than loose or unconsolidated material can exist at the top of the wall or slope. Trees or boulders may constitute a fall hazard in certain cases. The proposal requires that the condition be corrected when it creates a fall-of-material hazard. The method of correcting or eliminating the hazard is left to the discretion of the mine operator.

Section 58.3160(U) Shaft support.

This proposal would revise current standard 57.3–29 which appeared as preproposal draft 58.3–3(U).

This standard deals with natural and artificial shaft support. MSHA's accident and injury statistics indicate that all shafts have not been sufficiently supported and as a result accidents have occurred. The current standards contains the phrase "sufficient strength". This language is clarified by proposed language relating to the design and maintenance of the natural shaft pillars and the design, installation and maintenance of alternative supports such as cribs or combination pillar and reinforcement material.

Section 58.3161(U) Rock bursts.

This proposal would revise current standard 57.3–35 which appeared as preproposal draft 58.3–4(U). This proposal addresses reporting, detection and control of rock bursts.

The proposal includes specific language to clarify the rock burst reporting necessary to provide systematic evaluation and monitoring of critical conditions within the mine. This data will be used to assist the Agency and the mining community to control hazards in this area.

The proposal deletes the phrase "comprehensive rock burst detection plan applicable to current conditions in that mine" and substitutes the phrase "rock burst control plan". This would eliminate the current restriction of a "detection plan" which, as stated by one commenter, may be only one phase of an overall plan to limit the effect of the rock bursts and enhance miner safety. Procedures such as mine planning, detection, monitoring, and destressing may be approached individually or collectively in the overall "control plan". One commenter expressed concern that the preproposal draft was an unworkable departure from the current standard. MSHA believes that the proposal emphasizes a system of

"control" which safeguards persons working in the mine. MSHA recognizes that current technology cannot eliminate rock bursts, but they must be appropriately managed or controlled to assure personnel safety.

The proposal reflects this approach by stating the plan shall include measures to "minimize exposure of persons to burst prone areas". MSHA also believes ninety days is an adequate time frame in which to develop and implement a plan. The requirement that the plan be available to a representative of mine personel would be consistent with general MSHA policy and section 103(h) of the Federal Mine Safety and Health Act of 1977.

Scaling

Section 58.3200(G) Hazard control.

This proposal would combine and revise portions of current standards 55/56/57.3–4, .3–5 and the third sentence of 57.3–22, which appeared as preproposal draft 58.3–10(G). This standard would restrict work or travel where a fall of ground hazard exists. Safe means for scaling (the first sentence of current standard 55/56/57.3–4) appeared as preproposal draft 58.3–11(G) and 58.3–30(G), and is addressed in proposed standards 58.3201(G) and 58.320(G). Examinations of ground (first three sentences and part of the fourth sentence of 57.3–22) appeared as preproposal draft 58.3–43(G) and 58.3–44(G) and is addressed in the proposed standards 58.3401(G) and 58.3402(G).

Several commenters felt the preproposal draft language requiring a barricade where hazardous ground conditions exist was not appropriate under all circumstances. MSHA concurs and adopts a "barrier" concept as suggested by one commenter. Under this proposed standard, the opeator shall restrict travel by a conspicuous obstruction and posting to avoid inadvertent entry until the hazard is corrected. Where appropriate, the operator may permanently barricade the area.

In response to one commenter's statement that overhanging banks were not adequately addressed in the draft proposal, MSHA proposes to add the phrase "taken down" to "scaled or supported".

Section 58.3201(G) Locations.

This proposal would revise current standards 55/56/57.3–6 which appeared as preproposal draft 58.3–11(G). It deals with safe locations for scaling. The existing standard applies only to surface operations. The proposal extends the application of this standard to underground operations since scaling occurs at both surface and underground operations. The current standard specifies "approach from above". The proposal allows for use of techniques not necessarily performed from "above". The proposal also clarifies "safe" locations and defines the hazard toward which the standard is directed.

Some commenters felt that MSHA should adopt the philosophy that persons performing scaling operations in certain areas, such as in raises, be permitted to be exposed to some inherent increased risk of injury. MSHA believes that persons working in close quarters such as raises should work from a location where the barred down material would not strike them or overhead protection should be used.

Section 58.3202(G) Scaling tools.

This proposal would revise current standard 55/56/57.3–51 which appeared as preproposal draft 58.3–30(G). The proposal addresses hazards which exist when using improper scaling tools. MSHA proposes deleting "at a work place" since the standard is intended to apply wherever manual scaling is performed. The word "user" is changed to "person" consistent with other standards. Conforming to the suggestion of some commenters, this proposal is removed from the "Tools" grouping of standards appearing in the preproposal draft, and placed under the "Scaling" grouping of standards.

Support Systems

Section 58.3300(G) Rock bolts.

This proposal would combine and revise current standards 55/56/57.3–53, .3–54, .3–55, and .3–56 into one performance oriented standard. It appeared in the preproposal draft as 58.3–22(G) and 58.3–23(G). The proposed standard addresses current ground support systems and provides the criteria for introducing new support systems. It also assures selection of rock bolts and accessories which will maintain the integrity of the support system installed.

MSHA's preproposal draft incorporated by reference the concensus standard, "Standard Specification for Roof and Rock Bolts and Accessories", ANSI/ASTM F432–83. MSHA proposes that current standard 57.3–57, which establishes specifications for washers, be deleted as redundant since these requirements appear in ANSI/ASTM F432–83. The proposed standard indicates where ANSI/ASTM F432–83 may be obtained.

Several commenters objected to the incorporation by reference. One felt it was a misapplication of a design criteria to an end user and would unnecessarily lock-in technology. Several commenters felt that the incorporation was not broad enough to cover all types of rock bolts. MSHA recognizes the potential technological constraints imposed by incorporating any concensus standard. However, the Agency believes that the standard is necessary to resolve a serious problem which has existed in the past where untested or inadequate rock bolts have been introduced into metal and nonmetal mines. MSHA recognizes that some rock bolts do exist which are not addressed in ANSI/ASTM F432–78, and proposes to permit their use under certain conditions. A rock bolt system which has been successfully used elsewhere under similar conditions or has been tested successfully under representative conditions would be permitted. MSHA believes that this approach allows for advances in technology without sacrificing worker safety.

MSHA proposes that a ±.030 inch tolerance be permitted in finishing bit size. Some commenters stated that the minus tolerance need not be addressed. MSHA believes that both an undersized and an oversized hole can create a seating problem and allow slippage. Too small a hole can result in limited frictional resistance, dismantling and damage to the leaves. Too large a hole can result in limited frictional resistance where the plug penetrates too deeply into the shell. Problems also occur with resins and grouting materials when the volume of the hole would not contain the proper amount of material for proper setting.

In addition to clarifying existing language relating to installing and testing bolts, torque tests would now be required on the first, the last, and every tenth bolt installed during a shift rather than on every fourth bolt as currently required both in metal and nonmetal mines and in coal mines. MSHA experience indicates that ground conditions are sufficiently different in metal and nonmetal mines to justify a different testing procedure than in coal mines. The proposal provides the needed safety for metal and nonmetal applications. Under this proposal, operators would no longer be required to keep a record of anchorage tests but instead would certify that anchorage and torque tests were conducted.

When rock bolts not tensioned by torquing are used, the proposal requires that appropriate installation parameters be established and followed to assure the integrity of the support system. The parameters would be made available to

MSHA and miners or their representatives.

Section 58.3301(G) Rock bolting sequence.

This proposal would revise current standard 57.3–58 which appeared as preproposal draft 58.3–24(G). It requires that when rock bolts are needed for ground support, they be installed as soon as practicable after an area is exposed. In the preproposal draft MSHA changed the application of the current standard from Underground Only to General (surface and underground) since rock bolts are used in both surface and underground mines. This proposal also corrects an administrative oversight in which the original language of standard 57.3–32 was reprinted in the Code of Federal Regulations after it had been revised and made mandatory as standard 57.3–58 (44 FR 48526, August 17, 1979).

Section 58.3360(U) Ground support use.

This proposal would revise current standard 57.3–20 which appeared as preproposal draft 58.3–20(U). It deals with the need for maintaining the structural integrity of the mine and avoiding fall-of-ground hazards. The phrase "where ground conditions or mining experience in similar ground conditions in the mine" replaces the current language, "operating experience of the mine, or any particular area of the mine" for clarification. "Operating experience" relates to the entire mine or to a particular area of the mine where similar ground conditions are encountered. Under the proposed standard ground conditions and mining experience are the criteria for determining if support is required.

MSHA's preproposal draft contained language requiring that operators demonstrate the effectiveness of changes in existing ground support methods before implementing the changes. The proposal deletes that requirement. The proposed rule requires that the support system be designed, installed and maintained to support the ground, and therefore MSHA believes that changes to support systems would be suitable for their intended purpose without the need for an additional requirement of a demonstration.

Section 58.3361(U) Timbering.

This proposal would revise current standard 57.3–26 which appeared as preproposal draft 58.3–21(U). This proposal addresses the hazards associated with timbering in active workings. As proposed, "blocked, or blocked and wedged so that a tight fit is achieved," is deleted from the current standard and replaced by "securely set" which conveys the same meaning more concisely. On commenter stated that deletion of the word "promptly" would diminish the safety of mine personnel. MSHA believes that the time in which damaged, dislodged or loosened timber should be repaired or replaced would vary depending upon conditions at individual mines. In some instances repair or replacement of timber may be required immediately. The proposal clarifies the Agency's intent and assures protection by requiring repair or replacement "prior to work or travel in the affected area." The phrase "to persons" was also added for clarity.

Section 58.3362(U) Torquing tools.

This proposal would revise current standard 57.3–33 which appeared as preproposal draft 58.3–31 (U). This proposal addresses the availability of calibrated torque meters or wrenches. MSHA concurs with the comment that calibrated torque meters or wrenches are no required for all rock bolts. MSHA proposes to require torque meters or wrenches only when "torque tests are required to check the integrity of the rock-bolt installation." The word "calibrated" presumes maintenance will be performed as needed to retain calibration. For that reason, MSHA deletes reference to periodic and annual testing and does not adopt the suggestion that MSHA add the phrase "and a means to test accuracy of same" as suggested by a commenter. The proposed language permits discretion as to where calibration would take place. Some commenters suggested placing this proposal under the "Support Systems" grouping of standards. MSHA adopts the suggestion and proposes the standard as 58.3362(U). This standard is being moved from the "Tools" grouping which appeared in the preproposal draft. MSHA has moved both standards which appeared under "Tools" to other standard groupings. The heading "Tools" is thus unnecessary and will not be proposed.

Safeguards

Section 58.3400(G) Secondary breakage.

This proposal would revise current standard 55/56/57.3–50 which appeared as preproposal draft 58.3–42(G). It deals with the hazards associated with secondary breakage operations. One commenter suggested the first sentence of the preproposal draft was unnecessary. MSHA believes it is appropriate to outline the sequence used to properly secure material before commencing breakage operations, and does so in the first sentence. The second sentence requires performing the breakage from a safe location.

Section 58.3401(G) Examination of ground conditions.

This proposal would combine current standards 55/56/57.3–8, .3–9 and 57.3–22. The third sentence of existing 57.3–22 would be included in proposed standard 58.3200(G). This proposal appeared as preproposal draft 58.3–43(G) and addresses examination of ground conditions in active workings by mine personnel. One commenter felt the revision was complicated, confusing and unnecessarily broad. As proposed, the standard applies to "active workings", a defined term of longstanding use in 30 CFR 57.2. Should work begin in any area during the shift, that area would become an "active working" and require examination. Such examinations may be done by any person specifically designated by the operator to perform the task. The criteria used to identify the "designated person" are set out in the proposed standard thereby permitting the deletion of the term "competent person," without reducing the safety protection afforded by having an examination done by a person familar with ground control hazards and examination procedures.

Section 58.3402(G) Examination of ground control practices.

This proposal would revise current standard 57.3–22 which appeared as preproposal draft 58.3–44(G). The proposal addresses examination of ground control practices by supervisors during each visit. MSHA accepts the suggestion that "working places" is more appropriate than "active workings" and incorporates that change in the proposal. MSHA believes that supervisors responsible for the safety of persons working in the mine should have the necessary expertise and should evaluate ground conditions in working places.

Section 58.3430(S) Activity between equipment and pit wall or bank.

This proposal would revise current standard 55/56/57.3–12 which appeared as preproposal draft 58.3–40(S). The proposal addresses the need for clear paths of escape from fall of ground. One commenter suggested changing "work" to "work or travel" to broaden the coverage of the standard. MSHA adopts this suggestion. In addition, the proposal includes editorial changes.

Section 58.3460(U) Maintenance between equipment and ribs.

This proposed new standard appeared as preproposal draft 58.3–41(U). It addresses the serious accidents which have occurred underground from falling material pinning maintenance personnel against the equipment being worked on. Several commenters suggested that maintenance should be allowed if the area was checked and was scaled as necessary prior to work. MSHA agrees with this suggestion and permits maintenance where the area has been physically tested and has been secured when necessary to assure safety.

Derivation Table

The following derivation table lists the number of the proposed standard, area of a mine to which the standard would apply, the number of the standard in the preproposal draft, and the number of each of the existing standards that the proposed standard would revise.

Derivation Table

New number	Scope [1]	Preproposal draft number	Current number [2]
58.3000	G	58.2	55/57/57.2
58.3130	S	58.3–1	55/56/57.3–1 55/56/57.3–3
58.3131	S	58.3–2	55/56/57.3–2
58.3160	U	58.3–3	57.3–29
58.3161	U	58.3–4	57.3–35
58.3200	G	58.3–10	55/56/57.3–4 55/56/57.3–5, 57.3–22
58.3201	G	58.3–11	55/56/57.3–4, 55/56.3.6
58.3202	G	58.3–30	55/56/57.3–4, 55/56/57.3–51
58.3300	G	58.3–22 58.3–23	55/56/57.3–53, 55/56/57.3–54, 55/56/57.3–55, 55/56/57.3–56
58.3301	G	58.3–24	57.3–32, 57.3–58
58.3360	U	58.3–20	57.3–20
58.3361	U	58.3–21	57.3–26
58.3362	U	58.3–31	57.3–33
58.3400	G	58.3–42	55/56/57.3–50
58.3401	G	58.3–43	55/56/57.3–8, 55/56/57.3–9, 55/56/57.3–22
58.3402	G	58.3–44	57.3–22
58.3430	S	58.3–40	55/56/57.3–12
58.3460	U	58.3–41	(3)

[1] In this table, scope of each standard is indicated as follows: "(G)"—general, all areas of any mine; "(S)"—surface areas of any mines' and "(U)"—underground areas of underground mines.
[2] Standards that uniformly appear in 30 CFR 55, 56, and57 are referred to in this table as "55/56/57."
3. New.

III. Drafting Information

The principal persons responsible for preparing this proposed rule are: William W. Carlson, Metal and Nonmetal Mine Safety and Health, MSHA; Edward N. Flynn, Office of Standards, Regulations and Variances, MSHA and Edward J. Sexauer, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to identify potential costs and benefits associated with the proposed changes to its ground control standards for metal and nonmetal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more on the economy. Therefore, the rule falls outside the criteria for a major rule, and a Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that agencies evaluate and include, wherever possible, compliance alternatives that minimize any adverse impact on small businesses when developing regulatory proposals. This proposed rule has introduced some alternative compliance methods to the existing regulations, several of which would directly benefit small mining operations. In addition, the proposal would clarify compliance responsibilities and adopt performance-oriented standards.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the proposed requirements with the costs of the existing requirements. A copy of the full analysis is available upon request. For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees. The proposed rule does not represent a significant economic impact on a substantial number of small businesses under the Regulatory Flexibility Act.

In developing cost estimates, MSHA has taken into consideration industry-wide safety practices. Current compliance costs are related to the following requirements: labor, equipment purchase and maintenance, and recordkeeping. In calculating the costs of the proposed rule, the Agency projected capital expenditures and recurring costs.

The proposed regulations would affect 13,000 mines. MSHA estimates that approximately 11,000 of these mines are small businesses. There are 721 underground mines and 543 underground mines with fewer than 20 employees. Six of the seventeen proposed standards address only underground mines.

Significant reductions in capital expenditures are associated with the proposed requirements for operators who previously were required to strip the ground at least ten feet from the perimeter of the pit or quarry wall. The proposed standard allows sloping to the angle of repose as an alternative means of eliminating the hazard. The estimated savings are $15.7 million. Another proposed standard would allow an operator barricade and post a sign rather than scale when work is no longer performed in the area. Under the existing regulation, scaling must be performed regardless of whether work is to be performed in the area. This alternative will save an estimated $3.2 million.

Another example of cost savings involves a present standard which requires that anchorage tests for rock bolts be performed in rock strata and a written record kept of the results. The proposed standard eliminates the recordkeeping requirement. There is an estimated savings of $400,000.

One standard presently requires every first and fourth bolt to be torque tested to assure the integrity of the mine roof. The proposed standard would require every first and tenth rock bolt to be tested for an estimated savings of $170,000. Since relatively few mines use rock bolts, a small number of mines would be affected by this standard.

Of the 17 proposed standards, several have been tailored to the compliance needs of small and intermediate size businesses. For instance, under an existing standard it is necessary for a supervisor to examine ground conditions in work areas. The proposed standard offers flexibility to the operator by allowing the operator to assign any knowledgeable and experienced person the task.

In the proposed rule, MSHA has reorganized, updated and clarified existing provisions. The Agency has also proposed deleting existing duplicative provisions and eliminated the recordkeeping requirement with a certification provision.

There is a total estimated savings of $19 million for the metal and nonmetal ground control standards proposal. No single standard results in an increase in compliance costs over existing standards. Twelve standards have no capital expenditures or recurring costs to industry, but relate to prudent operating procedures such as requiring that persons not work under dangerous banks.

The proposed rule would reduce costs to the mining industry through alternative compliance methods without

diminishing safety. In addition, several proposed standards would accommodate advances in mining technology, especially in the areas of selecting alternative rock bolting methods and torque testing.

V. Paperwork Reduction Act

The recordkeeping provision concerning anchorage tests in the existing standard 55/56/57.3-53 would be eliminated. In the proposed standard 58.3300(G), the operator would certify that anchorage and torque tests were conducted.

List of Subjects in 30 CFR Part 58

Mine safety and health, Metal and nonmetal mining, Ground Control.

Dated: February 29, 1984.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health

This proposed rule would redesignate certain standards and definitions in §§ 55.2, 56.2, 57.2, 55.3, 56.3, and 57.3, Chapter I, Title 30 of the Code of Federal Regulations as a new Part 58 and revise the redesignated standards and definitions.

1. It is proposed to add a new Subpart B to Part 58 to Subchapter N—Metal and Nonmetal Mine Safety and Health, Chapter I, Title 30 of the Code of Federal Regulations to read as set forth below. Subpart A is republished for the convenience of the reader.

PART 58—METAL AND NONMETAL MINE SAFETY AND HEALTH

Subpart A—General

Sec.
58.1 Purpose and scope.

Subpart B—Ground Control

58.3000 Definitions.

Mining Methods

58.3130(S) Wall, bank and slope stability.
58.3131(S) Pit or quarry wall perimeter.
58.3160(U) Shaft support.
58.3161(U) Rock bursts.

Scaling

58.3200(G) Hazard control.
58.3201(G) Location.
58.3202(G) Scaling tools.

Support Systems

58.3300(G) Rock bolts.
58.3301(G) Rock bolting sequence.
58.3360(U) Ground support use.
58.3361(U) Timbering.
58.3362(U) Torquing tools.

Safeguards

58.3400(G) Secondary breakage.
58.3401(G) Examination of ground conditions.
58.3402(G) Examination of ground control practices.
Sec.
58.3430(S) Activity between equipment and pit wall or bank.
58.3460(U) Maintenance between equipment and ribs.

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

Subpart A—General

§ 58.1 Purpose and scope.

This Part 58 sets forth mandatory safety and health standards for each metal or nonmetal mine subject to the Federal Mine Safety and Health Act of 1977. The following scope symbols are listed after each standard number and indicate the area of application: "(G)"—general, all areas of any mine; "(S)"—surface areas of any mines; and "(U)"—underground areas of underground mines.

Subpart B—Ground Control

§ 58.3000 Definitions.

The following definitions apply in this subpart:

Rock Bolt. Any tensioned or nontensioned device or material inserted into the ground to strengthen or support the ground. The term appears in standards 58.3300 (G) and 58.3301 (G).

Rock Burst. A sudden and violent failure of overstressed rock resulting in the instantaneous release of large amounts of accumulated energy. The term appears in standard 58.3161 (U).

Scaling. Removal of loose material by mechanical or manual methods. The term appears in standards 58.3130 (S), 58.3201 (G) and 58.3202 (G).

Mining Methods

§ 58.3130(S) Wall, bank and slope stability.

Mining methods shall be used which will assure wall, bank, and slope stability in active workings. When benching is necessary, the width and height shall be governed by the type of equipment used for scaling of walls, banks and slopes, or cleaning of benches.

§ 58.3131(S) Pit and quarry wall perimeter.

In active workings, loose or unconsolidated material shall be sloped to the angle of repose or stripped for at least 10 feet from the perimeter of the pit or quarry. Other conditions at or near the perimeter of the pit or quarry wall which create a fall-of-material hazard to persons shall be corrected.

§ 58.3160(U) Shaft support.

Shaft pillars or other support systems shall be designed, installed, and maintained to support operating shafts.

§ 58.3161(U) Rock burst.

Operators of mines which have experienced rock bursts shall:

(a) Immediately report to the nearest MSHA office a rock burst which:

(1) Causes persons to be withdraw;

(2) Impairs ventilation;

(3) Impedes passage; or

(4) Disrupts mining activity for more than one hour.

(b) Develop and implement a rock burst control plan within 90 days after a rock burst has been experienced. The plan shall include: mining and operating procedures designed to reduce occurrence of rock bursts; monitoring procedures where detection methods are used; and other measures to minimize exposure of persons to rock burst prone areas. The plan shall be updated every 12 months, or more often as conditions or available technology warrant. The plan shall be available to an authorized representative of the Secretary and to miners or their representatives.

Scaling

§ 58.3200(G) Hazard control.

Ground conditions that create a hazard to persons shall be taken down, scaled, or supported before other work or travel is permitted in the area affected. Until corrective work is completed, the area shall be posted with a warning against entry and a conspicous obstruction installed to impede entry by unauthorized personnel or vehicles.

§ 58.3201(G) Location.

Manual or mechanical scaling shall be performed from a location which will not expose persons to injury from falling material.

§ 58.3202(G) Scaling tools.

Where manual scaling is performed, a scaling bar of sufficient length to place the person out of danger of falling material shall be provided. The scaling bar shall be blunt on the end held by the person. Picks or other short tools shall not be used for scaling when their use places the person in danger of falling material.

Support Systems

§ 58.3300(G) Rock bolts.

(a) Rock bolts and accessories addressed in ANSI/ASTM F432-83, "Standard Specification for Roof and Rock Bolts and Accessories", shall comply with those specifications. ANSI/ASTM F432-83 cited in this paragraph is incorporated by reference and made a part of this standard. This publication may be obtained from the publishers,

American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. This publication may also be examined at any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office.

(b) Rock bolts and accessories not addressed in ANSI/ASTM F432-83 may be used provided they:

(1) Have been successfully used in other mines with similar mining conditions, or

(2) Have been installed in a representative area of the mine under controlled conditions to verify their effectiveness to control the ground.

(c) Manufacturer's written specifications and installation instructions shall be made available by the operator to an authorized representative of the Secretary.

(d) Bearing plates shall be used with rock-bolt assemblies unless it is demonstrated the plate does not contribute to ground support.

(e) Finishing bits shall be identifiable by sight or feel and the diameter shall be within ±0.030 inches of the manufacturer's specified hole diameter for the assembly used.

(f) Damaged or deteriorated cartridges of grouting material shall not be used and shall be disposed of to preclude inadvertent use.

