AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

6-21-84
Vol. 49 No. 121
Pages 25421-25608

Federal Register

Thursday
June 21, 1984

B.S.A.
452-927
10-Vols.

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Environmental Protection Agency

Anchorage Grounds
Coast Guard

Aviation Safety
Federal Aviation Administration

Biologics
Food and Drug Administration

Bridges
Coast Guard

Commodity Futures
Commodity Futures Trading Commission

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Generally Recognized as Safe (GRAS) Food Ingredients
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Government Property Management
Energy Department

Indians
Indian Affairs Bureau

Marine Safety
Coast Guard

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

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Title 3—

The President

Proclamation 5212 of June 18, 1984

Harmon Killebrew Day, 1984

By the President of the United States of America

A Proclamation

On August 12, 1984, Harmon Killebrew will be inducted into the Baseball Hall of Fame in Cooperstown, New York. As a seventeen-year-old, Harmon Killebrew signed with the late Washington Senators and played with that franchise in the Nation's Capital and after its transfer to Minnesota. In an illustrious career, he hit 573 home runs, second only to Babe Ruth among all players in American League history. Harmon Killebrew was a member of the American League All-Star team on eleven occasions, and in 1969, he hit 49 home runs and batted in 140 runs and was named the American League's Most Valuable Player.

In honoring Harmon Killebrew, we recognize the accomplishments of the other baseball immortals enshrined in Cooperstown and the many contributions the sport has made to American culture and myth. Harmon Killebrew is the latest in a lengthy list of players who, in the words of Justice Harry Blackmun of the United States Supreme Court, "have sparked the diamond and its environs and that have provided tinder for recaptured thrills, for reminiscence and comparisons, and for conversation and anticipation . . . and all other happenings, habits, and superstitions about and around baseball that have made it the 'national pastime' or, depending upon the point of view, 'the great American tragedy'."

The Congress, by Senate Joint Resolution 285, has designated June 13, 1984, as "Harmon Killebrew Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim June 13, 1984, as Harmon Killebrew Day, and I call upon the people of the United States to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of June, 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. 84-16769
Filed 6-20-84; 10:31 am]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-34-AD; Amdt. 39-4881]

Airworthiness Directives; McDonnell Douglas Model DC-8-11 Through -61 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to McDonnell Douglas Model DC-8-11 through -61 series airplanes which requires an initial and repetitive inspection of the left and right wing front spar lower caps in the region of the inboard pylon for cracks, and a rework modification if necessary. This AD is prompted by five reports of cracks in the wing front spar lower cap in the inboard pylon area. If left unattended, these cracks may cause spar cap failure and a reduction of load carrying capacity of the wing.

DATES: Effective June 27, 1984.

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

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: Five reports were received of the failure of the wing front spar lower cap in the inboard pylon area. The conditions of the spar cap varied in the five cases. Though associated consistently with fatigue, the two cases with the most critical damages found are described below:

(1) During the re-engine modifications, cracks were found in the forward tang of the wing front spar lower cap at stations XFS=273.429 and XFS=280.5, originating in the spar cap attach holes and progressing through the thickness of the cap. The cracks were attributed to metal fatigue and attachment hole conditions. They were found on an airplane having logged approximately 36,000 flight hours and 14,000 landings.

(2) While performing McDonnell Douglas DC-8 Service Bulletin 57-89 maintenance inspection, an operator found cracks in similar locations except in a much worse condition on an airplane having logged approximately 35,000 flight hours and 25,000 landings; through cracks were noticed in the wing front spar lower cap at the left hand inboard pylon area. The cracks originated in a fastener hole in the forward tang and propagated such that the forward tang was cracked through. The aft tang was cracked about 0.5 inches and up the vertical leg about 1.75 inches into the fuel cell area. No fuel leakage was reported. These conditions, if not corrected, could compromise the integrity of the wing fuel cell and then structural integrity of the wing.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires an initial inspection of the wing front spar lower cap in the inboard pylon areas of all airplanes which have accumulated 30,000 flight hours or 14,000 landings, using the methods of inspection prescribed in McDonnell Douglas DC-8 Service Bulletin 57-89, Revision 2, dated July 27, 1983. The AD requires the accomplishment of the prescribed initial inspection within 300 flight hours after the effective date of this AD.