(g) Installation parameters shall be established as follows:

(1) Tests shall be conducted to determine the anchorage capacity of the rock-bolt installations.

(2) When rock bolts tensioned by torquing are used, the installation torque range shall be determined by tests in the rock in which the rock-bolt assembly is used. Torque range shall be capable of providing rock bolt loads to within ±1000 pounds of the selected tension level. Selected tension level shall not be less than 50% of either the yield point of the rock bolt or anchorage capacity of the rock, whichever is less. Applied torque shall maintain the integrity of the support system and shall not exceed the yield point of the rock bolt or anchorage capacity of the rock.

(3) For other tensioned and nontensioned rock bolts, installation parameters shall be established that maintain the integrity of the system and shall be made available to an authorized representative of the Secretary and to miners or their representatives.

(h) Rock bolt testing shall be as follows:

(1) When rock bolts tensioned by torquing are used:

(1) Tests shall be made to ensure that bolting equipment is properly adjusted and that rock bolts are properly installed;

(ii) The first bolt, every tenth bolt thereafter, and the last bolt installed in each work area by that equipment during the shift shall be tested immediately after installation with a calibrated torque meter or torque, wrench;

(iii) If the torque of the bolt tested does not fall within the installation torque range, procedures shall be initiated to determine the cause of the problem and the extent of the area involved;

(iv) Corrective measures shall be taken to ensure proper torque on bolts in the area; and

(v) If proper torque cannot be achieved, additonal support shall be installed to control the ground.

(2) When grouted rock bolts which can be torqued to determine quality of installation are used, the first rock bolt installed in each work place shall be tested. The rock bolt tested shall withstand 150 foot-pounds of torque without rotating in the hole. Should it rotate in the hole, a second rock bolt shall be tested in the same manner. If the second rock bolt also turns, corrective action shall be taken or supplemental support shall be installed to control the ground.

(3) When other tensioned and nontensioned rock bolts are used, other test methods to verify the quality of the rock bolt installation shall be established and used.

(i) The opreator shall certify that anchorage and torgue tests have been conducted. Certifications shall be available to an authorized representative of the Secretary and to miners or their representatives.

§ 58.3301(G) Rock bolting sequence.

When rock bolts are needed for ground support, they shall be installed as soon as practicable after an area is exposed.

§ 58.3360(U) Ground support use.

Ground support shall be used where ground conditions, or mining experience in similar ground conditions in the mine, indicate that it is necessary. When ground support is necessary, the support system shall be designed, installed, and maintained to control the ground in active workings.

§ 58.3361 (U) Timbering.

Timber used for ground support in active workings shall be securely set. Damaged, loosened, or dislodged timbers which create a hazard to persons shall be repaired or replaced prior to any work or travel in the affected area.

§ 58.3362(U) Torquing tools.

Calibrated torque meters or wrenches shall be available at mines where torque tests are required to check the integrity of the rock-bolt installation.

Safeguards

§ 58.3400(G) Secondary breakage.

Prior to secondary breakage operations, the material to be broken, other than hanging material, shall be positioned or blocked to prevent movement which would endanger persons. Secondary breakage operations shall be performed from a location where persons would not be endangered by movement of the material.

§ 58.3401(G) Examination of ground conditions.

A person designated by the operator, shall examine, and test where applicable, ground conditions in active workings prior to work or travel in these areas and as ground conditions warrant during the work day. After blasting, a designated person shall examine ground conditions in areas affected by the blast before any other work is performed. Designated person shall be experienced in examining and testing the ground and understand the nature of the hazards involved.

§ 58.3402(G) Examination of ground control practices.

Supervisors shall examine ground conditions during each visit of a working place to determine that proper ground control practices are being followed.

§ 58.3430(S) Activity between equipment and pit wall or bank.

Persons shall not work or travel between equipment and the pit wall or bank where the equipment may hinder escape from falls or slides of the pit wall or bank.

§ 58.3460(U) Maintenance between equipment and ribs.

Persons shall not perform maintenance work between equipment and ribs unless the area has been physically tested and has been secured when necessary to assure safety.

2. As indicated by the second column of the following table, it is proposed to amend 30 CFR Parts 55, 56, and 57 by removing or by redesignating and revising the standards listed in the first column of the table. Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in the table as "55/56/57."

Current number	New number
New	58.3000, "Rock bolt."
New	58.3000, "Rock burst."
55/56/57.2 "Scaling"	58.3000, "Scaling."
55/56/57.3-1	58.3130.
55/56/57.3-2	58.3131.
55/56/57.3-3	58.3130.
55/56/57.3-4	58.3200, 58.3201.
55/56/57.3-5	58.3200.
55/56/57.3-6	58.3201.
55/56/57.3-8	58.3401.
55/56/57.3-9	58.3401.
55/56/57.3-12	58.3430.
57.3-20	58.3360.
57.3-22	58.3200, 58.3401, 58.3402.
57.3-26	58.3361.
57.3-29	58.3160.
57.3-32	Remove.
57.3-33	58.3362.
57.3-35	58.3161.
55/56/57.3-50	58.3400.
55/56/57.3-51	58.3202.
55/56/57.3-53	58.3300.
55/56/57.3-54	58.3300.
55/56/57.3-55	58.3300.
55/56/57.3-56	58.3300.
55/56/57.3-57	Remove.
57.3-58	58.3301.
New	58.3460.

[FR Doc. 84-5970 Filed 3-5-84; 8:45 am]
BILLING CODE 4510-43-M

30 CFR Parts 55, 56, 57, and 58

Safety Standards for Machinery and Equipment at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a proposed rule which would revise the existing use of equipment standards for metal and nonmetal mines. These changes are intended to improve the quality and effectiveness of MSHA's standards by eliminating duplication, upgrading standards to be consistent with current mining technology, eliminating unnecessary standards, and providing clarification to the requirements of each standard. MSHA believes that this proposed rule, which is responsive to the concerns expressed by the mining community, will result in improved compliance, resulting in improved safety which will be evidenced by a reduction in injuries and fatalities, lower insurance and less absenteeism.

DATE: Written comments and requests for public hearings on the proposed rule must be received on or before May 7, 1984.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631, Ballston Towers No. 3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 1979, MSHA published a final rule which revised or revoked the existing advisory safety and health standards, and made all retained standards mandatory (44 FR 48490). At that time, the agency announced its intention to review all of the existing metal and nonmetal standards. A comprehensive review of the standards contained within Title 30, Code of Federal Regulations (CFR) Parts 55, 56, and 57 formally began on March 25, 1980 with a **Federal Register** announcement (45 FR 19267). Public comment was solicited at that time to assess potential problems with the standards relating to their organization, indexing, clarity, and effectiveness. At the public's request, the comment period to the March 1980 advance notice of proposed rulemaking was subsequently extended to August 5, 1980 (45 FR 38087), June 6, 1980. On November 20, 1981, MSHA announced its initial priorities for its comprehensive review of Parts 55, 56, and 57. Among the eight sections selected for priority review was Section .14, Use of Equipment (46 FR 57253 and 57570).[1] During March and April 1982, MSHA held a series of public conferences throughout the country to discuss issues relating to the safety and health standards within these eight priority sections. Conferences for Section .14 were held in St. Paul, Minnesota; Pittsburgh, Pennsylvania; Spokane, Washington; and Denver, Colorado (46 FR 10191, March 9, 1982). At the public's request, MSHA extended the time period for the submission of post conference comments to June 30, 1982 (47 FR 23484).

Commenters at the open conferences and those who submitted written comments to the Section .14 standards requested that MSHA release a draft of its proposed changes to the standards before developing a proposed rule. In response to these requests, MSHA released a preproposal draft of Section .14 standards on February 11, 1983 (48 FR 6489). The comment period for the preproposal draft ended on April 15, 1983. After careful consideration of the comments received at each stage of the comprehensive review, MSHA has developed this proposed rule.

[1] Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in this document as "55/56/57."

II. Discussion of Proposed Rule

A. General Discussion

In the March 9, 1982 notice of public conferences, MSHA restated the purpose of the comprehensive review of the metal and nonmetal safety and health standards. The review was undertaken in order to improve the quality and effectiveness of the standards by eliminating duplication, reducing recordkeeping, clarifying the requirements of each standard, upgrading provisions consistent with current mining technology and practices, and eliminating unnecessary standards.

In the ten years prior to the promulgation of the existing standards, fatalities involving the use of equipment occurred at an average of 15.85 per 100,000 employees. After the standards promulgated under the Federal Metal and Nonmetallic Mine Safety Act became effective, this rate dropped from 23.2 in 1972 to 11.6 in 1977. During the period following enactment of the Federal Mine Safety and Health Act, the fatality rate dropped from 5.56 to 2.78. MSHA believes that this proposed rule will result in improved compliance, resulting in improved safety which will be evidenced by a reduction in injuries and fatalities, lower insurance and less absenteeism.

Presently Section .14 contains 67 standards. As a result of the consolidation or deletion of standards which contain overlapping or closely related safety or health requirements, the proposed rule would contain 18 standards. Although these changes streamline the standards, MSHA believes that the proposal maintains existing levels of protection for miners at metal and nonmetal mines. The proposed rule retains the transfers which were included in the preproposal draft: two standards (.14-13, and .14-30) were transferred to Section .9, loading, hauling, and dumping; one standard (.14-14) was transferred to Section .15, personal protection; and four existing Section .9 standards (.9-6, .9-7, .9-13, and .9-14) were transferred to Section .14.

Nearly every standard has been modified to provide improved clarity, and to reflect current mining technology. A review of each of the proposed standards for Section .14 follows this general discussion.

In addition to the substantive changes, MSHA has proposed several organizational changes. Existing Parts 55, 56, and 57 have been reorganized into a single Part 58. This change would eliminate the current repetition of identical standards in the Code of

Federal Regulations. While several commenters opposed this consolidation of standards, at this point in the rulemaking the agency has retained this concept.

The Section .14 standards have also been renumbered to reduce unnecessary reserved sections and a table of contents has been added. Each proposed section is designated "(G)" meaning that the section is of general application, applying to all areas of any mine.

In the preproposal draft, the agency used the term "miners" in place of existing references to persons and men. However, commenters opposed this draft modification favoring the use of the more inclusive term "persons." MSHA agrees that the focus of the standard should be upon the hazards involved and the protection should extend to all those exposed to those hazards, and has used persons in the proposed rule.

B. Definitions

The proposed rule does not add any new definitions, and with the exception of the term "travelway," none of the existing definitions located in 30 CFR 55/56/57.2 are replicated in this proposal. The term "travelway" has been modified in the proposal to mean "A passage, walk or way regularly used or designated for persons to go from one place to another." The existing definition utilize the phrase "regularly used and designated." The modification to the definition would recognize that a walkway which is regularly used by persons is within the scope of protection of the safety standards, even though there has not been an official designation of its status as a walkway.

C. Transfers of Existing Section .14 Standards to Other Sections

The proposed rule transfers existing Section .14 standards .14–13, and .14–30 to Section .9 (loading, hauling, and dumping) and .14–14 to Section .15 (personal protection). Standard .14–13 requires a substantial canopy on fork-lift trucks, front-end loaders, and bulldozers when necessary to protect the operator. Standard .14–30 prohibits working on or from a piece of mobile equipment in a raised position until it has been blocked in place securely. Standard .14–14 requires that face shields or goggles, which are in good condition, be worn by those operating a grinding wheel. This standard is proposed to be relocated as Standard 55/56/57.15–8.

All of these transfers were presented in the preproposal draft, and commenters strongly supported the relocation of these standards. Substantive issues relating to these standards will be addressed in the comprehensive review of those sections. Currently Section .9 is under active review and a preproposal draft for that section was released on April 22, 1983 (48 FR 17513). The preproposal draft for Section .9 addressed the substantive issues and comments for existing standards .14–13 and .14–30. Although some commenters suggested that existing standard .14–14 could be deleted or consolidated with existing standard 55/56/57.15–4, others objected to that approach. MSHA has reviewed these considerations and believes that issues of consolidation or deletion should be deferred until a comprehensive review of Section .15 standards is initiated.

D. Deletions of Existing Section .14 Standards

Several revisions in the proposed rule would result in the deletion of standards from this section. Standard 55/56/57.14–3 would be deleted under the proposal as a result of its consolidation with proposed standard 58.14100.

Existing standard .14–9 is also deleted under the proposed rule on the basis that existing standard .14–36 covers this hazard. In the proposal rule, standard .14–36 has been renumbered as 58.14208. Both standards address the importance of using equipment in accordance with the limits of its design capacities or specifications, although standard .14–9 relates only to the use of grinding wheels. MSHA believes that it is unnecessary to retain the grinding wheel provision as a separate standard. Commenters to the preproposal draft agreed with this proposed deletion.

The proposed rule also retains the preproposal draft's deletion of existing standard 55/56/57.14–27 which requires that competent persons be assigned to the operation of machinery or equipment. At this point in the rulemaking, it is MSHA's view that the training standards set forth in 30 CFR Part 48 provide the requirements needed to assure that only competent persons operate machinery or equipment. MSHA solicits additional comment on the issue of whether the Part 48 training standards cover the requirements of existing standard 55/56/57.14–27.

E. Sections

The following section-by-section analysis discusses the proposed rule and its effect on existing standards.

Guarding

Section 58.14100(G) Moving machine parts.

Existing standard 55/56/57.14–1 lists specific classes of hazardous moving machine parts and requires that they be guarded where they may be contacted and cause injury. In the preproposal draft MSHA revised standard .14–1 by consolidating it with existing standard55/56/57.14–3. MSHA's experience has shown that failure to provide guards has resulted in fatalities and serious injuries, such as severe lacerations and loss of limb. Both standards address the hazard of persons becoming entangled in moving machine parts. The draft also addressed the implied exception to the requirements of .14–1 and .14–3 by providing that no guard is needed where the moving parts are physically inaccessible and located out of reach.

Generally, commenters to the draft believed that the standard should be more specific in its requirements. Some commenters considered the draft's use of the phrase "physically inaccessible" and "beyond the reach of miners" to be vague and indefinite. Alternatives to these phrases varied with a few commenters recommending that specific distances be adopted to identify moving machine parts which do not need to be guarded, and others suggesting that the phrase "guarded by location" provides adequate compliance guidance. Another approach offered was to permit an exception where there was either physical inaccessibility or a part which was out of reach.

Some commenters were also of the opinion that the standard should apply only where the exposed machine parts "can" be contacted and "would" cause injury, as opposed to the existing standard's application to parts which "may" be contacted and "could" cause injury. A few commenters also questioned whether the standard applied to remote, infrequently traveled or inaccessible areas. They also questioned whether probability of contact or the person's conduct, such as carelessness or inadvertance should be considered.

The proposed rule retains the preproposal draft's approach of consolidating the scope of existing standards .14–1 and .14–3 but several changes have been made to further clarify the performance requirements and applicability of this section.

The proposed rule provides that guards are to be installed for certain classes of moving machine parts where the parts can be contacted and cause

injury. The substitution of the term "can" for the existing standard's reference to parts which "may" be contacted is a grammatical change intended to convey that parts which are physically capable of being contacted, including contact which occurs through inadvertance or carelessness, must be guarded where those parts are capable of causing injury.

The proposal also specifies the performance required for guards by providing that they are to enclose the moving parts so that they cannot be contacted. In MSHA's view, the classes of moving machine parts enumerated in section .14100 are recognized in the mining community as parts which need to be guarded. Protective guards which enclose the moving parts and thereby prevent access to the danger zone during operation of the machinery are inexpensive to construct and maintain. Unlike railings, chains, signs, or other forms of passive protection, guards afford positive protection against a full range of accidents and injuries. For this reason, MSHA deleted the preproposal draft's reference to inadvertent contact, since the type of guard required for these classes of moving machine parts affords protection by preventing access to the hazardous movement, except by removal of the guard.

The proposal also clarifies that, except for fan blades, moving machine parts need not be guarded where the exposed moving parts are elevated at least seven feet above walking or working surfaces. These parts do not need to be guarded because they cannot be contacted without the aid of some temporary means of access, such as a ladder. In recent years, MSHA compliance practices have recognized seven foot elevations as providing an effective guarding by location. Fan blades are not within the guarding by location exception because they may present a hazard even when elevated. The centrifugal forces associated with rotating fan blades can cause separation of the blade from the shaft, which could cause the blade to become hazardous to persons in the vicinity of the fan. Unguarded fan blades have become projectiles, coming loose during operation. In recognition of this hazard, nearly all fans are manufactured with a guard assembly as a standard feature. These changes are consistent with the *Guide to Equipment Guarding* which was published by MSHA in 1980. The Guide was well received by the mining community, and MSHA believes that the proposed rule's use of the concepts set forth in that guide will provide a clearer statement of the requirements for guarding.

Section 58.14101(G) Guarding of overhead drive belts.

Existing standard 55/56/57.14–2 requires guarding of overhead belts if the whipping action created by a broken line would be hazardous to persons below. In the preproposal draft, clarifications were made to indicate that the standard applies only to overhead drive belts since they can produce a whipping action where partial or complete breakage occurs. Commenters to the draft stated that the standard should describe the type of guard which would be satisfactory and further specify the type of belts to which it pertains.

The proposed rule establishes a performance requirement for an appropriate guard by providing that the guard must be capable of containing hazardous whipping action from a broken belt. Since this action may create a hazard in directions other than below the drive belt, the proposed rule would require guarding in all directions where the danger exists. No guarding is required if a hazard could not be created by the whipping action of an overhead drive belt.

MSHA does not believe that further specification of belt types is necessary, since the proposal clarifies that is applies to overhead drive belts. Although it was suggested that Vbelts should be exempted, in MSHA's view this type of drive belt can also produce a whipping action and should be guarded where a hazard is present. MSHA seeks further comments on these issues.

Section 58.14102(G) Construction characteristics and maintenance for guards.

Proposed Section 58.14102 retains the approach taken in the draft proposal by consolidating existing standards 55/56/57.14–6 and .14–7. These standards presently set forth the construction characteristics as well as the maintenance and safe practice requirements for guards.

Some commenters to the draft believed that these standards could be eliminated on the basis that existing standard .14–1 implicitly requires that guards must be of substantial construction and properly maintained. While it may be possible to imply these requirements in existing standard .14–1, MSHA believes that an express statement would continue to promote a better understanding of these guarding requirements. In the proposed rule, MSHA has clarified the construction characteristics for guards by deleting the term "substantial construction." The proposal now specifies the required performance characteristics for guard construction.

Although some commenters favored an exemption from the standard's requirement that guards be securely in place at all times, by allowing guard removal during testing and adjustment, MSHA has retained the requirement which limits removal of guards to those instances where it is necessary in order to perform testing or adjustment. When machinery is under repair or maintenance, this standard does not apply and guards may be removed. Under those circumstances, other safety standards such as existing standard .14–29 (procedures for machinery maintenance and repair) provide protection. Note: existing standard .14–29 has been renumbered in the proposed rule and appears as 58.14203.

Section 58.14103(G) Unguarded conveyors with adjacent travelways.

Existing standard 55/56/57.9–7 requires unguarded conveyors with walkways to be equipped with emergency stop devices or cords along their full length. In the preproposal draft, MSHA proposed to have the standard relocated to Section .14 since that section addresses other hazards related to the use of equipment, including conveyors. Several clarifications to the existing standard were also presented at that time. For example, MSHA used the defined term "travelway" (30 CFR 55/56/57.2 definitions) and specified that the standard applies only where the travelway is adjacent to the unguarded conveyor. The use of substantially constructed railings was also included in the draft as an alternative method of compliance to the emergency stop devices.

The proposed rule retains the approach of the preproposal draft. However, the defined term "travelway" has been modified in the proposal and the construction characteristics for railings have been clarified.

Several commenters to the preproposal draft supported the relocation of the standard to Section .14. Although several commenters supported the draft's clarifications, others believed that the existing standard's use of the term "walkway" was preferable to the draft's use of the defined term "travelway". Some commenters thought that the standard should be clarified as applying only where the unguarded conveyor is immediately adjacent to the walkway. It was also suggested that "emergency stop devices" be more

specifically described as devices which stop the motor powering the conveyor.

MSHA believes that the standard's application to travelways which are adjacent to the unguarded conveyors provides appropriate notice of compliance responsibilities. With respect to "emergency stop devices" the proposal clarifies the proper location for these devices. MSHA's experience has revealed that some stop devices have been improperly placed, thereby preventing a person falling on or against the conveyor from being able to reach the device.

MSHA has also modified the draft proposal by explaining that the railings must be positioned to prevent persons from falling on or against the conveyor.

MSHA seeks additional comment and discussion on each of these issues.

Section 58.14104(G) Inclined conveyors: backstops or brakes.

Proposed Section 58.14104 is a relocation of an existing Section .9 standard to Section .14. Standard 55/56/57.9–13 presently requires the installation of adequate backstops or brakes on inclined-conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel would be caused.

In the proposed rule, MSHA has retained the requirements of the preproposal draft which deleted the word "adequate," since the standard establishes that the performance criterion for these devices is to prevent conveyors from running in reverse. Editorially, the standard was clarified to indicate that the backstop or brake is to be physically installed on the conveyor's drive unit. Neither change alters the substantive requirements of the existing standard.

Commenters to the preproposal draft questioned whether the reference to "backstops" was a vague term which could limit the types of stopping devices permitted to be installed. MSHA notes that a backstop is a term commonly used in the mining community for a device that allows a conveyor to operate only in the desired direction. Three basic designs are presently used: ratchet and pawl; differential band brake; and over running clutch. However, any device meeting the perforance requirements of the standard would be permitted.

Commenters also questioned whether backstops or brakes could prevent or only minimize reverse movement, and whether installation could be on locations other than the drive unit. MSHA believes that there are devices avaiable to meet the performance requirements of this standard by preventing reverse movement of conveyors. Based upon MSHA's field experience, the location of these devices can only be on the drive unit, which includes the motor and the gear box. However, comments directed toward other mounting locations are solicited.

Section 58.14105(G) Stationary grinding machines.

Proposed Section 58.14105 modifies and clarifies existing standard 55/56/57.14–8, which provides safety requirements and practices for stationary grinding machines other than special bit grinders. In the preproposal draft, MSHA clarified the existing requirement for the placement of tool rests. The preproposal provided that they be set so that the opening between the wheel and the tool rest is small enough to prevent the material being worked from being drawn into the opening. This is accomplished by having an opening which is smaller than the diameter of the material being worked.

Some commenters expressed the concern that it was not feasible to expect that each individual using a grinding machine would adjust the tool rest for a specific stock. An individual may not check prior to each use to determine that the proper setting is in place. A requirement for a constant setting would assure that the opening is kept small enough to prevent material from being drawn into it. Several commenters suggested that the constant setting be ⅛-inch. A ⅛-inch opening is the safety setting generally found on grinding machines in the mining community and is the setting recommended by the American National Standards Institute. MSHA believes that this is a practical setting for grinding the types of materials commonly used on mining property. By establishing a specific setting, the risk of persons failing to adjust the grinding machine tool rest each time it is used would be diminished with a likely decrease in resultant injuries. For this reason, the proposed rule provides that the tool rest is to be set so that all points between the grinding surface of the wheel and the tool rest are not greater than ⅛-inch. Further comments on this issue are solicited.

In response to the comments, the proposed rule also clarifies the existing requirement for peripheral hoods by stating that they must enclose not less than 270° of the periphery of the wheel and be capable of withstanding the force of a bursting wheel. The proposal also specifies that the safety washers are to be located on each side of the grinding wheel.

Section 58.14106(G) Hand-held power tools.

Existing Standard 55/56/57.14–10 provides that all hand-held power tools be equipped with operating controls requiring constant hand or finger pressure or that they be equipped with friction or other equivalent safety devices. The preproposal draft retained this provision but further comment was solicited on the issue of whether MSHA should adopt the Occupational Safety and Health Administration's (OSHA) standard for hand-held power tools (29 CFR 1910.243).

OSHA's standard establishes three categories for operating controls on hand-held power tools. Tools within the first category are required to have controls requiring constant hand or finger pressure. Those within the second category may have a lock-on device within the constant pressure switch control as long as the tool can be shut off with a single motion of the same fingers that turn it on. In the third category, which encompasses all other hand tools not specifically mentioned in the first two or not otherwise excluded, positive on-off controls are permitted and there is no requirement for constant pressure switches.

The proposed rule provides that hand-held power drills, disc sanders, grinders, circular saws and chain saws are to be equipped with operating controls which require constant hand or finger pressure and that these tools are not to have any lock-on devices.

The existing standard's reference to allowing friction or other equivalent safety devices as an alternative to constant pressure switches has also been deleted in the proposed rule, since a friction device is only effective in preventing free movement of the rotating tool part after the switch activating the power source is off. The OSHA standard does not permit these devices as an alternative to constant pressure switches.

In developing this proposed standard, MSHA has considered the OSHA standard, together with the viewpoints expressed by those who use power tools in mines and the conditions under which these tools are operated in the mining environment. MSHA believes that an analysis of the hazards associated with operating controls on hand-held power tools should consider two additional factors: the increased time needed to shut the power tool off where a lock-on device is present; and the hazards which exist when a tool continues to run when an operator has lost control of it. These factors take on particular importance for

mining since power tools are often operated under conditions of restricted space.

In commenting on the hazards associated with the use of various types of hand-held power tools, commenters acknowledged that loss of control can occur with drills, disc sanders, grinders, circular saws and chain saws, and that loss of control can result from work function forces or operator fatigue. MSHA believes that each of the power tools in this standard is capable of producing serious injury where operator control is lost and the tool continues running.

Section 58.14107(G) Flying or Falling Materials.

Existing standard 55/56/57.14–11 requires guards or shields to be provided in areas where flying or falling materials present a hazard to personnel. The preproposal draft specified that this protection was required in areas where the flying or falling material was generated from screening, crushing or conveying.

Commenters to the preproposal draft focused upon the scope of the phrase "screening, crushing, or conveying." Several commenters opposed the additional language because many other mining functions also produce flying or falling materials. These commenters favored a continuation of the existing standard, or the broadest use of the term "conveying". Other commenters questioned whether MSHA intended to include flying or falling materials from haulage trucks by using the term conveying.

In the proposed rule, MSHA has specified that the standard would apply to flying or falling material generated from the operation of screens, crushers, or conveyors. Therefore the proposal would not apply to conveying generally, but would provide protection where flying or falling material generated from conveyor movement or by the operation of screens or crushers presented a hazard to persons.

Although some commenters wanted the agency to address other sources of flying or falling materials, it is MSHA's view that other safety standards presently provide protection from other hazardous sources of flying or falling materials. For example, existing standards 55/56/57.9–64 and .9–105 address flying or falling material hazards associated with chute loading installations. In addition, standards 55/56/57.9–25 (suspended loads over cabs of haulage vehicles), .9–34 (loading haulage equipment to minimize spillage), and .9–45 (loading and protecting equipment to protect against sliding or spillage), .11–12 (openings near travelways where materials may fall), and .16–10 (dropping material from an overhead elevation) are all standards which address hazards associated with flying or falling material.

Methods and Procedures

Section 58.14200(G) Defects affecting safe operation.

Existing standard 55/56/57.14–26 requires the immediate removal from service of unsafe equipment or machinery. In the preproposal draft, the requirements of this standard were clarified to indicate that removal is required where equipment, machinery, or tools have a defect which presents a hazard to miners.

Although several commenters supported the preproposal draft, others believe that the standard should take into consideration different degrees of safety defects, since not all defects require immediate removal. Some commenters suggested the establishment of a time frame for the removal of defective equipment, while others believed that an inspection for defects prior to the use of equipment, machinery or tools would provide the needed protection.

The proposed rule reflects a recognition of the fact that there can be differences in the degree of safety defects which may develop in equipment, machinery, or tools. It requires that equipment, machinery, or tools be examined for defects affecting safe operation prior to placing them in use. Where a defect is discovered which makes operation unsafe, immediate removal is required and there is an obligation to tag the item in order to alert potential users of the defect. MSHA believes this approach to defects associated with equipment, machinery or tools will assure that defects are discovered early, and that equipment is removed from service only in instances where continued operation would be unsafe.

MSHA believes that it would be inappropriate to establish a time frame for the removal of defective equipment, machinery or tools due to the variety of equipment involved and range of defects which may be present.

Section 58.14201(G) Conveyor start-up warnings.

Existing standard 55/56/57.9–6 sets forth the safety procedcures to be followed and mechanisms to be installed for conveyor startup warning. Mechanisms which provide audible or visible warning are required to alert persons that a conveyor is about to be started when the conveyor operator is unable to see the entire length of the conveyor from the starting switch. A visual check by the conveyor operator is allowed where the operator is able to see the entire conveyor length from the start switch. In preproposal draft the standard was transferred to Section .14 since related conveyor hazards are addressed in that section.

Commenters supported the transfer of this standard to Section .14. Some commenters believed that the standard should specify the length of time required for a warning to be given and the maximum interval between the warning and conveyor start-up before a new warning must be made. Other commenters believed that the existing requirement for a "visible warning system" should be more specific.

The proposed rule retains the existing standard's requirements for conveyor system start-up warnings. However, the standard has been clarified to emphasize that the system must provide audible or visible warning when the entire length of the conveyor is not visible from the starting switch. In addition, the proposal provides that if the conveyor is not started within 30 seconds after the warning is given, the warning must be repeated. MSHA does not believe that it is necessary for the standard to require a particular time period for the warning to be sounded. In MSHA's view, the standard's requirement to warn persons that the conveyor will be started means that the warning be of sufficient length to permit persons to move to a safe location before motion begins. It is critical, however, that conveyor movement occur within a maximum interval after the warning is given, since persons may not heed the warning if motion does not follow.

MSHA seeks additional comment on proposed section .14201 and the issues related to the duration of warnings, and intervals between repeat warnings.

Section 58.14202(G) Transporting persons on conveyors.

Proposed section 58.14202 prohibits persons from riding power driven chain, belt or bucket conveyors unless the equipment is specifically designed to provide for their safe transportation. The substantive requirements of this standard are presently found in 55/56/57.9–14. In the preproposal draft, this standard was transferred to Section .14, and commenters supported this proposed relocation. Except for editorial clarifications, the standard has not been changed.

Section 58.14203(G) Lock-out procedures during repairs and maintenance.

Existing standard 55/56/57.14–29 requires that before repairs or maintenance are performed on machinery, the power must be off and the machinery blocked against motion. An exception to this requirement is allowed for machinery motion when it is necessary to make adjustments. The preproposal draft expanded the exception by also permitting machinery motion when it is necessary for testing.

Several commenters supported the preproposal draft but urged that the standard should require that the power be off and also be locked out in order to prevent accidental restarting. Other commenters believed that the existing standard's requirement for blocking machinery against motion should be more specific and limited to those instances where hazardous machinery motion may occur. Commenters also suggested that the proposal permit an additional exception for machinery motion when necessary for maintenance.

In the proposed rule, MSHA has included a requirement that the power also be locked out. MSHA agrees with those commenters who stated that this action will provide a greater measure of safety against accidental restarting. The proposed rule also clarifies that blocking is required only where hazardous machinery motion may occur. Although MSHA considered the suggestion that machinery motion also be permitted where "necessary for maintenance," the agency believes this exception should not be included. In MSHA's view, it is hazardous to have the power on and the machinery unblocked during maintenance.

Sections 58.14204(G) Guiding and hand feeding of chains, ropes and drive belts; 58.14205(G) Manual cleaning of conveyor pulley; and 58.14206(G) Applying belt dressing.

These standards are being proposed in the same form as they appeared in the preproposal draft. Commenters expressed support for these standards. In the proposed rule, existing standards 55/56/57.14–31, and .14–32 have been renumbered and consolidated as Section 58.14204. One commenter suggested that MSHA establish a maximum speed for hand feeding chains, ropes, and drive belts onto moving pulleys, sprockets or drums. However, the agency believes that the existing requirement that equipment be especially designed for hand feeding provides appropriate protection. The proposed standard retains the general requirement in existing standards .14–31 and .14–32 for mechanical guiding of chains, ropes, and drive belts unless the equipment is especially designed for hand feeding.

Standard 55/56/57.14–33 has been renumbered as proposed section 58.14205, with no other changes. Commenters uniformly supported the retention of the standard which prohibits the manual cleaning of conveyor pulleys when the conveyor is moving.

Proposed section 58.14206 retains the preproposal draft's language for existing standard 55/56/57.14–34. The preproposal draft clarified the safety practices to be followed during the application of belt dressings. Commenters supported this clarification which emphasized that pressurized-type applicators of belt dressing could be used while belts are in motion as long as the application process did not require reaching inside the guards.

Section 58.14207(G) Machinery lubrication.

Existing standard 55/56/57.14–35 prohibits the lubrication of machinery while it is in motion if a hazard exists, unless the machinery is equipped with extended fittings or cups.

In the preproposal draft, the standard was clarified by specifying that the hazard involved is the risk of injury resulting from contact with moving machine parts, and that the performance requirement for extended fittings or cups is an extension which protects against the possibility of contact. Except for a grammatical modification and a renumbering, the proposed rule retains this language.

Some commenters expressed a preference for the language of the existing standard as opposed to that in the preproposal draft. Others believed that, in addition to extended fittings or cups, the standard should permit an exception where other equally safe methods of remote lubrication are used. However, MSHA experience suggests that extended fittings or cups are a safe means to remotely lubricate machinery while it is in motion. MSHA also notes that these provisions do not apply where the exposed moving parts cannot be contacted or cause injury.

Section 58.14208(G) Tools and equipment: design, use and modification.

Existing standard 55/56/57.14–36 prohibits using equipment beyond the manufacturer's intended design capacity, when a hazard to persons would be created. The preproposal draft clarified that design capacity means the manufacturer's specifications and instructions for the use of tools and equipment. The draft also specifically permitted modification in the use or design of tools and equipment as long as no hazard to persons was created.

The existing standard implies that non-hazardous modifications are permissible. Except for an editorial change and a renumbering, proposed section 58.14208 retains the language of the preproposal draft.

Several commenters expressed support for the preproposal draft's clarification of this standard. However, it appears that some commenters misunderstood the effect of the preproposal. They interpreted the standard as prohibiting any use of tools or equipment beyond that established by the manufacturer. Neither the existing standard nor the proposed rule impose such a requirement. The proposed rule permits modifications of the manufacturer's specifications and instructions for the use of tools and equipment so long as they do not create a hazard to persons.

MSHA recognizes that the mining community often needs to modify tools and equipment in order to tailor them to specific purposes. Proposed section 58.14208 does not interfere with this need as long as safety is maintained. MSHA solicits further comment on proposed section 58.14208.

Section 58.14209(G) Ventilation and shielding for welding.

Existing standards 55/56/57.14–45 and 57.14–55 are identical standards which require that welding operations be shielded and well-ventilated. The former applies to surface mining operations while the latter pertains to underground mining. The preproposal draft consolidated these standards and they would apply to both surface and underground operations.

Commenters raised issues with respect to both the shielding and ventilation requirements of this standard. Many commenters believed that the shielding requirement should apply only where persons other than the welder could be injured by the arc flash. They stated that this approach would eliminate the need for shielding in situations where a welder is working in a location which is isolated from other persons.

MSHA agrees that the shielding requirement is directed toward the hazard of eye sight damage created from arc flash viewed by individuals, other than the welder, who are in the vicinity of the welding operation. One commenter referred to a welding manual

which indicated that unprotected eyes closer than 40 feet to the flash may be injured. Accordingly, the proposed standard provides recognition of the fact that there is no hazard where persons are not in the vicinity of the welding operation and specifies that shielding is required only at locations where arc flash could be hazardous to persons. Protection for the eyes of the welder is provided in 30 CFR 55/56/57.15-7.

A majority of commenters concurred with the requirement for all welding operations to be well ventilated, although some commenters believed that air quality could be maintained in certain situations without mechanical ventilation. In MSHA's view, the noxious fumes produced by welding requires that those operations be well ventilated in all instances. However, in some circumstances the location of the welding may provide natural ventilation, and in those instances mechanical ventilation would not be required.

Derivation Table

The following derivation table lists: (1) the number of the proposed standards; (2) areas of a mine where the standards would apply; (3) the numbers of the standards in the preproposal draft; and (4) the number of the existing standards that the proposed standards would revise.

DERIVATION TABLE

New No.	Scope [1]	Preproposal No.	Old No. [2]
58.14100	G	58.14-1	55/56/57.14-1, .14-3
58.14101	G	58.14-3	55/56/57.14-2
58.14102	G	58.14-2	55/56/57.14-6, .14-7
58.14103	G	58.14-4	55/56/57.9-7
58.14104	G	58.14-5	55/56/57.9-13
58.14105	G	58.14-8	
		Deleted	55/56/57.14-8, 55/56/57.14-9
58.14106	G	58.14-10	55/56/57.14-10
58.14107	G	58.14-11	55/56/57.14-11
Transferred to Sec. 9 loading hauling, and dumping			55/56/57.14-13
Transferred to Sec. 15 personal protection			55/56/57.14-14
58.14200	G	58.14-26	55/56/57.14-26
58.14201	G	58.14-27	55/56/57.9-6
58.14202	G	58.14-28	
		Deleted	55/56/57.9-14 55/56/57.14-27
58.14203	G	58.14-29	55/56/57.14-29
Transferred to Sec. 9 loading, hauling, and dumping			55/56/57.14-30
58.14204	G	58.14-32	55/56/57.14-31, .14-32
58.14205	G	58.14-33	55/56/57.14-33
58.14206	G	58.14-34	55/56/57.14-34
58.14207	G	58.14-35	55/56/57.14-35
58.14208	G	58.14-36	55/56/57.14-36
58.14209	G	58.14-37	55/56/57.14-45, .14-55

[1] In this table the scope of each standard is indicated as "G"—general, pertaining to all areas of any mine.
[2] Standards that uniformly appear in 30 CFR 55, 56, and 57 are referred to in this table as "55/56/57."

III. Drafting Information

The principal persons responsible for preparing this proposed rule are: Martin Rosta, Metal and Nonmetal Mine Safety and Health, MSHA; Yvonne Johnson, Office of Standards, Regulations and Variances, MSHA; and William B. Moran, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to identify potential costs and benefits associated with the proposed changes to its Machinery and Equipment standards for metal and nonmetal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more on the economy. Since the rule does not meet the criteria for a major rule, a Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that in developing regulatory proposals, agencies should evaluate and include, wherever possible, compliance alternatives which minimize any adverse impact on small businesses. A primary benefit of this proposal is that it would provide protection to persons who could be endangered by unguarded moving machine parts and hazards associated with machinery and equipment. It would clarify compliance responsibilities and adopt performance-oriented standards. Clarified regulatory requirements should benefit both large and small mining operations. Performance-oriented standards maximize flexibility since they establish the safety objective without limiting the means to achieve it.

In the ten years prior to the promulgation of the existing standards, fatalities involving the use of equipment occurred at an average rate of 15.85 per 100,000 employees. After the standards promulgated under the Federal Metal and Nonmetallic Mine Safety Act became effective, this rate dropped from 23.2 in 1972 to 11.6 in 1977. During the period following enactment of the Federal Mine Safety and Health Act, the fatality rate dropped from 5.56 to 2.78. MSHA believes that this proposed rule will result in improved compliance, resulting in improved safety which will be evidenced by a reduction in injuries and fatalities, lower insurance and less absenteeism.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the proposed requirements with the costs of the existing requirements. A copy of the full analysis is available upon request. For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees. The proposed rule does not represent a significant economic impact on a substantial number of small businesses under the Regulatory Flexibility Act.

In developing cost estimates, MSHA has taken into consideration industry-wide safety practices. Current compliance costs are related to the following requirements: labor, equipment purchase and maintenance. In calculating the costs of the proposed rule, the Agency projected capital expenditures and recurring costs.

The proposed regulations would affect approximately 13,000 mines. MSHA estimates that approximately 11,500 of these mines are small businesses. There are 67 standards in the existing requirements and 18 under the proposed rule. In the proposed rule, MSHA has reorganized, updated and clarified existing provisions. The Agency has also proposed deleting existing duplicative provisions.

MSHA estimates the total cost for compliance under either the existing or proposed requirements amounts to $28.4 million. Estimates for annual recurring costs for the existing and proposed requirements amount to $3.1 million.

Principal costs under the existing and proposed rules are associated with the standard which requires that exposed moving machine parts be guarded. The proposed standard for guarding clarifies the language of the existing standard and imposes no new compliance responsibilities for the operator. Under this standard, the total one-time cost for industry compliance is estimated to be $19.9 million. Annual recurring costs under both the existing and proposed rules are estimated to be $3.0 million.

Another existing standard requires that unguarded conveyors with walkways be equipped with emergency stop devices along their full length. The proposed standard would allow the use of a railing as an alternative method of compliance to provide greater flexibility to operators. Total one-time cost under the existing and proposed rules amounts to approximately $8.3 million each. Under the proposal there has been a clarification of language with no new compliance responsibilities. MSHA estimates that there are no recurring

costs under either the existing or proposed rule.

An existing standard requires guarding to provide suitable protection in areas where falling materials present a hazard to personnel. Under the existing and proposed standards, total one-time cost for compliance is estimated at $264,000 each. Recurring annual cost under the proposed rule is estimated at $132,000.

No single standard results in an increase in compliance costs over existing standards. Sixteen of the proposed standards have no expenditures or recurring costs to industry, but relate to common safe mine operating procedures.

The primary benefits of the proposed rules are the protection that the standards would provide to persons who could be endangered by unguarded moving machine parts and hazards associated with machinery and equipment.

V. Paperwork Reduction Act

Neither the existing section .14 standard nor the proposed rule for Subpart M impose recordkeeping requirements.

List of Subjects in 30 CFR Part 58

Mine safety and health, Metal and nonmetal mining, Machinery and equipment.

Dated: February 29, 1984

David A. Zegeer

Assistant Secretary for Mine Safety and Health.

It is proposed to redesignate certain standards in §§ 55.14, 56.14, 57.14, Chapter I, Title 30 of the Code of Federal Regulations.

(1) It is proposed to: remove existing standards 55.14–3, 55.14–9, and 55.14–27; 56.14–3, 56.14–9, and 56.14–27; 57.14–3, 57.14–9, and 57.14–27; to transfer existing standards 55.14–13, 56.14–13, 57.14–13 and 55.14–30, 56.14–30 and 57.14–30 to Section .9 (30 CFR 55/56/57.9 loading, hauling, and dumping); and to transfer existing standard 55.14–14 to Section .15 (55/56/57.15 personal protection as standard .15–8)

(2) It is proposed to add a new Subpart M to Part 58 to Subchapter N—Metal and Nonmetal Mine Safety and Health, Chapter I, Title 30 of the Code of Regulations to read as set forth below. Subpart A is republished for the Convenience of the reader.

PART 58—METAL AND NONMETAL MINE SAFETY AND HEALTH

Subpart A—General

Sec.
58.1 Purpose and scope.
* * * * *

Subpart M—Machinery and Equipment

58.14000 Definitions.

Guarding

58.14100(G) Moving machine parts.
58.14101(G) Guarding of overhead drive belts.
58.14102(G) Construction characteristics and maintenance for guards.
58.14103(G) Unguarded conveyors with adjacent travelways.
58.14104(G) Inclined conveyors: backstops or brakes.
58.14105(G) Stationary grinding machines.
58.14106(G) Hand-held power tools.
58.14107(G) Flying or falling materials.

Methods and Procedures

58.14200(G) Defects affecting safe operation.
58.14201(G) Conveyor start-up warnings.
58.14202(G) Transporting persons on conveyors.
58.14203(G) Lock-out procedures during repairs or maintenance.
58.14204(G) Guiding and hand feeding of chains, ropes and drive belts.
58.14205(G) Manual cleaning of conveyor pulleys.
58.14206(G) Applying belt dressing.
58.14207(G) Machinery lubrication.
58.14208(G) Tools and equipment; design, use and modification.
58.14209(G) Ventilation and shielding for welding.

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811).

Subpart A—General

§ 58.1 Purpose and scope.

This Part 58 sets forth mandatory safety and health standards for each metal or nonmetal mine subject to the Federal Mine Safety and Health Act of 1977. Following each standard number is a scope symbol indicating the applicable mine area: "(G)"—general, all areas of any mine; "(S)"—surface areas of any mine; or "(U)" underground areas of mines.

* * * * *

Subpart M—Machinery and Equipment

§ 58.14000 Definitions.

The following definition would apply to this subpart:

Travelway. A passage, walk, or way regularly used or designated for persons to go from one place to another.

Guarding

§ 58.14100(G) Moving machine parts.

(a) Guards shall—

(1) Be installed to prevent persons from contacting gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; fan blades; and similar moving machine parts where those parts can be contacted and cause injury;

(2) Enclose the moving parts so that they cannot be contacted.

(b) Guards shall not be required where the exposed moving parts are elevated at least seven feet above walking or working surfaces, except for fan blades, which must be guarded at all times.

§ 58.14101(G) Guarding of overhead drive belts.

Overhead drive belts shall be guarded to contain the whipping action from a broken belt if that action would be hazardous to persons.

§ 58.14102(G) Construction characteristics and maintenance for guards.

(a) The materials, strength, and construction qualities of guards shall be such that they:

(1) Will not create a hazard in themselves; and

(2) Will be able to withstand all reasonable vibration, shock, and wear to which they will be subjected.

(b) Guards shall be:

(1) Maintained to provide the required protection;

(2) Securely in place while machinery is being operated except when testing or adjustment cannot be performed without removal of the guard.

§ 58.14103(G) Unguarded conveyors with adjacent travelways.

Unguarded conveyors with adjacent travelways shall be equipped with:

(a) Emergency stop devices which are located so that a person falling on or against the conveyor can readily activate the device; or

(b) Railings which:

(1) Are positioned to prevent persons from falling on or against the conveyor; and

(2) Possess materials, strength and construction qualities such that they will not create a hazard in themselves and will be able to withstand all reasonable vibration, shock, and wear to which they will be subjected.

§ 58.14104(G) Inclined conveyors: backstops or brakes.

Backstops or brakes shall be installed on drive units of inclined conveyors to prevent the conveyors from running in

reverse where a hazard to persons would be caused.

§ 58.14105(G) Stationary grinding machines.

Stationary grinding machines other than special bit grinders shall be equipped with—

(a) Peripheral hoods capable of withstanding the force of a bursting wheel and enclosing not less than 270° of the periphery of the wheel;

(b) Adjustable tool rests set so that all points between the grinding surface of the wheel and the tool rest are not greater than ⅛ inch; and

(c) A safety washer on each side of the wheel.

§ 58.14106(G) Hand-held power tools.

Hand-held power drills, disc sanders, grinders, circular saws, and chain saws shall be equiped with operating controls requiring constant hand or finger pressure. Such tools shall not have any lock-on devices.

§ 58.14107(G) Flying or falling materials.

In areas where flying or falling materials generated from the operation of screens, crushers, or conveyors present a hazard, guards, shields, or other equivalent protection shall be provided to protect persons.

Methods and Procedures

§ 58.14200(G) Defects affecting safe operation.

Equipment, machinery, or tools shall be examined for defects before being placed in use. When the examination discloses a defect which makes operation unsafe, the equipment, machinery, or tools shall be removed from service immediately and tagged to prohibit further use until the defect is corrected.

§ 58.14201(G) Conveyor start-up warning.

When the entire length of a conveyor is visible from the starting switch, the conveyor operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a system which provides visible or audible warning shall be installed and operated to warn persons that the conveyor will be started. Within 30 seconds after the warning is given, the conveyor shall be started or the second warning shall be repeated.

§ 58.14202(G) Transporting persons on conveyors.

Persons shall not ride a power-driven chain, belt or bucket conveyor unless it is designed to provide for safe transportation.