Information collection requirements contained in this regulation (§ 39.13) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2120-0056.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-11, through -61 series airplanes, certificated in all categories, having accumulated 30,000 flight hours or 14,000 landings. Compliance required as indicated unless previously accomplished.

To prevent failure of the wing front spar lower cap, accomplish the following:

A. Within 300 flight hours or upon the accumulation of either 30,000 flight hours or 14,000 landings, whichever occurs later, after the effective date of this AD perform the initial inspection in accordance with paragraph 1.C in McDonnell Douglas DC-8 Service Bulletin 57-89, Revision 2, dated July 27, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. If no cracks are found, repeat the inspection of paragraph A., above, at intervals not to exceed 3,600 flight hours until the modification described in paragraph C., below, is accomplished.

C. The repetitive inspection requirement of paragraph B., above, may be discontinued for aircraft modified (enlarge and stress-coin attachment holes and install angles) in accordance with McDonnell Douglas DC-8 Service Bulletin 57-89, Revision 2.

D. If cracks are found, repair in accordance with McDonnell Douglas DC-8 Service Bulletin 57-89 under Conditions II through VI.

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

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to

operate airplanes to a base in order to comply with the requirements of this AD.

G. Report the results of the initial inspections required by paragraph A., above, to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Include in the reporting information the date and condition of the structure or repair per McDonnell Douglas DC-8 Service Bulletin 57-89, McDonnell Douglas factory serial number, fuselage number, registration number, and accumulated number of flight hours and landings.

H. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average from takeoff to landing for the airplane type.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective June 27, 1984.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, Jan. 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Washington, on June 7, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-16546 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-22]

Alteration of the Dallas-Fort Worth, TX, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Dallas-Fort Worth, TX, Terminal Control Area (TCA). This action modifies Area B southeast of the airport to fully contain large turbine-powered aircraft executing an instrument landing system (ILS) Runway 31R approach, thereby complying with the FAA's policy to ensure all large turbine-powered aircraft remain within the confines of the TCA while executing standard instrument approach procedures (SIAPs).

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone; (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On February 8, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify Area B of the Dallas-Fort Worth TCA to fully contain all aircraft executing an ILS Runway 31R approach, by extending Area B one and one-half miles each side of the localizer course extending to an arc 9.5 miles southeast of the airport (49 FR 4765). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Five comments were received, of which four supported and one objected to the proposed modification. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401(a) of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations modifies the Dallas-Fort Worth TCA by extending Area B one and one-half miles each side of the localizer course extending to an arc 9.5 miles southeast of the airport.

Discussion of Comments

The objecting commenter stated that the proposed modification of Area B would extend into the visual flight rule (VFR) corridor causing compression of VFR traffic. FAA does not agree, as this area is not a VFR corridor under the TCA shelf, and the extension is so minor in size that it will not increase compression of VFR traffic. The one and one-half mile extension of the 2,000 feet MSL Area B TCA floor into Area C, which has a 3,000 feet MSL floor, will still leave more than adequate room for the VFR traffic.

List of Subjects in 14 CFR Part 71

Aircraft, Aviation safety, Terminal control areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, August 30, 1984, as follows:

Dallas-Fort Worth, TX [Amended]

In Area B, by inserting the words "to lat. 32°49'42"N., long. 96°52'12"W.; thence clockwise along a 9.5-mile arc of the Dallas-Fort Worth Airport to lat. 32°47'30"N., long. 96°55'00"W.; to lat. 32°47'30"N., long. 96°55'00"W.;" after the word "lat. 32°50'10"N., long. 96°52'30"W.;"

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (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 Washington, D.C., on June 14, 1984.