§ 58.14203(G) Lock-out procedures during repairs or maintenance.

Repairs or maintenance shall be performed on machinery only when the power is off and locked-out and the machinery is blocked against hazardous motion. Machinery motion is permitted to the extent that adjustments or testing cannot be performed without motion, provided that persons are clear of hazardous motion.

§ 58.14204(G) Guiding and hand feeding of chains, ropes and drive belts.

Chains, ropes, and drive belts shall be guided mechanically onto power-driven moving pulleys, sprockets, or drums except where equipment is especially designed for hand feeding.

§ 58.14205(G) Manual cleaning of conveyor pulleys.

Pulleys of conveyors shall not be cleaned manually while the conveyor is in motion.

§ 58.14206(G) Applying belt dressing.

Belt dressings shall not be applied manually while belts are in motion unless a pressurized-type applicator is used that does not require reaching inside the guards.

§ 58.14207(G) Machinery lubrication.

Machinery shall not be lubricated while in motion where exposed moving machine parts can be contacted and cause injury, unless the machinery is equipped with extended fittings or cups which protect against contact.

§ 58.14208(G) Tools and equipment: design, use and modification.

Tools and equipment shall be used within the manufacturer's specifications and instructions except that modifications in use or design may be made where no hazard to persons is created.

§ 58.14209(G) Ventilation and shielding for welding.

Welding operations shall be shielded when performed at locations where arc flash could be hazardous to persons. All welding operations shall be well-ventilated.

2. As indicated by the second column of the following table, it is proposed to amend 30 CFR Parts 55, 56, and 57 by removing or by redesignating and revising the standards listed in the first column of the table. Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in the table as "55/56/57."

Old number	New number
55/56/57.14-1 and .14-3	58.14100.
55/56/57.14-2	58.14101.
55/56/57.14-6 and .14-7	58.14102.
55/56/57.9-7	58.14103.
55/56/57.9-13	58.14104.
55/56/57.14-8	58.14105.
55/56/57.14-9	Remove.
55/56/57.10	58.14106.
55/56/57.14-11	58.14107.
55/56/57.14-13	55/56/57.9-89.
55/56/57.14-14	55/56/57.15-8.
55/56/57.14-26	58.14200.
55/56/57.9-6	58.14201.
55/56/57.9-14	58.14202.
55/56/57.14-27	Remove.
55/56/57.14-29	58.14203.
55/56/57.14-30	55/56/57.9-4.
55/56/57.14-31 and .14-32	58.14204.
55/56/57.14-33	58.14205.
55/56/57.14-34	58.14206.
55/56/57.14-35	58.14207.
55/56/57.14-36	58.14208.
55/56/57.14-45 and .14-55	58.14209.

[FR Doc. 84-5969 Filed 3-5-84; 8:45 am]
BILLING CODE 4510-43-M

federal register

Tuesday
March 6, 1984

Part IV

Environmental Protection Agency

40 CFR Part 61

Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, and Benzene Storage Vessels; Proposed Withdrawal of Proposed Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2523-6]

National Emission Standards For Hazardous Air Pollutants; Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, and Benzene Storage Vessels; Proposed Withdrawal of Proposed Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to withdraw proposed standards.

SUMMARY: The Environmental Protection Agency (EPA) listed benzene as a hazardous air pollutant under Section 12 of the Clean Air Act on June 8, 1977 (42 FR 29332). Standards were subsequently proposed for benzene emissions from maleic anhydride process vents (45 FR 26660; April 18, 1980); ethylbenzene/styrene (EB/S) process vents (45 FR 83448; December 18, 1980); and benzene storage vessels (45 FR 83952; December 19, 1980). This proposed action is based on the conclusion that both the benzene health risks (annual leukemia incidence and maximum lifetime risk) to the public from these source categories and the potential reduction in health risks achievable with available control techniques are too small to warrant federal regulatory action under Section 112 of the Clean Air Act. This Federal Register notice proposes to withdraw the proposed standards for benzene emissions from these source categories.

DATES: *Comments.* Comments must be received on or before April 15, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), U.S. Environmental Protection Agency, 401 M Stret, SW., Washington, D.C. 20460, Attention (whichever is appropriate): Docket Number OAQPS 79-3 (Part I) (for general comments addressing the proposal to withdraw the proposed standards as a group, or comments or information on the health effects of benzene not readily available to the public prior to November 7, 1980); Docket Number OAQPS 79-3 (Part II) for comments specifically addressing regulation of maleic anhydride plants); Docket Number A-79-49 (for comments specifically addressing regulation of EB/S plants); and Docket Number A-80-14) (for comments specifically addressing regulation of benzene storage vessels).

Background Information Documents. The background information documents for the proposed withdrawal of these proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Benzene Emissions from Maleic Anhydride Plants—Background Information for Proposal to Withdraw Proposed Standards" (EPA-450/3-84-002), "Benzene Emissions from Ethylbenzene/Styrene Plants—Background Information for Proposal to Withdraw Proposed Standards" (EPA-450/3-84-003), and "Benzene Emissions from Benzene Storage Tanks—Background Information for Proposal to Withdraw Proposed Standards" (EPA-450/3-84-004).

Docket. Docket numbers OAQPS 79-3, A-79-49, and A-80-14, containing supporting information for this proposal, are available for public inspection and copying between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert H. Wood, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Summary of Proposal To Withdraw The Proposed Standards

This notice presents the basis and rationale for the proposal to withdraw the proposed national emission standards for benzene emissions from maleic anhydride process vents, EB/S process vents, and benzene storage vessels. This proposed action is based on the conclusion that both the benzene health risks (annual leukemia incidence and maximum lifetime risk) to the public from these source categories and the potential reductions in health risks achievable with available control techniques are too small to warrant federal regulatory action under Section 112 of the Clean Air Act.

Subsequent sections of this notice describe in more detail the basis for the proposed withdrawal for each source category.

Overview

The Environmental Defense Fund (EDF) and the Natural Resources Defense Council (NRDC) filed a citizen suit on July 14, 1983, to compel EPA either to take action on the five standards under development or find that benzene clearly is not a hazardous pollutant pursuant to Section 112 of the Clean Air Act. *NRDC* v. *EPA* (D.D.C). An additional citizens suit was filed on October 4, 1983. *American Petroleum Institute et al.* v. *EPA* (D.D.C). Additional parties intervened in the cases.

In response to plaintiffs' motions for summary judgment, EPA stated on December 16, 1983, its intention to promulgate standards for benzene fugitive emissions, propose standards for coke oven by-product recovery plants, and propose withdrawal of proposed standards for benzene storage vessels, and maleic anhydride and EB/S process vents.

On January 27, 1984, the Court in the *NRDC* case ordered EPA to publish in the **Federal Register**, by May 23, 1984, its final action on the proposed standards for maleic anhydride and EB/S process vents, benzene storage vessels, and benzene fugitive sources, and any proposed standard for coke oven by-product recovery plants.

Today's notice is the first step in withdrawing the proposed standards for benzene storage vessels, and maleic anhydride and EB/S process vents. This notice describes the basis for the proposed withdrawal of standards for each of these three source categories.

In the near future, notices proposing standards for coke oven by-product recovery plants and promulgating standards for benzene fugitive emissions will also be published.

Background Information on Benzene

On June 8, 1977, the Administrator announced his decision to list benzene as a hazardous air pollutant under Section 112 of the Clean Air Act (42 FR 29332). Supplementary background information regarding the health effects and listing of benzene as a hazardous air pollutant may be obtained from the maleic anhydride Docket Number OAQPS-79-3, Part I. A public hearing was held on August 21, 1980, to discuss the health effects and listing of benzene as a hazardous air pollutant. Comments were received and EPA's responses will be detailed in a future notice.

Benzene is a major industrial chemical, ranking among the top fifteen with a U.S. production volume of almost 6 million megagrams (or 6.6 million tons) in 1979. In addition to industrially produced benzene, roughly an equal amount is found in gasoline. The vast majority of benzene is derived from petroleum, with a smaller percentage produced as a by-product of coke ovens. Most benzene is used to produce other

industrial chemicals, which in turn are used to manufacture a wide range of products including nylon, plastics, insecticides, and polyurethane foams.

Numerous occupational studies conducted over the past 50 years provide evidence of the health hazards resulting from prolonged inhalation of benzene. Benzene has been recognized since 1900 as a toxic substance capable of causing acute and chronic effects. The degree of severity of these effects ranges from mild and transient episodes to severe and fatal disorders. The mechanism by which benzene produces its toxic effects, although under investigation, is still unknown.

Benzene exposure is causally related to a number of blood disorders, including acute myelogenous leukemia (a cancer of the blood-forming system). Benzene does not appear to cause another form of leukemia, acute lymphocytic leukemia, which occurs almost totally in children. Acute myelogenous leukemia, which is caused by benzene, almost never occurs in children. More discussions of benzene health effects are included in documents prepared by or for EPA entitled the "Assessment of Health Effects of Benzene Germane to Low Level Exposure," the "Assessment of Human Exposures to Atomospheric Benzene," and the "Carcinogen Assessment Group's Report on Population Risk to Ambient Benzene Exposures," which can be found in the docket.

Quantitative Health Risk Assessments

The listing of benzene as a hazardous air pollutant under Section 112 requires that EPA publish emission standards which provide an "ample margin of safety" to protect the public health. However, neither the language nor the legislative history of Section 112 reveals any specific Congressional intent as to how to apply the phrase "ample margin of safety" to protect the public health from pollutants like benzene.

In some cases, scientific evidence indicates that a given chemical is hazardous at high levels of exposure but has no effect below a certain level. However, for most carcinogenic chemicals, including benzene, thresholds below which there is no cancer risk have not been established. There is some reason to believe that such thresholds may not exist for many carcinogens. For such substances, EPA and other Federal agencies have taken the position that any level of exposure may pose some risk of adverse effects, with the risk increasing as the exposure increases.

Since a specific environmental carcinogen is likely to be responsible for at most a small fraction of a community's overall cancer incidence and since the general population is exposed to a complex mix of potentially toxic agents, it is virtually impossible with current scientific techniques to directly link actual human cancers with ambient air exposure to chemicals such as benzene. Consequently, EPA relies on mathematical modeling techniques to estimate human health risks. These techniques—"quantitative risk assessment"—are used to assess the risk of adverse health effects from exposure to benzene in the ambient environment by mathematically extrapolating effects found at the higher occupational exposure levels to the lower concentration levels characteristic of human exposure in the vicinity of industrial sources of benzene.

EPA's approach to risk assessment for suspected carcinogens may be divided into several steps. The first is a qualitative evaluation of the evidence to determine whether a substance should be considered a human carcinogen for regulatory purposes. As described earlier, this was done in the case of benzene before the chemical was listed as a hazardous air pollutant in 1977. The next stage is quantitative: how large is the risk of cancer at various levels of exposure? The result of this examination is a dose-response relationship from which a "unit risk factor" is derived. The unit risk factor represents the cancer risk for an individual exposed to a unit concentration (e.g., 1 $\mu g/m^3$) for a lifetime.

The third stage of the risk assessment is to estimate how many people are exposed to the substance, and at what levels. Exposure estimates are combined with the unit risk factor to obtain estimates of the risk posed by air emissions of the pollutant, in this case benzene.

The estimated carcinogenic risks posed by benzene emissions are characterized in two ways: As the predicted annual incidence of leukemia (expressed as cases per year), and as the lifetime risk of leukemia for individuals exposed to the highest predicted annual average ambient benzene concentrations (expressed as a probability). "Annual incidence" represents the aggregate risk for the population residing within a specified distance of emitting sources. "Maximum lifetime risk" represents the probability of contracting leukemia for those individuals assumed to be exposed for a lifetime to the highest average benzene concentrations predicted to occur in the ambient air in the vicinity of emitting sources.

The health risks estimated for benzene source categories are comprised of three components noted above: the unit risk factor,[1] based on a dose-response function derived from epidemiological data; the exposed population, estimated from census data; and the benzene ambient concentrations, derived from dispersion modeling of emissions.

EPA has extrapolated the leukemia risks identified for occupationally exposed populations (generally healthy, white males) to the general population for whom susceptibility to a carcinogenic insult could differ. The presence of more or less susceptible subgroups within the general population would result in an occupationally-derived risk factor that may underestimate or overestimate actual risks. To the extent that there are more susceptible subgroups within the general population, the maximum individual lifetime risks may be underestimated.

On the other hand, general population exposures to benzene are much lower than those experienced by the exposed workers in the occupational studies, often by several orders of magnitude. In relating the occupational experience to the general population, EPA has applied a linear, non-threshold model that assumes that the leukemia response is linearly related to benzene dose, even at very low levels of exposure. There are biological data supporting this approach, particularly for carcinogens. However, there are also data which suggest that, for some toxic chemicals, dose/response curves are not linear, with response decreasing faster than dose at low levels of exposure. At such levels, the non-linear models tend to produce smaller risk factors than the linear mode. The data for benzene do not conclusively support either hypothesis. EPA has elected to use the linear model for benzene because this model is generally considered to be conservative compared to the non-linear alternatives. This choice may result in an overestimate of the actual leukemia risks.

EPA estimates ambient benzene concentrations in the vicinity of emitting sources through the use of atmospheric dispersion models. EPA believes that its ambient dispersion modeling provides a reasonable estimate of the maximum

[1] For benzene, the unit risk factor constitutes a point estimate of the human leukemia risk, expressed as the geometric mean of the risk factors derived from three epidemiological studies. Where animal data from the basis for the derivation of a risk factor, EPA may apply statistical tests (e.g., 95 percent confidence limits) to the resulting factor to obtain a "plausible upper bound" estimate of the unit risk.

ambient levels of benzene to which the public could be exposed. The models accept emissions estimates, plant parameters, and meteorology as inputs and predict ambient concentrations at specified locations, conditional upon certain assumptions. For example, emissions and plant parameters often must be estimated rather than measured, particularly in determining the magnitude of fugitive emissions and where there are large numbers of sources. This can lead to overestimates or underestimates of exposure. Similarly, meteorological data often are not available at the plant site but only from distant weather stations that may not be representative of the meteorology of the plant vicinity.

EPA's dispersion models normally assume that the terrain in the vicinity of the sources is flat. For sources located in complex terrain, this assumption would tend to underestimate the maximum annual concentration although estimates of aggregate population exposure would be less affected. On the other hand, EPA's benzene exposure models assume that the exposed population is immobile and outdoors at their residence, continuously exposed for a lifetime to the predicted concentrations. To the extent that benzene levels indoors are lower and that people do not reside in the same area for a lifetime, these assumptions will tend to overpredict exposure.

The assumptions necessary to estimate benzene health risks and the underlying uncertainties have led some commenters on EPA's proposed rules to suggest that the risk estimates are inappropriate for use in regulatory decision making. Although EPA acknowledges the potential for error in such estimates, the Agency has concluded that both the unit risk factor for benzene and the evaluation of public exposure represent plausible, if conservative, estimates of actual conditions. Combining these quantities to produce estimates of the leukemia risks to exposed populations implies that the risk estimates obtained are also conservative in nature; that is the actual leukemia risks from benzene exposure are not likely to be higher than those estimated. In this context, EPA believes that such estimates of the health hazard can and should play an important role in the regulation of hazardous pollutants.

EPA has received numerous public comments on most of the steps in the analytic process described above as a result of the announcement of the listing of benzene as a hazardous air pollutant and the intent to regulate a number of source categories. EPA will publish a full response to those comments in connection with its final rulemaking on regulating benzene fugitive emissions now required by court order in May. EPA is presently inclined to continue to use the major features of the risk-assessment process described above, and in particular to adhere to the no-threshold assumption and the linear model.

EPA believes that it has already provided a full opportunity for comment on these generic issues. Accordingly, commenters are requested to focus their comments to the extent possible on issues raised directly by the three specific proposals put forward for comment in this notice.

Arguments have been advanced that, in addition to the conservative nature of the model used, the assumptions made by EPA (Carcinogen Assessment Group [CAG]) in the derivation of a unit leukemia risk factor for benzene represented "serious misinterpretation" of the underlying epidemiological evidence. Among the specific criticisms are: CAG (1) inappropriately included in its evaluation of the Infante et al. study two cases of leukemia from outside the cohort, inappropriately excluded a population of workers that had been exposed to benzene, and improperly assumed that exposure levels were comparable with prevailing occupational standards; (2) accepted, in the Aksoy et al. studies, an unreasonable undercount of the background leukemia incidence in rural Turkey, made a false adjustment of age, and underestimated the exposure duration; and (3) included the Ott et al. study in the analysis despite a lack of statistical significance.

EPA has reexamined and reevaluated each of the three studies. In summary, EPA concluded that one case of leukemia was inappropriately included from the Infante et al. study in computing the original unit risk factor. Additionally, EPA reaffirmed its decision to exclude dry-side workers from that study in developing the risk factor. The Agency agrees that the Aksoy et al. study was adjusted improperly for age; however, the exposures and durations of exposures are still considered reasonable estimates. The Ott et al. study was not eliminated from the risk assessment because the findings meet the test of statistical significance and because it provides the best documented exposure data available from the three epidemiological studies.

Based on these findings, the unit risk factor (the probability of an individual contracting leukemia after a lifetime of exposure to a benzene concentration of one part benzene per million parts air) was recalculated. The revised estimate resulted in a reduction of about 7 percent from the original estimate of the geometric mean, from a probability of leukemia of 0.024/ppm to a probability of leukemia of 0.022/ppm.

Basis For Withdrawing Proposed Standards

Section 112 of the Clean Air Act requires the Administrator to set an emission standard for each hazardous air pollutant "at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant." The term "*public* health" clearly implies some minimum threshold of public concern. Also, the word "safety" does not imply a total absence of risk. Many activities involve some risk, but that does not make them "unsafe." For example, the Occupational Safety and Health Act (OSHA) requires standards that are "reasonably necessary or appropriate to provide safe or healthful employment and places of employment." This does not mean that workplaces must be made risk-free. As the Supreme Court held, reviewing an OSHA standard for benzene:

> * * * the Act implies that, before promulgating any standard, the Secretary must make a finding that the workplaces in question are not safe. But "safe" is not the equivalent of "risk-free."

Industrial Union Dept., AFL–CIO v. American Petroleum Institute, 448 U.S. 607,642 (1980).

In the Administrator's view, standards under Section 112 should protect against *significant* public health risks. *See, Industrial Union Dept., supra.* As discussed below, the Administrator believes that these three source categories do not present significant risks, and they should therefore not be regulated under Section 112.

At proposal of each standard, it was the Agency's position that maleic anhydride process vents, EB/S process vents, and benzene storage vessels warranted regulation under Section 112 based on the estimated amount of emissions and the estimated leukemia incidence and maximum lifetime risk associated with each source category. The major comments received on each of these three source categories dealt with these bases for selection of the source category for regulation under Section 112. Specifically, the commenters generally felt that the estimated health risks due to benzene exposure from these sources was so small that regulation was not necessary.

Several commenters asserted that the emission and health risk estimates developed by EPA at proposal were far too high, and some submitted data or explanations supporting lower estimates. Their revised estimates were attributed to such factors as better control, feedstock changes, plant closures, reduced production capacity, and lower emission factors.

Maleic Anhydride Process Vents

At proposal, the maleic anhydride source category consisted of 11 plants (counting one plant which was not included in the estimated impacts at proposal), some of which were not operating at that time. Together these plants emitted an estimated 5,800 megagrams (Mg) of benzene per year. These benzene emissions were estimated to result in about 0.46 leukemia cases per year and a maximum lifetime risk of about 2.3×10^{-4}.

The potential for benzene emissions from the maleic anhydride industry has decreased significantly since proposal. Four plants have ceased operation permanently: Koppers shut down its Bridgeville, Pennsylvania, plant in March 1979; Reichhold shut down its Elizabeth, New Jersey, Plant in August 1979, and its Morris, Illinois, plant around August 1982; and Tenneco shut down its Fords, New Jersey, plant in October 1982. In addition, the Koppers, Illinois, plant no longer recovers maleic anhydride as a by-product of its phthalic anhydride production.

The largest source of uncontrolled benzene emissions, the Monsanto, St. Louis, Missouri, plant, has installed a thermal incinerator with a waste heat boiler that can achieve at least 97 percent control of benzene emissions. Its installation is part of a Monsanto environmental control and energy conservation program. The device controls volatile organic compounds from either the n-butane-based or the benzene-based process. Thirty percent of the plant's steam requirements are supplied by the maleic anhydride process. The Monsanto plant currently uses n-butane for 40 percent of its feedstock needs and plans to convert remaining capacity to n-butane by 1985. The only new plant constructed since proposal, Monsanto, Florida, uses only n-butane.

The DENKA, Houston, Texas, plant currently is using n-butane for all of its capacity. The Ashland plant has converted all of its capacity to n-butane, and the USS Chemicals plant in Pennsylvania has converted part of its capacity to n-butane. Only the Pfizer plant continues to use benzene exclusively as a feedstock.

Industry commenters maintained that the reduced benzene emissions have resulted in significant decreases in the associated health risks to the extent that regulation is no longer warranted under Section 112. They considered the estimated health risks posed by benzene emissions from maleic anhydride process vents to be insignificant.

In view of the reduced benzene emissions from the maleic anhydride industry following proposal of the standard, EPA reexamined the emission levels, risks, and potential reductions that could be achieved to detemine whether maleic anhydride process vents continue to pose a significant risk of leukemia and whether a benzene standard is needed.

Maleic anhydride process vents are now estimated to emit about 960 Mg of benzene annually from the three plants that continue to use benzene as a feedstock. This amount is less than 2 percent of total benzene emissions from stationary sources. Estimated lifetime risk due to these emissions is about 7.6×10^{-5} [2] for the most exposed individuals, and over the total exposed population (within 20 km of each plant) about 0.029 leukemia cases per year is estimated to occur. (The current impacts are actually smaller than those estimated here because one company considered the amount of its n-butane capacity confidential. Although these data cannot be published, this information would not affect any regulatory decision.) Thus, since proposal, decreases of more than 80 percent in baseline benzene emissions have reduced estimated baseline annual leukemia incidence by over 90 percent and baseline maximum lifetime risk by over 60 percent.

Control techniques that can be applied to maleic anhydride process vents were discussed at proposal and include carbon adsorption, incineration, and feedstock substitution (from benzene to n-butane) which can reduce emissions by about 90, 97, and 100 percent, respectively, from uncontrolled vents. Although at proposal carbon adsorption was believed to be able to achieve 97 percent control at maleic anhydride plants, EPA has revised the estimated reduction to 90 percent because it has not been demonstrated that carbon adsorption can achieve 97 percent control on a maleic anhydride vent stream. Applying add-on control technologies of carbon adsorption or incineration could reduce nationwide benzene emissions from these sources by roughly 70 to 90 percent, primarily at one plant, to about 120 to 260 Mg/yr.

While all new process units are expected to be n-butane-based, the technological and economic ability to switch all existing process units is questionable, even though some have done so. This is primarily due to factors such as spatial restrictions (process equipment in a butane-based plant must be about 40 percent larger to produce the same capacity as a benzene-based plant) or the inability to develop n-butane technology, which is relatively new and highly proprietary. Nevertheless, the trend in recent years for existing plants has been to switch to n-butane because of its economic superiority. This trend is expected to continue, with at least on plant planning to convert its remaining capacity to n-butane in the near future.

The current estimated leukemia incidence and maximum lifetime risk represent small risks to public health. By both expressions of health risk, the extent of the hazard posed by this source category is more than an order of magnitude smaller than for benzene source categories for which standards are being developed. Additionally, the estimated impact on nationwide leukemia incidence of further control could be reduced to roughly 0.024 to 0.016 cases per year, or a reduction of about 0.005 to 0.013 cases per year over current baseline, depending on the control technology used (carbon absorption or incineration). Maximum lifetime risk could be reduced to roughly 5.2×10^{-6} to 1.1×10^{-5}.

Because of the extent of control now exhibited by the industry, the small portion (less than 2 percent) of total benzene emissions from stationary sources contributed by maleic anhydride process vents, the trends to discontinue benzene use at existing plants and to use only n-butane at new plants, the small leukemia incidence and maximum lifetime risk estimated at current emission levels, and the small incremental reductions in health risks achievable with add-on control technologies, the Administrator has concluded that benzene emissions from maleic anhydride process vents do not warrant federal regulatory action under Section 112.

Ethylbenzene/Styrene Process Vents

At proposal, EB/S process vents at the 13 plants comprising the industry emitted an estimated 2,400 Mg of benzene per year. These benzene emissions were estimated to result in a range of about 0.027 to 0.20 leukemia

[2] As used here and in the remainder of this preamble, the maximum lifetime risk is presented in scientific notation. For example, 7.6×10^{-5} means the chance of contracting leukemia during a lifetime is 7.6 in 100,000.

cases per year and range of maximum lifetime risk of about 6.2×10^{-4} to 4.4×10^{-3}.

Changes in the industry since proposal have lowered benzene emissions and associated health risks considerably. The Chemical Manufacturers Association provided vent-by-vent emissions data based on measurements or site-specific engineering calculations. In several case, actual control efficiences, vent stream measurements, and reduced plant capacities or capacity utilization resulted in severalfold lower total emissions than those reported at proposal. Monsanto has installed a control system that routes nearly all continuous emissions to a boiler. Production capacity has been reduced at the American Hoechst, Louisiana, plant, and product recovery system repairs and new product recovery equipment since proposal have further reduced baseline benzene emissions at this plant. ARCO, Pennsylvania, has significantly reduced production capacity. Most vents at the Oxirane, Texas, plant are controlled by product recovery devices before flaring, giving a greater level of control than estimated by EPA at proposal. Likewise, site-specific information on capacities and product recovery at the Dow, Texas, plant have resulted in lower emission estimates than those at proposal. The ARCO, Texas, and Koch (formerly Sun Oil), Texas, ethylbenzene units have been mothballed or converted to other uses.

Two new plants, American Hoechst, Texas, and a second Cos-Mar, Louisiana plant have come on line since the EPA proposal emission estimates were prepared. At the American Hoechst, Texas, plant all process emissions are also routed to a boiler.

Finally, the EPA revised estimate of flare efficiency to 98 percent compared with 60 percent used at proposal results in signficantly lower emission estimates in an industry that relies heavily on flaring as a control technique. Continuous emission estimates are appreciably lower because of the revised flare efficiency at Oxirane, Texas; Gulf, Louisiana; Co-Mar, Louisiana; El Paso, Texas; and Dow, Texas.

In view of the changes in the EB/S industry since proposal of the standard, EPA assessed the current emission levels, health risks, and potential reductions in these impacts that could be achieved to determine whether EB/S process vents continue to pose significant risk of leukemia and whether a standard is warranted under Section 112.

EB/S process vents at 13 plants currently emit an estimated 210 Mg of benzene annually, or less than 0.4 percent of total benzene emissions from stationary sources. Estimated lifetime risk due to these emissions is about 1.4×10^{-4} for the most exposed individuals, and over the total exposed population (within 20 km of each plant) about 0.0057 leukemia cases per year are estimated to occur. Thus, since proposal, estimated baseline benzene emissions, estimated baseline annual leukemia incidence, and the estimated baseline maximum lifetime risk have all declined by over 90 percent.

Combustion control techniques applicable to EB/S process vents that were described at proposal include boilers, incinerators, and flares, all of which can reduce emissions by at least 98 percent. Although at proposal flares were assumed to achieve only 60 percent reduction, this estimate has been revised upward to 98 percent because of the results from recent flare studies. Applying these combustion control techniques could reduce nationwide benzene emissions from these sources over current baseline by about 70 percent, to about 70 mg/yr.

The current estimated leukemia incidence and maximum lifetime risk represent small risks to public health. By both expressions of health risk, the extent of the hazard posed by this source category is more than an order or magnitude smaller than for benzene source categories for which standards are being developed. Using combustion control techniques, leukemia incidence could be reduced to roughly 0.001 cases per year, a reduction of about 0.0047 cases per year, and maximum lifetime risk to roughly 9.2×10^{-6}.

Because of the extent of control now exhibited by the industry, the small amount of benzene emissions from these sources and the small portion (less than 0.4 percent) of the total benzene emissions from stationary sources that these sources represent, the small leukemia incidence and maximum lifetime risk estimated at current levels, and the small incremental reductions in these health risks achievable with combustion control technologies, the Administrator has concluded that benzene emissions from EB/S process vents do not warrant Federal regulatory action under Section 112.

Benzene Storage Vessels

At proposal, it was estimated that about 126 benzene storage facilities emitted about 2,200 Mg of benzene per year. These benzene emissions were estimated to result in a range of about 0.12 to 0.82 leukemia cases per year and a range of maximum lifetime risk of about 1.5×10^{-4} to 1.0×10^{-3}.

Emission (and consequently health risk) estimates have been reduced significantly since proposal because of revised emission factors associated with different types of tanks and equipment. These emission factors were revised as a result of four different test programs conducted by Chicago Bridge and Iron for a storage tank roof vendor, EPA, and the American Petroleum Institute (two test programs). Differences in emission estimates by EPA at proposal and now were attributed to reduced compound permeability through certain types of seal material, emissions from multi-component liquids versus single component liquids, lower emission rates from certain types of seals, and different testing procedures.

The revised emission factors were then used to recalculate baseline emissions and estimated health risks. EPA examined the current emission levels, health risks, and potential reductions that could be achieved to determine whether the benzene storage vessel source category continues to pose significant risk of leukemia and whether a standard is warranted under Section 112.

Benzene storage vessels are currently estimated to emit about 620 Mg of benzene per year from about 126 storage facilities. This amount is about 1 percent of total benzene emissions from stationary sources. Estimated lifetime risk due to these emissions is about 3.6×10^{-5} for the most exposed individuals, and over the total exposed population (within 20 km of each facility) about 0.043 cases per year are estimated to occur. Thus, since proposal, estimated baseline benzene emissions estimates have been revised downward by over 70 percent, estimated baseline annual leukemia incidence by over 85 percent, and estimated baseline maximum lifetime risk by over 90 percent.

Control measures that can be used to reduce benzene emissions include the use of certain types of equipment (much of which is already in place on many tanks in the industry), such as internal floating roofs, primary seals, and secondary seals, or enclosure of the storage tanks and routing emissions to a combustion device (discussed at proposal). These control techniques could reduce nationwide emissions over baseline by about 18 to 98 percent, depending on the technique applied, to about 12 to 510 Mg/yr.

The current estimated leukemia incidence and maximum lifetime risk represent small risks to public health. By

both expressions of health risk, the extent of the hazard posed by this source category is more than an order of magnitude smaller than for benzene source categories for which standards are being developed. Using the control techniques mentioned above, leukemia incidence could be reduced to roughly 0.036 to 0.0009 cases per year, a reduction of about 0.007 to 0.042 cases per year, and maximum lifetime risk to roughly 2.9×10^{-5} to 7×10^{-5}.

Because of the extent of control now exhibited by the industry, the small amount of benzene emissions from these sources and the small portion (about 1 pecent) of the total benzene emissions from stationary sources that these sources represent, the small leukemia incidence and maximum lifetime risk estimated at current levels, and the small incremental reductions in these health risks achievable with available control techniques, the Administrator has concluded that benzene emissions from benzene storage vessels do not warrant Federal regulatory action under Section 112.

Docket

The dockets are organized and complete files of all the information submittted to, or otherwise considered by, EPA in the development of this proposal. The principal purposes of the dockets are to allow interested parties to effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review except for interagency review materials [section 307(d)(7)(A)].

Miscellaneous

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposal, including economic and technological issues.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for inspection in Docket Number OAQPS 79-3 (maleic anhydride), A-79-49 (EB/S), or A-80-14 (benzene storage), Central Docket Section, at the address given in the **ADDRESSES** section of this preamble.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride, Benzene.

Dated: February 28, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-6039 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
March 6, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1078]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 29, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED FEBRUARY 29, 1984

VOLUME 1078

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	02/10/84	JA: TX			
8420232	F-04-075806	4224931696		102-2		PEREZ-GALINDO #1	MUERTO CREEK (YEGUA 1	200.0	NUE-WELLS PIPE LI
-AMOCO PRODUCTION CO				RECEIVED:	02/10/84	JA: TX			
8420285	F-08-077398	4200333446		103		UNIVERSITY CONSOLIDATED XII.#45	UNIVERSITY BLOCK 13 (	23.7	AMOCO PRODUCTION
-AN-SON CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420183	F-10-071526	4248331043		102-2		RUBY LEE #1	B & B (GRANITE WASH)	0.0	WESTAR TRANSMISSI
-ANADARKO PRODUCTION COMPANY				RECEIVED:	02/10/84	JA: TX			
8420336	F-10-077763	4234100000		108		STATE A-1-A	WEST PANHANDLE / RED	20.0	WESTAR TRANSMISSI
-B-J OPERATING CO				RECEIVED:	02/10/84	JA: TX			
8420310	F-10-077693	4206531492		103		J B MCCRAY "A" (05561) #1	PANHANDLE CARSON COUN	55.0	CABOT PIPELINE CO
-BALLARD EXPLORATION CO INC				RECEIVED:	02/10/84	JA: TX			
8420280	F-05-077297	4216130787		102-4		CHARLES D NETTLE #1-C	NETTLE (RODESSA B)	350.0	LONE STAR GAS CO
-BEACH EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420261	F-08-077020	4222332640		103		WILKINSON #1	MOORE (SAN ANDRES)	0.0	
-BOBBY BONNER				RECEIVED:	02/10/84	JA: TX			
8420340	F-08-077770	4222733108		103		ANDERSON #2	BIG SPRING (FUSSELMAN	12.0	GETTY OIL CO
-BRUCE OPERATING CO				RECEIVED:	02/10/84	JA: TX			
8420229	F-09-077257	4223734773		103		SHANAFELT TRUST #2 ID #174428	JACK COUNTY REGULAR	0.0	TEXAS UTILITY FUI
-BTA OIL PRODUCERS				RECEIVED:	02/10/84	JA: TX			
8420247	F-08-076462	4217331473		103		7613 JV-P COX 'B' #14	BLALOCK LAKE S (WOLFC	30.0	PHILLIPS PETROLEU
8420267	F-08-077162	4217331493		102-4		7613 JV-P COX 'C' #16	BLALOCK LAKE SE (WOLF	36.0	PHILLIPS PETROLEU
-BUFFTON OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420197	F-09-073364	4223700000		102-4		MARLEY #1	PEARL MOSLEY (CONGL U	270.0	SOUTHWESTERN GAS
-CAL-T OIL CO				RECEIVED:	02/10/84	JA: TX			
8420380	F-10-077901	4223331585		103		CARVER AREA WATERFLOOD 2 00729 #33	PANHANDLE - HUTCHINSO	273.8	DIAMOND CHEMICAL S
-CHAMPLIN EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420237	F-03-076067	4228700000		102-2		GARWOOD GERDES I-1	GIDDINGS (AUSTIN CHAL	182.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/10/84	JA: TX			
8420262	F-03-077076	4204131039		102-2		E M DANSBY #4	KURTEN (BUDA)	90.0	
-CHANOCO CORP				RECEIVED:	02/10/84	JA: TX			
8420372	F-01-077855	4231131951		102-4		SOUTH TEXAS SYNDICATE #1-19	BIG MULE (5500 SAND)	20.1	ESPERANZA TRANSMI
-CHEVRON U S A INC				RECEIVED:	02/10/84	JA: TX			
8420227	F-08-075456	4233532230		103		W L FOSTER 1 #74	IATAN EAST HOWARD	5.5	GETTY OIL CO
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	02/10/84	JA: TX			
8420173	F-06-055241	4234730674		102-2		LEE F-1	APPLEBY N (TRAVIS PEA	1610.0	LIBERTY NATURAL G
8420298	F-08-077674	4213534290		103		RHODES COWDEN UNIT #456	COWDEN NORTH	13.0	AMOCO PRODUCTION
-CLAYTON W WILLIAMS JR				RECEIVED:	02/10/84	JA: TX			
8420191	F-03-072763	4205100000		102-2		JOHNNIE LEE KUBECKA #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8420201	F-03-073821	4228700000		102-2		WILLIE ZOCH UNIT A #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CMC ENERGY INC				RECEIVED:	02/10/84	JA: TX			
8420286	F-04-077408	4213100000		108		V M HOOPER #7 106404	BENAVIDES (4530)	8.7	ESPERANZA TRANSMI
-CONOCO INC				RECEIVED:	02/10/84	JA: TX			
8420381	F-78-077902	4243300000		108		ARTHUR BRINKLEY JR -A- #14 ID 04263	FLOWERS	0.4	CITIES SERVICE OI
8420384	F-8A-077906	4216932199		102-4	103	SOUTH HUNTLEY UNIT #49 ID 64383	HUNTLEY 3400	0.4	MID PLAINS PETROC
8420190	F-04-072714	4247933550		102-2	107-TF	VAQUILLAS RANCH A #33	LUNDELL (LOBO 9200)	392.0	E I DUPONT DE NEM
8420206	F-04-074139	4247933649		102-2	107-TF	VAQUILLAS RANCH A #37	GATO CREEK (9800)	128.0	E I DUPONT DENEM

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8420189	F-04-072608	4247933519		102-4	107-TF	VAQUILLAS RANCH BORREGO #1-A	PERDIDO SOUTH (LOBO)	1130.0	HOUSTON PIPELINE
8420382	F-7B-077903	4243300000		108		WEST FLOWERS UNIT #41 ID 11787	FLOWERS WEST	0.4	CITIES SERVICE CO
8420383	F-7B-077904	4243300000		108		WEST FLOWERS UNIT #63 ID 11787	FLOWERS WEST	0.4	CITIES SERVICE CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420234	F-10-075861	4229531338		103		FRASS "A" #1	DARROUZETT N W (TONKA	0.0	
-COURSON OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420245	F-10-076328	4235731438		103		FIRST NATIONAL TRUST #4-571	ELLIS RANCH (CLEVELAN	120.0	TRANSWESTERN PIPE
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	02/10/84	JA: TX			
8420354	F-06-077807	4236530950		108		SOL JERNIGAN "C" #1		4.0	UNITED GAS PIPELI
8420353	F-06-077806	4236530949		108		SOL JERNIGAN "C" #3		4.0	UNITED GAS PIPELI
8420352	F-06-077805	4236530954		108		SOL JERNIGAN "C" #4		5.0	UNITED GAS PIPELI
8420351	F-06-077804	4236530953		108		SOL JERNIGAN "C" #5		5.0	UNITED GAS PIPELI
8420349	F-06-077802	4236530952		108		SOL JERNIGAN "C" #6		4.0	UNITED GAS PIPELI
8420350	F-06-077803	4236530951		108		SOL JERNIGAN "C" #7		3.0	UNITED GAS PIPELI
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420178	F-10-067766	4234100000		108-ER		ROBERTSON G #4	WEST PANHANDLE	0.0	NORTHERN NATURAL
-DMR PETROLEUM				RECEIVED:	02/10/84	JA: TX			
8420281	F-08-077317	4230130419		102-2		J S BOHLANDER #1	COGNAC (DELAWARE SAND	102.0	
-DOUBLE DIAMOND PETROLEUM INC				RECEIVED:	02/10/84	JA: TX			
8420345	F-7C-077790	4243100000		108		COPELAND #1	JAMESON SW (STRAWN)	17.0	SUN EXPLORATION &
8420346	F-7C-077791	4243100000		108		COPELAND #2	JAMESON SW (STRAWN)	17.0	SUN EXPLORATION &
-DYCO PETROLEUM CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420204	F-10-073914	4248331054		107-DP		BRITT 1-29	KEY (MORROW UPPER)	150.0	
-ENSERCH EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420299	F-09-077676	4219730411		103		E J JOHNSON #1	TURKEY	0.0	SHELL OIL CO
-EXXON CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420271	F-08-077210	4237134468		103		FORT STOCKTON UNIT #223	FORT STOCKTON (YATES	1.0	NUECES CO
8420357	F-03-077812	4207131475		103		H A GRIPON A/C 1 #34	ANAHUAC	146.0	HOUSTON PIPELINE
8420174	F-10-061211	4219530855		103		HANSFORD GAS UNIT #32 #2	HANSFORD (DOUGLAS)	219.0	NORTHERN NATURAL
8420356	F-06-077811	4249931188		103		HAWKINS FIELD UNIT #9622	HAWKINS	73.0	
8420270	F-08-077208	4210333244		103		J B TUBB A/C 1 #284	SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
8420282	F-08-077330	4210333231		103		J B TUBB A/C 2 #283	SAND HILLS (JUDKINS)	67.0	EL PASO NATURAL G
8420359	F-04-077818	4227331662		102-4		KING RANCH ALAZAN 385 (107927)	EL INFERNILLO (G-24)	285.0	ARMCO STEEL CORP
8420355	F-04-077810	4204700000		108		MCGILL BROS 455 (084889)	KELSEY DEEP (21-I S)	13.0	TRUNKLINE GAS CO
8420212	F-08-074481	4200333562		103		MEANS-QUEEN #1 OIL UNIT #1207	MEANS (QUEEN SAND)	8.0	PHILLIPS PETROLEU
8420358	F-04-077817	4204731255		102-4		R J KLEBERG JR VIBORAS 114D 108034	VIBORAS (MASSIVE SECO	186.0	ARMCO STEEL CORP
8420283	F-03-077379	4201530533		103		RACCOON BEND MIOCENE UNIT #1 #1	RACCOON BEND (MIOCENE	7.0	TEXAS SOUTHEASTER
8420199	F-8A-073661	4221933870		103		W A COONS #49	KINGDOM (ABO REEF)	13.0	AMOCO PRODUCTION
8420284	F-06-077384	4207330527		102-4	107-TF	WILLIAM LEON RUCKER GAS UNIT 1 #1	OVERTON (COTTON VALLE	370.0	ARMCO STEEL CORP
-FURRY PRODUCING CO				RECEIVED:	02/10/84	JA: TX			
8420260	F-7B-076997	4204933800		103		JOHN DUNN #1	SIPE SPRINGS (MARBLE	1.8	LONE STAR GAS CO
-G A HAWKINS				RECEIVED:	02/10/84	JA: TX			
8420251	F-09-076486	4223700000		102-4		A M BILBY #5 (GAS)	BLACK BOX (CONGL)	1606.0	TEXAS UTILITIES F
-GENERAL PRODUCTION CO INC				RECEIVED:	02/10/84	JA: TX			
8420224	F-03-075278	4205132531		102-2		ROBERT PLASEK "A" #2	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GEODYNE RESOURCES INC				RECEIVED:	02/10/84	JA: TX			
8420266	F-10-077145	4229531379		102-4		M P CHEW #5	DARDEN (MORROW UPPER)	373.4	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	02/10/84	JA: TX			
8420187	F-8A-072471	4207900000		103		C S DEAN "A" UNIT #127-X	SLAUGHTER	7.7	AMOCO PRODUCTION
8420188	F-8A-072472	4207900000		103		C S DEAN "A" UNIT #165-X	SLAUGHTER	21.0	AMOCO PRODUCTION
-GILLRING OIL CO				RECEIVED:	02/10/84	JA: TX			
8420249	F-04-076468	4235500000		102-4		GILLESPIE UNIT #3	MCNAIR	73.0	HOUSTON PIPE LINE
-GUADALUPE EXPLORATION CORP				RECEIVED:	02/10/84	JA: TX			
8420318	F-10-077723	4208730129		108		WISCHKAEMPER #1	EAST PANHANDLE	8.5	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420303	F-08-077682	4247532875		103		ESTES E W #255	WARD-ESTES NORTH	14.8	CABOT CORP
8420307	F-08-077686	4247533084		103		ESTES E W #259	WARD-ESTES NORTH	6.8	CABOT CORP
8420306	F-08-077685	4247533083		103		ESTES E W #260	WARD-ESTES NORTH	10.2	CABOT CORP
8420305	F-08-077684	4247532995		103		ESTES E W #261	WARD-ESTES NORTH	10.5	CABOT CORP
8420304	F-08-077683	4247532866		103		ESTES E W #264	WARD-ESTES NORTH	7.4	CABOT CORP
8420308	F-08-077687	4247532916		103		HUTCHINGS STOCK ASSN #1219	WARD-ESTES NORTH	2.0	CABOT CORP
8420314	F-08-077700	4247532881		103		HUTCHINGS STOCK ASSN #1220	WARD-ESTES NORTH	9.3	CABOT CORP
8420315	F-08-077701	4247532914		103		HUTCHINGS STOCK ASSN #1222	WARD-ESTES NORTH	5.0	CABOT CORP
8420316	F-08-077702	4247532834		103		HUTCHINGS STOCK ASSN #1232	WARD-ESTES NORTH	6.2	CABOT CORP
8420302	F-08-077681	4247532998		103		HUTCHINGS STOCK ASSN #1348	WAGON WHEEL (PENN)	388.0	CABOT CORP
8420290	F-08-077489	4222732243		102-4		P E LITTLE #1	KNOTT WEST/DEAN	35.4	GETTY OIL CO
-HAMMAN OIL & REFINING CO				RECEIVED:	02/10/84	JA: TX			
8420181	F-03-071007	4208931341		103		B D ANDERSON #2	CHESTERVILLE N (6700'	3.0	SEAGULL PIPELINE
-HARRISON INTERESTS LTD				RECEIVED:	02/10/84	JA: TX			
8420294	F-7C-077664	4210534540		103	107-TF	UNIVERSITY LAND 18-33 G U EAST	HOWARDS CREEK (PENN)	35.0	INTRATEX GAS CO
-HINTON PRODUCTION COMPANY				RECEIVED:	02/10/84	JA: TX			
8420205	F-05-074048	4246930553		102-4		LANCASTER	MARTIN MILLS (RODESSA	500.0	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:	02/10/84	JA: TX			
8420172	F-10-054667	4248330920		102-2	103	WATTS "1" #1	STILES RANCH (MORROW)	300.0	INTRATEX GAS CO
8420172	F-10-054667	4248330920		107-DP		WATTS "1" #1	STILES RANCH (MORROW)	300.0	INTRATEX GAS CO
-HRUBETZ OIL CO				RECEIVED:	02/10/84	JA: TX			
8420248	F-7B-076467	4244132620		102-4		HARDIN SIMMONS UNIVERSITY #1	HRUBETZ (DETRITAL)	28.0	
-HUFO PRODUCTION CORP				RECEIVED:	02/10/84	JA: TX			
8420180	F-10-069307	4206500000		103		ELLER #11	PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
-HUMBLE EXPLORATION CO INC				RECEIVED:	02/10/84	JA: TX			
8420196	F-03-073100	4214931598		102-2		CONNIE B #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INDIAN WELLS OIL CO				RECEIVED:	02/10/84	JA: TX			
8420209	F-7C-074224	4210534333		103	107-TF	BAILEY #21-1	OZONA N E CANYON	0.0	INTRATEX GAS CO
-J M HUBER CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420373	F-10-077894	4223331691		103		MAGNOLIA HERRING #29	PANHANDLE	47.0	COLORADO INTERSTA
-JACK L PHILLIPS				RECEIVED:	02/10/84	JA: TX			
8420371	F-06-077849	4206730330		103		WILL MCCRAY #1 RRC #10446	LINDEN EAST (COTTON V	100.0	
-JJB OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420239	F-7B-077458	4236732618		102-4		BOWMAN #1	WEATHERFORD SE (1900)	262.0	SOUTHWESTERN GAS
-JSP HOLDING CO INC				RECEIVED:	02/10/84	JA: TX			
8420250	F-09-076472	4223735244		102-4		MARLEY #2B	BRYSON (CONGL MIDDLE)	250.0	SOUTHWESTERN GAS
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	02/10/84	JA: TX			
8420269	F-10-077200	4248330892		102-4	103	ZYBACH #1-10	ZYBACH (MORROW A)	97.1	ARKANSAS LOUISIAN
-KERRY OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420385	F-08-077907	4213534221		103		W E COWDEN #12	HARPER (SAN ANDRES)	18.0	PHILLIPS PETROLEU
-L W LESIKAR				RECEIVED:	02/10/84	JA: TX			
8420241	F-7B-076149	4236732445		103		LESIKAR 2A	IDIO (CADDO CONGLOMER	36.5	SOUTHWESTERN GAS
-LA JUANA JO OIL CO				RECEIVED:	02/10/84	JA: TX			
8420179	F-7B-067872	4225332437		103		V HORTON #2	HORTON (CISCO SAND)	70.0	CONOCO INC
8420202	F-7B-073888	4225332504		103		V HORTON #3	HORTON (CISCO)	18.0	CONOCO INC
-LADD PETROLEUM CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420366	F-7C-077835	4210534626		103	107-TF	V I PIERCE #2-5	OZONA (CANYON SAND)	349.0	AMERICAN PIPELINE
-MABEE PETROLEUM CORP				RECEIVED:	02/10/84	JA: TX			
8420236	F-08-075871	4231732754		103		BREEDLOVE "E" #3	BREEDLOVE SOUTH (SPRA	0.0	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8420235	F-08-075870	4231732755		103		BREEDLOVE "E" #4	BREEDLOVE SOUTH (SPRA	0.0	NORTHERN NATURA
8420240	F-8A-076141	4250132385		103		GIBSON UNIT #1012	WASSON 72	0.0	SHELL OIL CO
8420239	F-8A-076123	4250132384		103		GIBSON UNIT #506	WASSON 72	0.0	SHELL OIL CO
8420238	F-8A-076122	4250132383		103		GIBSON UNIT #507	WASSON 72	0.0	SHELL OIL CO
-MARATHON OIL COMPANY				RECEIVED:	02/10/84	JA: TX			
8420333	F-08-077749	4230100000		108		NORTH MASON DELAWARE SAND UNIT #104	NORTH MASON (DELAWARE	3.1	PHILLIPS PETRO
8420330	F-08-077746	4230100000		108		NORTH MASON DELAWARE SAND #1303	NORTH MASON (DELAWARE	3.7	PHILLIPS PETR
8420332	F-08-077748	4230100000		108		NORTH MASON DELAWARE SAND UNIT #201	NORTH MASON (DELAWARE	2.7	PHILLIPS PETROL
8420331	F-08-077747	4230100000		108		NORTH MASON DELAWARE SAND UNIT #702	NORTH MASON (DELAWARE	4.7	PHILLIPS PETROL
8420334	F-08-077750	4230100000		108		NORTH MASON DELAWARE SAND UNIT 101	NORTH MASON (DELAWARE	1.9	PHILLIPS PETROL
-MARSHALL EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420225	F-03-075305	4231330467		102-4	103	MOSS-MALONE #7	MADISONVILLE NE (GEOR	200.0	LONE STAR GAS CO
8420228	F-03-075503	4222530481		102-4	103	SKRLA #1	FT TRINIDAD SE (EDWAR	200.0	SOUTH TEXAS GATH
-MCKISSACK OIL FIELD EQUIPMENT INC				RECEIVED:	02/10/84	JA: TX			
8420226	F-7C-075421	4209530652		102-4		HENDERSON #1 (ID NO 105883)	EDEN SW (STRAWN)	0.0	SUN EXPLORATION &
-MERCURY EXPLORATION CO				RECEIVED:	02/10/84	JA: TX			
8420275	F-7B-077217	4205900000		102-4		E KONCZAK #1	BAIRD (GRAY)	20.0	LONE STAR GAS
8420273	F-7B-077215	4205934308		102-4		S JONES #1	TURNAROUND (GRAY SAND	20.0	LONE STAR GAS
8420272	F-7B-077214	4205934249		102-4		T WINDHAM #1	HOORAY (GRAY SAND)	20.0	LONE STAR GAS CO
8420274	F-7B-077216	4205934184		102-4		WHITE ESTATE #1	PANCAKE WATTS (ELLENB	20.0	LONE STAR GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420229	F-04-075634	4248930718		103	107-TF	B F COX #3	LA SAL VIEJA (8 9680-	273.8	TENNESSEE GAS
8420177	F-7C-067345	4240131058		107-TF		FREYSCHLAG 220 A #1U	KWB (CANYON)	1095.0	ESPERANZA PIPEL
8420176	F-09-066316	4249700000		108-ER		G A LEHMBERG #2	BOONSVILLE	0.0	NATURAL GAS PIPE
8420348	F-09-077798	4249700000		108		METHODIST #1 #1C-021533 #1U-1IM#IC	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIP
8420347	F-09-077795	4249732615		103		T C W B #44 17160	CAP YATES (CONSOLIDAT	214.1	NATURAL GAS PIP
8420182	F-09-071412	4249700000		108-ER		W L MACKEY #2	BOONSVILLE	0.0	NATURAL GAS PIPE
8420171	F-09-023643	4249700000		108-ER		W T ALEXANDER #1	ALVORD	0.0	NATURAL GAS PIPE
8420210	F-09-074279	4249732518		103		W T SMITH #2	NEWARK E (BARNETT SHA	195.8	SOUTHWESTERN GA
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	02/10/84	JA: TX			
8420337	F-8A-077765	4221934122		103		NORTH CENTRAL LEVELLAND UNIT #391	LEVELLAND	7.7	AMOCO PRODUCTION
8420360	F-8A-077819	4231934078		103		NORTH CENTRAL LEVELLAND UNIT #403	LEVELLAND	5.0	AMOCO PRODUCTION
8420265	F-08-077135	4210333233		103		P J LEA #53	SAND HILLS (SAN ANGEL	27.4	WARREN PETROLE
8420338	F-08-077766	4210303911		108		TEXAS UNIVERSITY SEC 15 & 16 #1520	DUNE	4.7	PHILLIPS PETRO
8420362	F-08-077821	4210303924		108		TEXAS UNIVERSITY SEC 15 & 16 #1608	DUNE	1.2	PHILLIPS PETROLE
8420363	F-08-077825	4210330904		108		TEXAS UNIVERSITY SEC 15 & 16 #1633	DUNE	0.9	PHILLIPS PETROLE
8420364	F-08-077826	4210303696		108		W P EDWARDS #12	EDWARDS	1.2	PHILLIPS PETROL
8420365	F-08-077827	4210303702		108		W P EDWARDS #18	EDWARDS	0.7	PHILLIPS PETRO
8420361	F-08-077820	4210305644		108		W P EDWARDS ESTATE #2	EDWARDS	1.1	PHILLIPS PETROLE
-MORAN EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420367	F-7C-077843	4223531280		108		MURPHEY B #2 RRC 07433	SPRABERRY (TREND AREA	6.9	NORTHERN NATURA
8420369	F-7C-077847	4223531407		108		MURPHEY B WELL #3 RRC NO 07433	SPRABERRY (TREND AREA	7.2	NORTHERN NATURA
8420368	F-7C-077846	4238330192		108		ROCKER "B" WELL #68	SPRABERRY (TREND AREA	6.7	NORTHERN NATURA
8420370	F-7C-077848	4223531650		108		ROCKER B "R" #2 RRC 09023	SPRABERRY (TREND AREA	9.3	NORTHERN NATURAL
-MORGAS				RECEIVED:	02/10/84	JA: TX			
8420220	F-10-075006	4248300000		108		NEUHAUS #1 106701	PANHANDLE EAST	12.0	WEST TEXAS GAS
-OMEGA ENERGY				RECEIVED:	02/10/84	JA: TX			
8420311	F-10-077694	4206531572		103		WINTERS (05248) #4	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
-OXOCO OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420207	F-03-074141	4231330448		103		BARRETT #3	FT TRINIDAD - BARRETT	36.5	PECOS PIPELINE &
-PALM PETROLEUM CO				RECEIVED:	02/10/84	JA: TX			
8420175	F-03-064384	4232131286		103		WOODSON #1	TIDEHAVEN N (FRIO UPP	0.0	TENNESSEE GAS PIP
-PARKER & PARSLEY INC				RECEIVED:	02/10/84	JA: TX			
8420223	F-08-075190	4232900000		103		MABEE #4	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS
-PETER HENDERSON OIL CO				RECEIVED:	02/10/84	JA: TX			
8420216	F-7C-074633	4245131143		102-2	103	TARA TURNER #3	T D (6575)	109.5	ESPERANZA PIPELIN
8420215	F-7C-074632	4245131159		102-2	103	TARA TURNER #5	T D (6575)	0.0	ESPERANZA PIPELIN
8420214	F-7C-074630	4245131244		102-2	103	TARA TURNER #7	T D (6575)	0.0	ESPERANZA PIPELI
-PHILLIPS OIL CO				RECEIVED:	02/10/84	JA: TX			
8420317	F-08-077717	4249503449		108		(21555) MCCABE F P #2	HALLEY	1.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/10/84	JA: TX			
8420194	F-10-072857	4242100000		108		BIVENS D #1	TEXAS HUGOTON - DOLOM	0.0	MICHIGAN-WISCONS
8420193	F-06-072832	4240100000		102-2	107-TF	ELLIS ESTATE #2 WELL #2	NORTH HENDERSON - (CO	0.0	LONE STAR GAS CO
8420335	F-10-077752	4206500000		108		THORNBURG #2	PANHANDLE CARSON	0.0	GETTY OIL CO
-PRODUCTION MANAGEMENT ASSOC				RECEIVED:	02/10/84	JA: TX			
8420276	F-10-077223	4217900000		108		J C SHORT (00279) #3	PANHANDLE GRAY COUNTY	1.0	COLTEXO CORP
8420277	F-10-077224	4217900000		108		J C SHORT (00279) #4	PANHANDLE GRAY COUNTY	1.0	COLTEXO CORP
8420278	F-10-077225	4217900000		108		J C SHORT (00279) #5	PANHANDLE GRAY COUNTY	0.5	COLTEXO CORP
-QUANAH DRILLING & EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420213	F-7B-074619	4236732385		102-4		FLETCHER #2	GROGAN (1300)	30.0	TEXAS UTILITIES
-RICHEY & CO INC				RECEIVED:	02/10/84	JA: TX			
8420221	F-7B-075089	4213335022		102-4		J I BARTON #1	REB (MARBLE FALLS)	18.0	SOUTHWESTERN GAS
-ROSELAND OIL & GAS INC				RECEIVED:	02/10/84	JA: TX			
8420200	F-06-073766	4242330686		102-4	103	HARRIS #1 RRC PERMIT NO 194330	CHAPEL HILL	0.0	ETEXAS PRODUCERS
-SAGE ENERGY CO				RECEIVED:	02/10/84	JA: TX			
8420184	F-03-071738	4214931578		102-2		RUSCHER #2 RRC #16760	GIDDINGS (BUDA)	17.1	PHILLIPS PETROLEU
8420288	F-7C-077443	4210534641		103		UNIVERSITY 14 #10 RRC #07348	FARMER (SAN ANDRES)	2.0	NORTHERN NATURAL
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	02/10/84	JA: TX			
8420243	F-03-076291	4214931605		102-2		HOECKENDORF #1	GIDDINGS (AUSTIN-CHAL	586.0	PHILLIPS PETROLEU
-SCANDRILL INC				RECEIVED:	02/10/84	JA: TX			
8420185	F-09-072172	4223734063		103		BRIDWELL-REYNOLDS #1	ARCO (CONGL)	47.8	LONE STAR GAS CO
-SERENDIPITY EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420263	F-7B-077096	4236733604		102-4		JONES #3	DENNIS WEST (STRAWN)	95.0	NORTHERN GAS PROD
-SHELL OIL CO				RECEIVED:	02/10/84	JA: TX			
8420329	F-8A-077740	4250132379		103		B L GILSTRAP #3	OWNBY (CLEARFORK UPPE	11.0	AMOCO PRODUCTION
8420323	F-08-077733	4210300000		108		BARNSLEY-D- #4-L	SAND HILLS (MCKNIGHT)	12.7	WARREN PETROLEUM
8420319	F-08-077729	4213500000		108		E HARPER UNIT #311	HARPER	0.4	PHILLIPS PETROLEU
8420324	F-8A-077734	4216500000		108		GAINES WASSON CLEARFORK UNIT #5703G	WASSON 72	3.3	COLTEXO CORP
8420320	F-08-077730	4213500000		108		JORDAN UNIVERSITY UNIT NO 807	JORDAN	1.1	PHILLIPS PETROLEU
8420327	F-8A-077737	4216500000		108		S WASSON CLEARFORK UNIT #6405-S	WASSON 72	2.1	COLTEXO CORP
8420326	F-8A-077736	4216500000		108		S WASSON CLEARFORK UNIT #6508-S	WASSON 72	5.4	COLTEXO CORP
8420325	F-8A-077735	4216500000		108		S WASSON CLEARFORK UNIT #9405-S	WASSON 72	4.5	COLTEXO CORP
8420264	F-8A-077130	4216532563		103		SOUTH WASSON CLEARFORK UNIT #8517-S	WASSON 72	5.8	COLTEXO CORP
8420322	F-8A-077732	4216500000		108		STARK T O #12	ROBERTSON N (CLEAR FO	4.9	PHILLIPS PETROL
8420328	F-08-077738	4213500000		108		TXL NORTH UNIT #357-U	TXL(TUBB)	3.1	SHELL OIL CO
8420321	F-08-077731	4213500000		108		TXL NORTH UNIT NO 369-L	TXL(TUBB)	3.1	SHELL OIL CO
-SIMPSON-MANN INC				RECEIVED:	02/10/84	JA: TX			
8420297	F-7C-077672	4223532093		103		MUNSON "GULF" #1	SPRABERRY (TREND AREA	95.6	IRION COUNTY GASO
8420296	F-7C-077671	4223532094		103		MUNSON "GULF" #2	SPRABERRY (TREND AREA	62.8	IRION COUNTY GASO
8420295	F-7C-077670	4223532095		103		MUNSON "GULF" #3	SPRABERRY (TREND AREA	15.0	IRION COUNTY GASO
-SPG EXPLORATION CORP				RECEIVED:	02/10/84	JA: TX			
8420252	F-03-076811	4214931613		102-2		CHERRY #1	GIDDINGS/AUSTIN CHALK	0.0	
-STEVE STAMPER				RECEIVED:	02/10/84	JA: TX			
8420291	F-09-077490	4223735485		102-4		T D WILLIAMS #4	CHRISTINA (STRAWN) FI	182.5	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/10/84	JA: TX			
8420388	F-7B-077921	4213334784		103		CHRISTMAS - STATE UNIT #1	EASTLAND COUNTY REGUL	4.0	
8420301	F-7B-077679	4213333123		103		D K SCOTT #1	EASTLAND COUNTY REGUL	3.0	
8420300	F-7B-077677	4213334197		103		NORTHWEST RANGER UNIT #38-4	EASTLAND COUNTY REGUL	0.0	
8420387	F-7B-077920	4213334512		103		NORTHWEST RANGER UNIT #6-7	EASTLAND COUNTY REGUL	0.7	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED:	02/10/84	JA: TX			
8420222	F-08-075188	4247532975		102-4	103	CARSON UNIT #3	COLLIE (DELAWARE)	146.0	INTRATEX GAS CO
8420219	F-04-074978	4240931704		103		MINNIE S WELDER #64L	PORTILLA (8500 SAND)	44.0	TENNESSEE GAS PIP
-TAHOE OIL & CATTLE CO				RECEIVED:	02/10/84	JA: TX			
8420287	F-08-077424	4237134478		103		TAHOE-UNIVERSITY "B" #3	LEON VALLEY (O'BRIEN)	36.5	LARCO GAS CORP
-TASCA EXPLORATION CO				RECEIVED:	02/10/84	JA: TX			
8420230	F-04-075723	4247933611		102-4		E P LEAL #3 RRC #106469	LEAL (FIFTH MIRANDO)	0.0	ESPERANZA TRANSMI
-TEXACO INC				RECEIVED:	02/10/84	JA: TX			
8420211	F-08-074477	4232931201		102-4		A A BRADFORD ESTATE "B" #2	BRADFORD RANCH	119.4	EL PASO NATURAL
8420253	F-08-076817	4243131286		102-4		E B COPE #6	CONGER SW	401.1	REATA INDUSTRIAL
8420341	F-08-077773	4230100000		108		EL MAR DELAWARE UNIT #1342	EL MAR (DELAWARE)	0.4	PHILLIPS PETROLEU
8420342	F-08-077774	4230100000		108		EL MAR DELAWARE UNIT #2232	EL MAR (DELAWARE)	0.8	PHILLIPS PETROLE
8420343	F-08-077775	4230100000		108		EL MAR DELAWARE UNIT #2614	EL MAR (DELAWARE)	8.9	PHILLIPS PETROL
8420255	F-8A-076824	4216532424		103		J B ROBERTSON #61	ROBERTSON N (CLEARFOR	1.8	PHILLIPS PETROLEU
8420376	F-08-077897	4200333023		103		J E MABEE "A" NCT-1 #168A	MABEE	0.7	
8420379	F-08-077900	4200333024		103		J E MABEE "A" NCT-1 #75A	MABEE	1.5	
8420377	F-08-077898	4231732114		103		J E MABEE "B" NCT-2 #25	MABEE	0.4	
8420374	F-09-077895	4200936016		102-4		J H TURBEVILLE "C" #20	LAKE KICKAPOO E	27.7	
8420218	F-10-074748	4235731418		103		LEONARD BARLOW #3	BARLOW (DES MOINES)	0.0	PHILLIPS PETROLEU
8420378	F-08-077899	4231732201		103		MABEE FOUNDATION "D" NCT-2 #3	MABEE	0.7	
8420375	F-08-077896	4231732200		103		MABEE FOUNDATION "D" NCT-2 #4	MABEE	1.8	
8420244	F-8A-076311	4207931827		103		MALLET LAND & CATTLE CO "F" #47	SLAUGHTER	0.4	AMOCO PRODUCTION
8420254	F-8A-076823	4207931824		103		MALLET LAND & CATTLE CO "F" #50	SLAUGHTER	3.3	AMOCO PRODUCTION
8420256	F-8A-076825	4221934091		103		MONTGOMERY ESTATE DAVIES NCT-2 #118	LEVELLAND	62.1	AMOCO PRODUCTION
8420233	F-8A-075841	4221934086		103		MONTGOMERY ESTATE-DAVIES NCT-2 #110	LEVELLAND	36.5	AMOCO PRODUCTIO
8420231	F-8A-075729	4221934082		103		MONTGOMERY ESTATE-DAVIES NCT-2 #112	LEVELLAND	20.1	AMOCO PRODUCTION
8420257	F-7C-076879	4210534630		103		STATE OF TEXAS "CQ" #3	WEGER NORTH	47.8	
8420258	F-7C-076880	4210534629		103		STATE OF TEXAS "CQ" #4	WEGER NORTH	75.2	
8420217	F-8A-074670	4216532554		103		WHARTON UNIT #128	HARRIS	0.0	PHILLIPS PETROLEU
-THE ARD DRILLING COMPANY INC				RECEIVED:	02/10/84	JA: TX			
8420292	F-8A-077644	4211531884		103		W E LOVE "A" #3	JO-MILL (SPRABERRY)	27.3	TEXACO INC
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	02/10/84	JA: TX			
8420203	F-7C-073899	4210534519		102-4	107-TF	UNIVERSITY 31-30 #1	UNIVERSITY 31 (STRAWN	300.0	
-TUCKER DRILLING COMPANY INC				RECEIVED:	02/10/84	JA: TX			
8420339	F-7C-077768	4223532185		103		H CARSON TRUSTEE #7	CHRISTI (CANYON 6800)	115.0	FARMLAND INDUSTRI
-TXO PRODUCTION CORP				RECEIVED:	02/10/84	JA: TX			
8420195	F-04-072887	4235500000		103		RAY D-2	STRATTON EAST (PFLUEG	0.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/10/84	JA: TX			
8420186	F-03-072273	4270830242		102-4		HIGH ISLAND 55-L #1L	HIGH ISLAND BLOCK 55-	68.0	HIGH ISLAND PIPE
-UNITED CO				RECEIVED:	02/10/84	JA: TX			
8420293	F-8A-077657	4207931063		108		WRIGHT ESTATE #1 097504	LEVELLAND (SAN ANDRES	3.9	EL PASO NATURAL G
-VAN OIL CORP				RECEIVED:	02/10/84	JA: TX			
8420198	F-7B-073641	4213335026		102-4		T T FAIR #106	FAIR (MARBLE FALLS LO	355.0	NORTHERN GASPRODU
-WAGNER & BROWN				RECEIVED:	02/10/84	JA: TX			
8420246	F-10-076447	4221131612		103		ROGERS #1-61	HEMPHILL (GRANITE WAS	239.0	WESTAR TRANSMISSI
-WARREN AMERICAN OIL CO				RECEIVED:	02/10/84	JA: TX			
8420386	F-7C-077908	4210533132		103		UNIVERSITY OF TEXAS 236 - 1	WEGER (SAN ANDRES)	0.0	J L DAVIS
-WATCO ENERGY INC				RECEIVED:	02/10/84	JA: TX			
8420259	F-7C-076907	4239932669		102-4		CLYDE FLANAGAN #3	Q V (JENNINGS)	15.0	ODESSA NATURAL
-WESLEY SENKEL INC				RECEIVED:	02/10/84	JA: TX			
8420344	F-09-077785	4250336758		102-4		LOFTIN #8	SENKEL (CADDO 4600')	0.0	SOUTHWESTERN GAS
-WILBROOK EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420242	F-7B-076226	4242933570		102-4		HALL P #7	HALL (3500)	77.0	SOUTHWESTERN GAS
-WOODS PETROLEUM CORPORATION				RECEIVED:	02/10/84	JA: TX			
8420192	F-8A-072798	4207931713		102-4		RJR RANCH #201	BONANZA (SAN ANDRES)	12.0	WARREN PETROLEUM
-WTG EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420268	F-7C-077172	4238331871		103		N W HICKMAN 17	BARNHART (GRAYBURG)	1.3	J L DAVIS
-3 W OIL INC				RECEIVED:	02/10/84	JA: TX			
8420312	F-10-077695	4217931383		103		ARKIE-BILL "B" (05308) #8	PANHANDLE GRAY COUNTY	178.0	CABOT PIPELINE CUP
8420309	F-10-077692	4217931444		103		CASE (05520) #1	PANHANDLE GRAY COUNTY	4.0	CABOT PIPELINE
8420313	F-10-077696	4217931311		103		WEBSTER (05135) #6	PANHANDLE CARSON COUN	27.0	GETTY OIL CO
-3-T EXPLORATION INC				RECEIVED:	02/10/84	JA: TX			
8420208	F-09-074221	4200934115		102-4		SCALING #1	LAZY "B" (STRAWN)	28.8	CITIES SERVICE CO
**********									
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	02/09/84	JA: NM 4			
8420158	NM 2341-83PB	3004507832		108-PB		GALLEGOS CANYON UNIT COM "D" #160	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420159	NM 2266-83PB	3004512196		108-PB		USA LENIS A SHANE #1	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	02/09/84	JA: NM 4			
8420160	NM-2338-83PB	3003906632		108-PB		MKL #10	SOUTH BLANCO	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/09/84	JA: NM 4			
8420085	NM2364-83-PB	3004520760		108-PB		ATLANTIC A #11	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL
8420139	NM 2353-83PB	3004505844		108-PB		BALLARD #10	BALLARD PICTURED CLIF	0.0	EL PASO NATURAL G
8420144	NM 2342-83PB	3004521171		108-PB		BARNES #12	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420118	NM-2397-83PB	3003920790		108-PB		CANYON LARGO UNIT #228	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420074	NM2322-83-PB	3004521114		108-PB		CASE #17	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420075	NM-2321-83PB	3004520906		108-PB		DAY A #15	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420090	NM2359-83-PB	3004512192		108-PB		DAY A #8	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420103	NM2306-83PB	3004510495		108-PB		ELLIOTT A #1	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420107	NM2326-83PB	3004508606		108-PB		FANNIN #1	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420093	NM2332-83PB	3004506523		108-PB		FLORANCE D #6	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420140	NM 2354-83PB	3004513085		108-PB		GRAMBLING #4	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420108	NM2388-83PB	3004521983		108-PB		GRAMBLING C #11J	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420086	NM2363-83-PB	3004524078		108-PB		HANCOCK B #5E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420097	NM2395-83PB	3004520904		108-PB		HARDIE #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420121	NM-2327-83PB	3004507496		108-PB		HARDIE E #1	BLANCO	0.0	EL PASO NATURAL G
8420095	NM2351-83PB	3003906851		108-PB		HARRINGTON #2	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420081	NM2349-83-PB	3004520316		108-PB		HEATON #23	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420141	NM 2355-83PB	3004508920		108-PB		HOWELL #5	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420127	NM 2366-83PB	3004520792		108-PB		HUBBELL #6	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420119	NM-2308-83PB	3004521543		108-PB		HUBBELL #16	AZTEC	0.0	EL PASO NATURAL G
8420076	NM2374-83-PB	3004505743		108-PB		HUERFANO UNIT NP #23	PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420110	NM2390-83PB	3003921158		108-PB		JICARILLA C #13	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420136	NM 2372-83PB	3003906504		108-PB		JICARILLA F #13	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420072	NM-2324-83PB	3003906430		108-PB		JICARILLA J #2	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420147	NM 2312-83PB	3004507537		108-PB		JONES A #1	BLANCO MESA VERDE	0.0	EL PASO NATURAL
8420098	NM2396-83PB	3003921061		108-PB		KLEIN #25	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420084	NM2346-83-PB	3004520861		108-PB		LACKEY A #6	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8420101	NM2375-83PB	3004513064		108-PB		LACKEY B #18	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420096	NM2350-83PB	3003905308		108-PB		LINDRITH UNIT #34	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420106	NM2376-83PB	3003905206		108-PB		LINDRITH UNIT #53	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420120	NM-2307-83PB	3003921265		108-PB		LINDRITH UNIT #89	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420089	NM2360-83-PB	3004506280		108-PB		LODEWICK #10	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420123	NM-2329-83PB	3004506418		108-PB		LODEWICK #9	BASIN	0.0	EL PASO NATURAL
8420071	NM-2325-83PB	3004509232		108-PB		LUDWICK #10 PC	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420145	NM 2343-83PB	3004509246		108-PB		LUDWICK #17	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420080	NM2318-83-PB	3004560060		108-PB		MOORE #3	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420129	NM 2345-83PB	3004521083		108-PB		MUDGE #37	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL
8420125	NM 2320-83PB	3004521025		108-PB		MUDGE #38	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420128	NM 2344-83PB	3004521028		108-PB		MUDGE #41 PC	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420088	NM2361-83-PB	3004512168		108-PB		OMLER #8	FULCHER KUTZ PICTURED	0.0	EL PASO NATURAL G
8420126	NM 2365-83PB	3004520469		108-PB		PIERCE #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL
8420105	NM2377-83PB	3004508643		108-PB		RIDDLE A #5	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420092	NM2333-83PB	3003907009		108-PB		RINCON UNIT #116	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420077	NM2314-83-PB	3003906909		108-PB		RINCON UNIT #39	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420102	NM2319-83PB	3004521090		108-PB		ROELOFS A #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420087	NM2362-83-PB	3004520501		108-PB		RUSSELL #8	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420079	NM2317-83-PB	3004508230		108-PB		SAN JACINTO #1	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8420137	NM 2373-83PB	3004508130		108-PB		SAN JACINTO #6	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420114	NM-2384-83	3003920828		108-PB		SAN JUAN 27-4 UNIT #89	TAPACITO	0.0	EL PASO NATURAL
8420130	NM 2334-83PB	3003906914		108-PB		SAN JUAN 27-5 UNIT #11	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420133	NM 2337-83PB	3003906964		108-PB		SAN JUAN 27-5 UNIT #16	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420117	NM-2394-83PB	3003920812		108-PB		SAN JUAN 27-5 UNIT #176	TAPACITO	0.0	EL PASO NATURAL G
8420112	NM-2382-83PB	3003920818		108-PB		SAN JUAN 27-5 UNIT #179	TAPACITO	0.0	EL PASO NATURAL G
8420091	NM2358-83PB	3003907141		108-PB		SAN JUAN 27-5 UNIT #2	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420094	NM2331-PB	3003907012		108-PB		SAN JUAN 27-5 UNIT #2	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420115	NM-2387-83PB	3003906847		108-PB		SAN JUAN 27-5 UNIT #68	BLANCO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8420083	NM2347-83-PB	3003920510		108-PB		SAN JUAN 28-4 UNIT #35	BASIN DAKOTA	0.0	EL PASO NATURAL G
8420131	NM 2335-83PB	3003907137		108-PB		SAN JUAN 28-6 UNIT #11	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420111	NM-2392-83PB	3003920603		108-PB		SAN JUAN 28-6 UNIT #174	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420116	NM-2393-83PB	3003920858		108-PB		SAN JUAN 28-6 UNIT #187	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420073	NM-2323-83PB	3003907167		108-PB		SAN JUAN 28-6 UNIT #2	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420078	NM2316-83-PB	3003907271		108-PB		SAN JUAN 28-6 UNIT #32	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420109	NM2389-83PB	3003920872		108-PB		SAN JUAN 28-6-UNIT #192	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420104	NM2381-83PB	3003906999		108-PB		SAN JUAN 28-7 UNIT #119	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420100	NM2267-83PB	3003920097		108-PB		SAN JUAN 28-7 UNIT #146	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420135	NM 2371-83PB	3003900000		108-PB		SAN JUAN 29-7 UNIT #78	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420122	NM-2328-83PB	3003907781		108-PB		SAN JUAN 30-4 UNIT #20	EAST BLANCO	0.0	EL PASO NATURAL G
8420099	NM2398-83PB	3003920525		108-PB		SAN JUAN 30-6 UNIT #103	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420132	NM 2336-83PB	3003907806		108-PB		SAN JUAN 30-6 UNIT #27	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420142	NM 2356-83PB	3003907887		108-PB		SAN JUAN 30-6 UNIT #32	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420143	NM 2357-83PB	3003907866		108-PB		SAN JUAN 30-6 UNIT #34	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420146	NM 2313-83PB	3004506406		108-PB		SCHWERDTFEGER A #2	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420124	NM-2330-83PB	3004507025		108-PB		SCHWERDTFEGER A #8	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420113	NM-2383-83PB	3004520854		108-PB		SELLERS #7	AZTEC	0.0	EL PASO NATURAL G
8420134	NM 2367-83PB	3004520791		108-PB		SUNRAY #4	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8420148	NM 2309-83PB	3004521265		108-PB		TAPP #11	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8420138	NM 2352-83PB	3004508337		108-PB		VANDEWART A #5	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8420082	NM2348-83-PB	3004507339		108-PB		WHITE KUTZ #2	FULCHER KUTZ PICTURED	0.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	02/09/84	JA: NM 4			
8420149	NM 2340-83PB	3004507610		108-PB		GALLEGOS CANYON UNIT P C #44	WEST KUTZ	11.7	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	02/09/84	JA: NM 4			
8420163	NM-2305-83PB	3004506577		108-PB		CAMPBELL COM #1	BASIN	0.0	EL PASO NATURAL G
8420161	NM-2268-83PB	3004506679		108-PB		CHARLEY PAH #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420162	NM-2284-83PB	3004506480		108-PB		JOHN CHARLES #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8420165	NM-2281-83PB	3004513247		108-PB		NEAH VICTORIA #1	SOUTH BLANCO	0.0	EL PASO NATURAL
8420164	NM-2280-83PB	3004506876		108-PB		NEAH VICTORIA #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	02/09/84	JA: NM 4			
8420154	NM 2273-83PB	3004510997		108-PB		BLANCO #8	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8420156	NM 2271-83PB	3003907963		108-PB		ROSA 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELI
8420151	NM 2270-83PB	3003907944		108-PB		ROSA 18	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8420150	NM 2269-83PB	3003907981		108-PB		ROSA 41	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8420155	NM 2272-83PB	3003921396		108-PB		ROSA 61	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8420152	NM 2275-83PB	3003921805		108-PB		SAN JUAN 29-5 #87	GOBERNADOR PICTURED C	0.0	NORTHWEST PIPELIN
8420153	NM 2274-83PB	3004511231		108-PB		SAN JUAN 32-8 #31	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8420157	NM 2276-83PB	3004522170		108-PB		SAN JUAN 32-8 #37	LOS PINOS NO FRUITLAN	0.0	NORTHWEST PIPELIN
-PETRO-LEWIS CORPORATION				RECEIVED:	02/09/84	JA: NM 4			
8420166	NM-2282-83PB	3004305263		108-PB		JICARILLA N163 #4	SOUTH BLANCO	0.0	EL PASO NATURAL
8420167	NM-2283-83PB	3003906175		108-PB		RUDDOCK #2	TAPACITO	0.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	02/09/84	JA: NM 4			
8420169	NM-2278-83PB	3004508787		108-PB		HARE #1	AZTEC	0.0	EL PASO NATURAL G
8420168	NM-2279-83PB	3004524150		108-PB		STATE LINE #2	BASIN	0.0	EL PASO NATURAL
8420170	NM-2277-83PB	3004511742		108-PB		THOMPSON #12	BASIN	0.0	EL PASO NATURAL G

[FR Doc. 84-5983 Filed 3-5-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Tuesday
March 6, 1984

Part VI

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1984.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1984 of nine rescission proposals and 49 deferrals contained in the first six special messages of FY 1984. These messages were transmitted to the Congress on October 3, November 17, December 14 and December 21, 1983; and January 12 and February 1, 1984.

Rescissions (Table A and Attachment A)

As of February 1, 1984, nine rescission proposals totaling $636.4 million were pending before the Congress.

Deferrals (Table B and Attachment B)

As of February 1, 1984, $5,502.6 million in 1984 budget authority was being deferred from obligation and $47,000 in 1984 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1984.

Information From Special Messages

The special messages containing information on the rescission proposal and deferrals covered by this cumulative report are printed in the **Federal Registers** listed below:

- Vol. 48, FR p. 45730, Thursday, October 6, 1983
- Vol. 48, FR p. 53060, Wednesday, November 23, 1983
- Vol. 48, FR p. 56720, Thursday, December 22, 1983
- Vol. 48, FR p. 57098, Tuesday, December 27, 1983
- Vol. 49, FR p. 2076, Tuesday, January 17, 1984
- Vol. 49, FR p. 4692, Tuesday, February 7, 1984

David A. Stockman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1984 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 636.4
Accepted by the Congress	-0-
Rejected by the Congress	-0-
Pending before the Congress	$ 636.4

****

TABLE B

STATUS OF 1984 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$7,232.5
Routine Executive releases through January 1984 (OMB/Agency Releases of $1,672.0 million and cumulative adjustments of -$55.9 million)	-1,727.9
Overturned by the Congress	-2.0
Currently before the Congress	$5,502.6 a/

a/ This amount includes $47,000 in outlays for a Department of the Treasury deferral (D84-16).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1984

As of February 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing Programs								
Payment for operation of low-income housing	R84-2		331,431	2-1-84				
DEPARTMENT OF THE INTERIOR								
National Park Service								
Land acquisition	R84-3		30,000	2-1-84				
DEPARTMENT OF LABOR								
Occupational Safety and Health Administration	R84-1		1,700	12-21-83				
OTHER INDEPENDENT AGENCIES								
Corporation for Public Broadcasting								
Public broadcasting fund	R84-9		20,000	2-1-84				
Delaware and Susquehana River Basin Commissions								
Salaries and expenses, Delaware River Basin Commission	R84-4		19	2-1-84				
Salaries and expenses, Susquehana River Basin Commission	R84-5		24	2-1-84				
Panama Canal Commission								
Operating expenses	R84-6A		17,750	2-1-84				
Capital outlay	R84-6B		7,625	2-1-84				
OFF-BUDGET FEDERAL ENTITIES								
DEPARTMENT OF AGRICULTURE								
Rural Electrification Administration								
Rural electrification and telephone revolving fund	R84-7		197,862	2-1-84				
Rural telephone bank	R84-8		30,000	2-1-84				
Rescissions, total BA			636,411					

Attachment B - Status of Deferrals - Fiscal Year 1984

As of February 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-84
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian regional development programs	D84-1	10,000		10-3-83					10,000
International security assistance									
Foreign military sales credit	D84-30	1,315,000		1-12-84					1,315,000
Economic support fund	D84-24	303,880		12-14-83					
	D84-24A		2,267,691	1-12-84	-1099100				1,472,471
Military assistance	D84-31	426,970		1-12-84	-100530				326,440
DEPARTMENT OF AGRICULTURE									
Soil Conservation Service									
Watershed and flood prevention operations	D84-36	8,138		2-1-84					8,138
Forest Service									
Construction	D84-37	10,814		2-1-84					10,814
Timber salvage sales	D84-2	6,211		10-3-83					
	D84-2A		9,210	1-12-84					15,421
Expenses, brush disposal	D84-3	42,674		10-3-83					
	D84-3A		12,398	1-12-84					55,072
DEPARTMENT OF COMMERCE									
International Trade Administration									
Participation in U.S. expositions	D84-32	550		1-12-84					550
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D84-4	33,600		10-3-83	-33600				0

As of February 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-84
DEPARTMENT OF DEFENSE - MILITARY									
Military construction, all services	D84-5	414,597		10-3-83					
	D84-5A		488,340	12-14-83	-181753				721,184
Family housing, Air Force	D84-6	53,000		10-3-83					
	D84-6A		20,131	12-14-83	-53000				20,131
Environmental restoration	D84-33	75,000		1-12-84					75,000
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife conservation, military reservations Wildlife conservation	D84-7	777		10-3-83					
	D84-7A		385	1-12-84					1,162
DEPARTMENT OF EDUCATION									
Office of Postsecondary Education Higher education	D84-38	500		2-1-84					500
DEPARTMENT OF ENERGY									
Energy supply research and development activities	D84-39	10,052		2-1-84					10,052
Uranium supply and enrichment activities	D84-8	130,000		10-3-83					130,000
Fossil energy research and development	D84-21	20,326		11-17-83	-20326				
	D84-21A		500	12-14-83					
	D84-21B		8,993	2-1-84					9,493
Fossil energy construction	D84-25	38,038	1,962	12-14-83				-26000	
	D84-25A		23,196	2-1-84					37,196
Naval petroleum and oil shale reserve	D84-40	41,500		2-1-84					41,500
Energy conservation	D84-41	10,077		2-1-84					10,077
Strategic petroleum reserve	D84-26	12,707		12-14-83					
	D84-26A		256	2-1-84					12,963
Alternative fuels production	D84-22	13,800		11-17-83					
	D84-22A		4,300		-12300				5,800
Power Marketing Administration Operation and maintenance, Southwestern Power Administration	D84-42	7,000		2-1-84					7,000
Departmental Administration Departmental administration	D84-43	29,053		2-1-84					29,053
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Centers for Disease Control	D84-27	15,560		12-14-83					15,560
Office of the Assistant Secretary of Health Scientific activities overseas (special foreign currency program)	D84-9	6,463		10-3-83					
	D84-9A		571	1-12-84					7,034
Social Security Administration Limitation on administrative expenses (construction)	D84-10	10,571		10-3-83					
	D84-10A		10,491	12-21-83	-14				21,048
DEPARTMENT OF THE INTERIOR									
Minerals Management Service Payments for proceeds, sale of water, Mineral Leasing Act of 1920	D84-11	48		10-3-83					48

As of February 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-84
National Park Service									
Land acquisition and state assistance (contract authority)	D84-23	30,000		11-17-83					
	D84-23A		2,700	2-1-84				-30000	2,700
Bureau of Mines									
Mines and minerals	D84-44	1,667		2-1-84					1,667
DEPARTMENT OF JUSTICE									
Federal Prison System	D84-28	22,025		12-14-83					
	D84-28A		23,752	1-12-84					45,777
DEPARTMENT OF STATE									
International organizations and Conferences									
Contributions to international organizations	D84-46	4,723		2-1-84					4,723
Contributions for international peacekeeping activities	D84-45	10,879		2-1-84					10,879
United States emergency refugee and migration assistance fund	D84-12	37,928		10-3-83					
	D84-12A		192	1-12-84					38,120
United States bilateral science and technology agreements	D84-13	2,000		10-3-83					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (airport and airway trust fund	D84-14	1,083,268		10-3-83	-153063				930,205
Maritime Administration									
Ship construction	D84-47	7,000		2-1-84					7,000
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance trust fund	D84-15	56,068		10-3-83	-2866			78	53,280
State and local government fiscal assistance trust fund	D84-16	15,209		10-3-83	-15162				47
Bureau of the Mint	D84-29	256		12-14-83	-256				0
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D84-17	13,148		10-3-83					13,148
Railroad Retirement Board									
Milwaukee Railroad restructuring administration	D84-18	85		10-3-83					
	D84-18A		147	12-14-83					232
Tennessee Valley Authority									
Tennessee Valley Authority fund	D84-19	7,000		10-3-83					
	D84-48	2,192		2-1-84					9,192
United State Information Agency									
Salaries and expenses	D84-34	2,400		1-12-84					2,400
Salaries and expenses (special foreign currency program)	D84-35	2,900		1-12-84					2,900
Acquisition and construction of radio facilities	D84-36	9,645		1-12-84					9,645
United States Railway Association									
Administrative expenses	D84-20	2,050		10-3-83		-2050	98-181		0
TOTAL, DEFERRALS		4,357,349	2,875,215		-1,671,970	-2,050		-55,922	5,502,622

Note: Deferral D84-25 was reported as part of D84-21 in the second special message. In the third special message the deferral was reported separately and adjusted upward slightly.

Note: Of the amount deferred as D84-25, $26 million was transferred to fossil energy research and development pursuant to the 1984 Interior and Related Agencies Appropriations Act.

Note: All of the above amounts represent budget authority except one general revenue sharing deferral of outlays only.

[FR Doc. 84-4284 Filed 3-5-84; 8:45 am]

BILLING CODE 3110-01-C

federal register

Tuesday
March 6, 1984

Part VII

Environmental Protection Agency

40 CFR Part 180

Pesticides; Ethylene Dibromide; Proposed Revocation of Tolerances and Proposed Tolerances; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/P328; PH-FRL #2539-5]

Pesticides; Ethylene Dibromide; Proposed Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Revocation of Tolerances.

SUMMARY: This notice proposes the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with the insecticide ethylene dibromide (EDB). A notice published elsewhere in this issue of the **Federal Register** proposes the establishment of tolerances for these fruits based on a measurement of EDB *per se*. The comment period on this action has been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety, and environmental protection, under the Agreement on Technical Barriers to Trade (Standards Code).

DATE: Written comments must be identified by the document control number [00000/P328] and received on or before April 5, 1984.

ADDRESSES: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for the quarantine fumigation of citrus fruit and papayas, as well as the other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provide the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

Tolerances of 10 ppm are currently established in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture (USDA).

The Agency has calculated the potential oncogenicity risk resulting from the dietary consumption of treated citrus fruits and papayas at various levels of EDB. These calculations were performed using the one-hit model with "Weibull" timing described in detail in the Agency's EDB Position Document 4, and the results of a long-term National Cancer Institute bioassay study of Osborne-Mendel rats. The Agency's estimates of the potential oncogenic risk associated with the consumption of EDB residues in citrus fruits and papayas are set forth in the Agency's Position Document 4, available from the Agency at the address given above.

Based on the considerations set forth above, the Agency is hereby proposing the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the USDA programs enumerated above.

Concurrent with this proposal, the Agency is proposing the establishment of tolerances of 250 ppb for the whole fruit, of which no more than 30 ppb is present in the edible pulp, for residues of EDB *per se* in or on citrus fruits and papayas, resulting from fumigation after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. The Agency is currently reviewing data and intends to take action shortly to revoke the bromide tolerances for the remaining fruits and vegetables listed in 40 CFR 180.146. Tolerances for residues of EDB *per se* for those commodities which continue to require treatment with EDB until alternatives are available will be proposed at levels which are consistent with the levels proposed for EDB *per se* herein for citrus fruits and papayas, as well as with the levels proposed previously for grains and grain products.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains EDB may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal to revoke the inorganic bromide tolerances in or on citrus fruits and papayas be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number [00000/P328] and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on this proposal to revoke the inorganic bromide tolerances in 40 CFR 180.146 in or on citrus fruits and papayas, resulting from post-harvest fumigation in accordance with federal programs. Comments must bear the notation indicating the document control number [00000/P328]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in the Program Management and Support Division at the above address between 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB. Documents containing these analyses are available at the address identified elsewhere in this notice.

Executive Order 12291

This proposal would revoke the tolerances for residues of inorganic bromides in or on citrus fruits and papayas that result from post-harvest fumigation with EDB. To the extent that data allow, the economic and health impacts of this proposal have been analyzed vis-a-vis several optional values at which tolerance levels could

be established for residues of EDB *per se*. At the 250 ppb level (of which no more than 30 ppb is in the edible portion) being proposed for citrus fruits, the incidence of adverse impacts is not expected to significantly affect citrus prices or overall citrus production levels for the reasons discussed below.

Historically, approximately 80 million pounds of citrus produced in the U.S. have been fumigated with EDB and marketed for U.S. fresh fruit consumption. This quantity of citrus represented approximately one percent of the U.S. fresh citrus supply. To meet a tolerance of 250 ppb in the whole fruit, it is anticipated that extended fruit storage, fruit aeration, and/or reduced EDB dosages may be necessary. In addition, quarantine alternatives to EDB are available (e.g. methyl bromide, cold treatment, Fruit Fly Free Certification). For example, methyl bromide is currently accepted by several of the quarantine States and the remainder are likely to approve use of methyl bromide. The use of methyl bromide increases disinfestation costs $0.70 per thousand pounds of citrus over the cost of EDB. Thus, assuming that all growers switch to methyl bromide, the maximum total additional cost to the U.S. citrus industry would be $60,000 annually.

With regard to residue reducing techniques, the Agency believes that it is possible to reduce EDB residues in citrus pulp significantly by storing fruit for one to two weeks. The Agency has not estimated the costs associated with achieving the proposed tolerance by these methods, but believes that growers will use methyl bromide if extended storage or aeration is more expensive than $0.70 per thousand pounds of citrus.

Although, based on current data, larger quantities of imported fruit than domestic fruit may exceed the proposed tolerance, this will not have a significant impact on domestic prices because these imports account for less than two percent of domestic consumption. To help minimize the impact on importing countries, USDA will provide technical assistance to these countries regarding proper EDB fumigation, EDB reduction techniques and EDB substitutes. Cold treatment chambers available for citrus in three East Coast harbors in the U.S. will also help reduce the impact on nations that cannot meet the tolerance through other methods.

Of the domestically harvested and EDB fumigated papayas monitored for EDB residues (49 samples), approximately 30 percent contained EDB residues greater than 30 ppb in the edible pulp. The Agency does not have data on EDB dissipation rates for papayas, but believes that, like citrus, extended fruit storage and/or aeration would aid in the dissipation of EDB from the papayas. In addition, the papaya industry may soon be able to switch to phsophine gas and non-chemical alternatives, such as double-dip heat treatment and hot and cold treatment.

Because a small percentage of imported papayas are treated with EDB, the tolerance will not significantly affect the level of imports or domestic prices. A small percentage of imported papayas is treated with EDB because the majority of imports come from Mexico and are grown in areas free of fruit fly infestation. Quantities imported from other Latin American countries were so small that export values could not be obtained.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 60 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's cost/benefit analyses cited above.

The revocation of the inorganic bromide tolerances for citrus fruits and papayas would potentially affect citrus and tropical fruit shippers, as well as fruit growers. Fruit found to contain EDB residues in excess of the tolerance level for EDB *per se* may be subject to enforcement action. However, it is anticipated that a variety of practices, such as extended storage and aeration, will be employed in order to reduce EDB residues below the tolerance levels. The sampling of citrus fruits and papayas is not intended to focus specifically on small firms or growers, hence small businesses would face no greater probability than the industry as a whole of having their products sampled or otherwise subjected to Federal enforcement efforts. Any impacts on small businesses are expected to be isolated.

Accordingly, I certify that this proposed regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (Section 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: March 1, 1984.

William D. Ruckelshaus,

Administrator.

§ 180.146 [Amended]

Therefore, it is proposed that 40 CFR 180.146 be amended by removing the commodities citrus fruits and papayas from the 10 parts per million listing in the second paragraph of the section.

[FR Doc. 84-6082 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 180

[PP 3E2777/P302; PH-FRL 2539-6]

Pesticides; Ethylene Dibromide; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) *per se* in or on the raw agricultural commodities citrus fruits and papayas resulting from fumigation of these commodities after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. This proposed regulation, initiated by EPA, proposes maximum permissible levels which would expire on September 1, 1984, for residues of EDB *per se* in or on these commodities.

DATE: Written comments must be identified by the document control number [PP 3E2777/P302] and received on or before April 5, 1984.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. In person, bring comments to: Room 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Office location and

telephone number: Room 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator isued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for the quarantine fumigation of citrus and papayas, effective September 1, 1984, as well as the other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reporductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

Tolerances are currently established under 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on various raw agricultural commodities, including citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. At the time these tolerances were established, residues of EDB *per se* were not expected to occur in or on these treated commodities based on the then available analytical methodology. The residue of concern was inorganic bromide, the breakdown product of EDB. Currently available analytical methods are now capable of detecting EDB *per se* down to a limit of detection of 1 part per billion (ppb). The Agency has concluded that residues of EDB *per se* pose a concern because of the potential for EDB to cause oncogenic, mutagenic, and adverse reproductive effects.

In order to assure that residues of EDB *per se* present in or on fresh citrus fruits and papayas as a result of any remaining use of EDB as a post-harvest fumigant will not pose a safety hazard, the Agency is proposing the establishment in 40 CFR 180.397 of tolerances of 250 ppb for the whole fruit, of which no more than 30 ppb is present in the edible pulp, for residues of EDB *per se* in or on fresh citrus fruits and papayas. Because the use is restricted to fruits intended for fresh market only, there would be no processed food or feed items involved with these proposed tolerances. The Agency is also proposing that these tolerances for citrus fruits and papayas expire on September 1, 1984, by which date the domestic use of EDB on these commodities for U.S. consumption is expected to cease. Fruit produced in the U.S. is only fumigated when shipped to other citrus-producing states or countries. The Agency anticipates that a variety of new alternatives to the quarantine fumigation of citrus fruits and papayas with EDB will shortly become available. To facilitate development and availability of such alternatives within the September 1, 1984 time frame, the Agency will continue to work with the U.S. Department of Agriculture (USDA) to provide assistance and information on alternatives to the citrus and papaya industries.

The proposed tolerance levels are based on: (1) The need to protect the public health, (2) the necessity for the production of an adequate, wholesome, and economical food supply, and (3) other relevant factors as provided in the Federal Food, Drug, and Cosmetic Act. In particular, the Agency has considered recent reports that the use of EDB on fresh citrus in the U.S. has declined, and recent data that show EDB residue levels considerably higher than expected in some imported fresh citrus. Based on current sampling data set forth in the support document available from the Agency at the address given above, it is anticipated that, in order to meet the proposed tolerance levels, extended fruit storage, fruit aeration, and/or reduced EDB dosages may be necessary. Although not quantified, it is also expected that some citrus fruits and papayas, including both domestic and imported commodities, may not be able to both comply with applicable USDA quarantine regulations and meet the proposed EDB tolerances. Subsequent to September 1, 1984, the absence of a tolerance for residues of EDB *per se* on citrus fruits and papayas would render any such commodities containing detectable levels of EDB *per se* adulterated under the Federal Food, Drug, and Cosmetic Act.

Elsewhere in this issue of the **Federal Register**, the Agency is proposing to revoke the 10 ppm tolerance in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. The Agency is currently reviewing data and intends to take action shortly to revoke the bromide tolerances for the remaining fruits and vegetables listed in 40 CFR 180.146. Tolerances for residues of EDB *per se* for those commodities which continue to require treatment with EDB until alternatives are available will be proposed at levels which are consistent with the levels proposed for EDB *per se* herein for citrus fruits and papayas, as well as with the levels proposed previously for grains and grain products.

The nature of the residues is adequately understood. An adequate analytical method, using a gas chromatograph equipped with an electron detector capable of measuring residue levels of EDB *per se*, is available for enforcement purposes.

As discussed above, the Agency has issued a Notice of Intent to Cancel the registrations of products registered for the post-harvest quarantine use of EDB. An extensive risk-benefit analysis of the use of EDB as a post-harvest quarantine fumigant was provided in the EDB Position Document (PD 4) supporting the decision announced in the **Federal Register** of October 11, 1983. Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.397 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains EDB may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal to establish tolerances for EDB *per se* in or on citrus fruits and papayas be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number [PP 3E2777/P302] and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on the proposed regulation to establish tolerances for EDB *per se* in or on citrus fruits and papayas. Comments must bear a notation indicating the document control number [PP 3E2777/P302]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in the Program Management and Support Division at the address given above

from 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review under Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-602), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). (Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: March 1, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, it is proposed that 40 CFR 180.397 be amended by designating the existing paragraph as paragraph (a) and adding a new paragraph (b), to read as follows:

§ 180.397 Ethylene dibromide; tolerances for residues.

(a) * * *

(b) Tolerances are established until September 1, 1984, for residues of ethylene dibromide *per se* in or on the following raw agricultural commodities when ethylene dibromide is used as a fumigant after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture:

Commodities	Parts per billion
Citrus fruits	250 (of which no more than 30 ppb is present in the edible pulp).
Papayas	250 (of which no more than 30 ppb is present in the edible pulp).

[FR Doc. 84-6083 Filed 3-5-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
March 6, 1984

Part VIII

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Part 81
Lethal Avian Influenza; Interim Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-009]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Lethal Avian Influenza" interim rule by imposing additional restrictions on the interstate movement from quarantined areas of poultry eggs for use as food and by limiting the disinfectants used for certain purposes to those disinfectants tested and found to be effective for destroying lethal avian influenza virus. This action is necessary to help prevent the spread of lethal avian influenza.

DATES: Effective date is March 2, 1984. Written comments must be received on or before May 7, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Background

This document amends the "Lethal Avian Influenza" interim rule which is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-369, 2742-2744, 3494, 3839-3845). Among other things, the interim rule designate portions of Maryland, Pennsylvania, New Jersey, and Virginia as quarantined areas and prohibits or restricts certain interstate movements from quarantined areas of poultry, poultry eggs, and other items because of lethal avian influenza.

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Poultry Eggs For Use as Food

Prior to the effective date of this document, the interim rule contained the following provisions for the interstate movement from quarantined areas of poultry eggs for use as food:

Poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from a quarantined area pursuant to a permit if prior to movement they are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent.

It has now been found by the United States Department of Agriculture that lethal avian influenza virus can be carried and spread from the yolk, albumen, and the inner surface and adhering membrane of the shell of poultry eggs laid by poultry infected with lethal avian influenza. Although lethal avian influenza virus in the yolk and albumen would be inactivited by cooking, the inner surface of the shell and the adhering membrane are often not cooked. Accordingly, uncooked waste from such eggs fed to poultry could be a means of disseminating lethal avian influenza virus. This could be a particular problem with respect to eggshells and adhering membranes since it is a widespread practice to feed these items to poultry. Also, eggs containing lethal avian influenza virus could break during shipment and be a means of contamination.

Under the circumstances referred to above, it is necessary to revise the provisions quoted above to establish a system to help ensure that poultry eggs for use as food are allowed to move interstate from a quarantined area only in accordance with safeguards adequate to prevent the spread of lethal avian influenza virus from any part of the egg.

Accordingly, the interim rule is amended to provide that:

(1) Pursuant to a permit poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from the premises within a quarantined area where the eggs are laid to a federally inspected egg products processing plant (breaker plant) under the following conditions:

(i) If prior to movement such eggs are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent; and

(ii) If such eggs are moved from the premises where the eggs are laid to the egg products processing plant under seal in a cargo compartment determined by a Federal or State inspector to be leak-proof (such seal shall be applied only by a Federal or State inspector and shall be removed at the egg products processing plant only by a Federal or State inspector, and such seal shall be serially numbered and recorded on the permit); and

(iii) If the receiving egg products processing plant is operating under an APHIS compliance agreement whereby the operator of the egg products processing plant agrees that:

(A) The egg products processing plant will provide the carrier with facilities adequate for cleaning and disinfecting the entire cargo compartment that contained the eggs in accordance with paragraph (1)(iv) of this section; and

(B) All portions of the eggs not pasteurized will be disposed of by rendering, incineration, burial in a landfill or other place, or sanitary sewerage disposal (the incinerator, place of burial, or other place of disposal must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection); and

(C) All flats and cases used in delivering eggs to the egg products processing plant will be washed free of adhering material and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent, or disposed of by incineration or burial in a landfill (the incinerator or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection); and

(iv) If such eggs are moved to the egg products processing plant by a person operating under an APHIS compliance agreement whereby such person agrees to clean and disinfect the entire cargo compartment that contained the eggs with an approved disinfectant at the receiving egg products processing plant immediately after the eggs are delivered.

Pasteurization is virucidal and would be sufficient to prevent the spread of lethal avian influenza virus should any be present. Also, disposition of any unpasteurized portion of the egg by rendering, incineration, burial, or sanitary sewerage disposal would be sufficient to destroy any of the virus.

In addition, these provisions are designed to ensure that the eggs would not be diverted, but would be shipped to a federally inspected egg products processing plant operating under the provisions of 7 CFR Part 2859. The sanitary operations that such facilities are required to conduct would be

adequate to prevent the dissemination of lethal avian influenza virus from the facility. Further, compliance with these provisions would be adequate to ensure that any lethal avian influenza virus on the means of conveyance or accessories used in the transportation of the eggs would be destroyed.

The compliance agreement provisions are included to ensure that the persons involved understand and comply with the applicable requirements. Further, due process requirements are included as set forth in § 81.9 of the text portion of this document for the withdrawal of such compliance agreements for noncompliance with the interim rule or any conditions imposed pursuant thereto. Also, a definition of the term "compliance agreement" is added.

Although compliance with the specified procedures would be adequate to prevent the spread of lethal avian influenza from the movement of the eggs, it is possible that some eggs from infected poultry would be included in the eggs shipped to egg products processing plants. However, if eggs are known to have come from poultry found to be infected or exposed to lethal avian influenza, they would not be allowed to move because of the unnecessary risk that would occur as a result of failure to comply with the specified procedures. Further, it is intended that surveillance activities be conducted with respect to premises moving eggs to egg products processing plants to help ensure that the eggs do not move from infected premises.

The interim rule is further amended to provide that:

(2) Pursuant to a permit poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from a quarantined area under the following conditions:

(i) If: (A) The operator of the premises where the eggs are laid is participating in the lethal avian influenza surveillance program by making specimens available for collection by a Federal or State inspector on a weekly basis (the date of each collection to be specified by the Director of the Task Force); and

(B) The specimens consist of all poultry that died from natural causes on such premises within five days before collection; or 30 eggs from each poultry house laid within 24 hours before collection; or blood samples or cloacal or tracheal swabs taken by a Federal or State inspector from 30 live birds from each poultry house; and

(C) Negative results have been obtained from the first two collections and from all subsequent collections for which results are available, based on virologic examinations of cloacal or tracheal swabs from the live or dead poultry, or agar-gel immunodiffusion or hemagglutination inhibition testing for avian influenza antibodies in the egg or blood samples; and

(ii) If prior to movement such eggs are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent.

Compliance with these provisions, in conjunction with the lethal avian influenza surveillance and eradication activities being conducted in quarantined areas, appears to be adequate to ensure that the eggs have come from poultry free of lethal avian influenza virus.

It appears that a determination concerning the presence or absence of lethal avian influenza virus can be accomplished most feasibly and effectively by virologic examinations of cloacal or tracheal swabs from live or dead poultry or by agar-gel immunodiffusion or hemagglutination inhibition testing for lethal avian influenza antibodies in egg or blood samples.

The amounts and frequency of lethal avian influenza virus produced by infected poultry can vary widely. At times the virus might be present but be undetectable. Results from at least two examinations of specimens from separate and distinct collections and continued weekly collections would help ensure that any lethal avian influenza viral activity in poultry on the premises would be detected.

As noted above, the specimens must consist of all poultry that died from natural causes on such premises within 5 days before collection; or 30 eggs from each poultry house laid within 24 hours before collection; or blood samples or cloacal or tracheal swabs taken by a Federal or State inspector from 30 live birds from each poultry house. Such specimens would be sufficient to ensure that valid testing would be accomplished and that the results would reasonably reflect conditions on the premises at the time of collection.

Miscellaneous Provisions Concerning Eggs for Use as Food

It is also necessary to retain the chlorine treatment provisions for all poultry eggs for use as food, and for any used plastic flats and cases in which such eggs are moved, as a precaution against the possibility of contamination during processing and handling of the poultry eggs for use as food.

Further, it is necessary to prohibit the interstate movement of poultry eggs for use as food if they are merely from poultry exposed to lethal avian influenza. Poultry exposed to lethal avian influenza could become a means of spreading lethal avian influenza and could have the disease for several days before the virus would likely be detected in specimens.

Means of Conveyance, Premises, and Accessories

Prior to the effective date of this document, § 81.3 of the regulations provided that means of conveyance, premises, containers, and other accessories which have contained or been used in the handling of poultry infected with lethal avian influenza cannot be used for the interstate movement of poultry until cleaned and disinfected. It is also necessary that the cleaning and disinfection requirement apply if the poultry were merely exposed to lethal avian influenza since, as noted above, exposed poultry could also become a means of spreading lethal avian influenza.

Disinfectants

Previously, the interim rule provided for certain means of conveyance, premises, poultry coops, containers, troughs, or other accessories to be cleaned and disinfected in accordance with provisions in §§ 71.4, 71.6, 71.7, 71.10, and 71.11 of 9 CFR Part 71 or with a 3 percent solution creosol compound, U.S.P. The following five disinfectants were among those intended to be allowed to be used for such purpose under the specified provisions: BioGuard X-185, TEK-TROL, One Stroke Environ, Becto-Phene, Lifex-1.

These five disinfectants are the only disinfectants that have actually been tested and found effective for destroying the lethal avian influenza virus. Therefore, it has been determined that the interim rule should be amended to allow only these disinfectants to be used for such purposes under the interim rule.

These disinfectants are referred to in the interim rule as "approved disinfectants" and a definition of the term "approved disinfectant" is added to specify that these five disinfectants are the approved disinfectants. If additional disinfectants are tested and found effective for destroying the lethal avian influenza virus, action will be taken to amend the list to include them.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule

without prior opportunity for public comment. Immediate action is warranted to protect against the spread of lethal avian influenza.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512-1 with respect to this interim rule. Immediate action is warranted to protect against the spread of lethal avian influenza.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Under the circumstances referred to above, the lethal avian influenza interim rule in 9 CFR Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1, definitions of the terms "approved disinfectant" and "compliance agreement" are added in alphabetical order to read as follows:

* * * * *

Approved disinfectant. Any of the following: BioGuard X-185, TEK-TROL, One Stroke Environ, Becto-Phene, and Lifex-1.

* * * * *

Compliance Agreement. A written agreement between a person moving or handling poultry eggs for use as food and the Animal and Plant Health Inspection Service, wherein the person moving or handling the eggs agrees to comply with the requirements of this Part identified in the agreement.

* * * * *

2. Section 81.2(d) is revised to read as follows:

§ 81.2 Interstate movement of infected or exposed live poultry or materials.

* * * * *

(d) Poultry coops, containers, troughs, or other accessories that have been used in the handling of poultry infected with or exposed to lethal avian influenza or in the handling of eggs from such poultry shall not be moved interstate unless cleaned and disinfected with an approved disinfectant.

3. Section 81.3 is revised to read as follows:

§ 81.3 Contaminated means of conveyance, premises, containers, and other accessories; not to be used for interstate movement of poultry until cleaned and disinfected.

No means of conveyance or premises which have contained any poultry which have been found infected with or exposed to lethal avian influenza, and no coops, containers, troughs, or other accessories used in the handling of such poultry, shall be used in connection with the interstate movement of poultry until the said means of conveyance, premises, coops, containers, troughs, or other accessories have been cleaned and disinfected under the supervision of a Federal or State inspector with an approved disinfectant.

4. Paragraphs (d) and (e) of § 81.6 are revised to read as follows:

§ 81.6 Restricted articles.

* * * * *

(d)(1) Pursuant to a permit, poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from the premises within a quarantined area where the eggs are laid to a federally inspected egg products processing plant (breaker plant) under the following conditions:

(i) If prior to movement such eggs are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent; and

(ii) If such eggs are moved from the premises where the eggs are laid to the egg products processing plant under seal in a cargo compartment determined by a Federal or State inspector to be leak-proof (such seal shall be applied only by a Federal or State inspector and shall be removed at the egg products processing plant only by a Federal or State inspector, and such seal shall be serially numbered and recorded on the permit); and

(iii) If the receiving egg products processing plant is operating under an APHIS compliance agreement whereby the operator of the egg products processing plant agrees that:

(A) The egg products processing plant will provide the carrier with facilities adequate for cleaning and disinfecting the entire cargo compartment in accordance with paragraph (d)(1)(iv) of this section; and

(B) All portions of the eggs not pasteurized will be disposed of by rendering, incineration, burial in a landfill or other place, or sanitary sewerage disposal (the incinerator, place of burial, or other place of disposal must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection); and

(C) All flats and cases used in delivering eggs to the egg products processing plant will be washed free of adhering material and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent, or disposed of by incineration or burial in a landfill (the incinerator or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection); and

(iv) If such eggs are moved to the egg products processing plant by a person operating under an APHIS compliance agreement whereby such person agrees to clean and disinfect the entire cargo compartment that contained the eggs with an approved disinfectant at the receiving egg products processing plant immediately after the eggs are delivered.

(2) Pursuant to a permit poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from a quarantined area under the following conditions:

(i) If: (A) The operator of the premises where the eggs are laid is participating in the lethal avian influenza surveillance program by making specimens available for collection by a Federal or State inspector on a weekly basis (the date of each collection to be specified by the Director of the Task Force); and

(B) The specimens consist of all poultry that died from natural causes on such premises within five days before collection; or 30 eggs from each poultry house laid within 24 hours before collection; or blood samples or cloacal or tracheal swabs taken by a Federal or State inspector from 30 live birds from each poultry house; and

(C) Negative results have been obtained from the first two collections and from all subsequent collections for which results are available, based on virologic examinations of cloacal or tracheal swabs from the live or dead poultry, or agar-gel immunodiffusion or hemagglutination inhibition testing for avian influenza antibodies in the egg or blood samples; and

(ii) If prior to movement such eggs are washed free of adhering material and rinsed with warm water contining not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent.

(3) Any poultry eggs may be moved interstate from a quarantined area under the supervision of a Federal or State inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection).

(e) Poultry coops, containers, troughs, or other accessories that have been used in the handling of poultry or poultry eggs may be moved interstate from a quarantined area if prior to movement they are cleaned and disinfected with an approved disinfectant.

5. A new § 81.9 is added to read as follows:

§ 81.9 Compliance agreements.

Any compliance agreement may be cancelled orally or in writing by the Federal or State inspector who is supervising its enforcement whenever such inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefor shall be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, to the Deputy Administrator within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

6. Section 81.13 is revised to read as follows:

§ 81.13 Cleaning and disinfecting requirements.

All pens, coops, containers, troughs, other accessories, or means of conveyance found by a Federal or State inspector to have been used in the handling of any poultry or related products, carcasses or parts thereof, eggs, products, or articles subject to an order under § 81.12 shall be cleaned and disinfected with an approved disinfectant.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6 and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 2d day of March 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-6222 Filed 3-5-84; 12:05 pm]

BILLING CODE 3410-34-M

Reader Aids

Federal Register

Vol. 49, No. 45

Tuesday, March 6, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MARCH

7553-7794 1
7795-7980 2
7981-8226 5
8227-8416 6

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12467 8229

Proclamations:
5155 8227
5156 8231

5 CFR

110 7553

7 CFR

180 8233
400 7795
907 8234
910 7796
915 7553

Proposed Rules:
1036 7571

9 CFR

81 7978
201 ..... 7796, 8235

10 CFR

2 7981
50 7981

Proposed Rules:
110 7572

11 CFR

114 7981

12 CFR

5 7981
28 7983

Proposed Rules:
329 7834
350 8002

14 CFR

39 ..... 7554, 7796, 7984
71 ..... 7985, 8235, 8236
91 8236
93 8237
97 7555
320 8245

Proposed Rules:
39 ..... 7582, 8002
71 ..... 7583, 8004, 8005, 8259
75 8005

15 CFR

17 7986

Proposed Rules:
806 7834

16 CFR

13 ..... 7987, 8245
444 7740
1145 7988

Proposed Rules:
455 7835
1401 7584
1500 8007
1701 8008

17 CFR

3 8208
4 8208
10 8208

18 CFR

35 7993
290 7797

Proposed Rules:
4 8009
12 8009
271 8034
282 8035

20 CFR

Proposed Rules:
Ch. I 7920
Ch. V 7920

21 CFR

133 7557
177 7557

Proposed Rules:
161 7584
436 8260
440 8260
442 8260
444 8260
446 8260
448 8260
450 8260
452 8260
455 8260

24 CFR

44 8246
51 7559
111 7559
200 7559
241 7559
570 7559
883 7559
885 7559
886 7559
3282 7559

Proposed Rules:
200 7587

26 CFR

1 8246

Proposed Rules:
1 ..... 8260, 8291
53 7836

28 CFR

Proposed Rules:
2 8035
39 7792

29 CFR

Proposed Rules:
Subtitle A 7920
Ch. V 7920
Ch. XVII 7920
Ch. XXV 7920
1907 8236
1910 8236
1928 7589
1935 8236
1936 8236
2640 8036
2647 8036

30 CFR

11 7559
901 7797
936 7560
Proposed Rules:
Ch. I 7920
55 ..... 7605, 8368, 8375
56 ..... 7605, 8368, 8375
57 ..... 7605, 8368, 8375
58 ..... 8368, 8375
906 8261
920 7605
931 7836

32 CFR

199 7561
369 8250
Proposed Rules:
199 ..... 7837, 8048

33 CFR

165 7562
Proposed Rules:
165 7606

34 CFR

Proposed Rules:
624 8184
628 8184

39 CFR

233 8250

40 CFR

Proposed Rules:
52 ..... 7607, 8049
61 8386
81 7608
180 ..... 8262, 8406
471 8112
799 7838

41 CFR

3-1 7805
14-2 7807
Proposed Rules:
101-41 8051

42 CFR

37 7562

43 CFR

4 7564
Public Land Orders:
6477 (Corrected by PLO 6523) 7565
6523 7565
6524 7807
6525 8250

44 CFR

64 ..... 7998, 8251
67 8001

46 CFR

162 7566
Proposed Rules:
528 7838
536 7609

47 CFR

2 8252
15 ..... 7809, 8252
67 7934
69 7810
73 8252-8257
83 8257
Proposed Rules:
73 8262-8268

48 CFR

Ch. 24 ..... 7696, 8258
Proposed Rules:
Ch. 28 8052

49 CFR

192 7567
195 7567
1280 7831
1310 7832

50 CFR

37 7569
Proposed Rules:
649 7838

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List March 5, 1984.