Harold W. Becker,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-16547 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 84-ANM-2]

Alteration of Jet Route J-7; Dillon, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-7 between Oakland, CA, and Swift Current, Saskatchewan, Canada. Jet Route J-7 between Boise, ID, and Great Falls, MT, was initially routed and described via Dillon, MT, to conform with navigational aid use limitations. In recent years, a new high altitude very high frequency omni-directional radio range distance measuring equipment (VOR DME) navigation aid has been established at Salmon, ID. This action aids flight planning and improves the flow of traffic between Oakland, CA, and Saskatchewan, Canada.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Burton Chandler, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On March 8, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J-7 between Oakland, CA, and Saskatchewan, Canada (49 FR 8623). Jet Route J-7 between Boise, ID, and Great Falls, MT, was initially routed and described via Dillon, MT, to conform with navigational aid use limitations. In recent years, a new high altitude VOR DME navigational aid has been established at Salmon, ID. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposals were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the description of Jet Route J-7 between Oakland, CA, and Swift Current, Saskatchewan, Canada. Jet Route J-7 between Boise, ID, and Great Falls, MT, was initially routed and described via Dillon, MT, to conform with navigational aid use limitations. This action aids flight planning and improves the flow of traffic between Oakland, CA, and Saskatchewan, Canada.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 GMT, August 30, 1984, as follows:

J-7 [Amended]

By deleting the words "Boise, ID; Dillon, MT; Great Falls, MT;" and substituting the words "Boise, ID; Salmon, ID; Great Falls, MT;"

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

Note—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (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 Washington, D.C., on June 14, 1984.

Harold W. Becker,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-16548 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Commodity Option Pilot Program; Delegation of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has previously established a pilot program for the trading of commodity options on domestic exchanges. 46 FR 54500 (Nov. 3, 1981). Option trading under that pilot program commenced on October 1, 1982 and, unless otherwise extended, will expire on October 1, 1985, when the designations granted by the Commission for the trading of commodity options will terminate.

Commission regulations accordingly provide that except as may be specifically authorized by the Commission, no exchange may list for trading any option which would expire subsequent to the termination of the effective period of that exchange's designation for options trading. The Commission is now delegating to its staff the authority to approve specific listings of option months proposed by the exchanges where those options would expire after October 1, 1985.

EFFECTIVE DATE: June 21, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: Unless extended by the Commission, the commodity option pilot program will expire on October 1, 1985. *See* 47 FR 56996, 56998 n.14 (Dec. 22, 1982). The Commission has indicated, however, that it:

> Recognizes * * * that both the industry and other option market participants will need to know prior to the scheduled expiration of that program whether or not the pilot program will be made permanent, modified or terminated. The Commission will, therefore, give notice of its determination in this regard well before the expiration of the pilot program.

46 FR 54500, 54502 (Nov. 3, 1981).

A number of the exchanges designated for option trading, however, are rapidly approaching the pilot program's October 1, 1985 expiration. In particular, the gold futures option at the Commodity Exchange, Inc. is currently listed for trading through April 1985, the Chicago Mercantile Exchange option on the Standard & Poor's 500-Stock Index futures contract is listed through June 1985, while the Coffee, Sugar & Cocoa Exchange, Inc. has already listed the July 1985 sugar futures option contract. Failure to allow the listing of additional option contracts beyond these dates would reduce the number of option expirations from which market participants may choose to trade, thereby potentially reducing the utility of the option markets.

Although the Commission has not yet made a final determination as to

whether the pilot program should, in fact, be made permanent, the Commission is nonetheless unaware of any reason why it should not, in the interim, continue to allow the exchanges to list option contracts in accordance with the cycles specified by exchange rules which have previously been approved by the Commission.[1] As contemplated by Commission regulation 33.5(c), the Commission is approving in principle the listing of additional option contract months where such options will expire after the termination of the exchange's option contract market designation. Any such proposed listing, however, must be in conformity with the exchange's previously approved rule relating to the listing cycle for that option and must be submitted to the Commission pursuant to Section 5a(12) of the Act and Commission regulation 1.41(b). Because the Commission anticipates that virtually all such new listings would be relatively routine, the Commission is delegating to its staff, effective immediately, the authority to approve these rule submissions.

This action now being taken by the Commission is expressly contemplated by regulation 33.5(c). The Commission therefore finds that prior notice and an opportunity for public comment are unnecessary. The Commission further finds that the delegation of authority set forth below relates solely to agency organization, procedure, or practice and that prior notice and an opportunity for public comment on that decision are unnecessary. 5 U.S.C. 553(b). Because the Commission's action grants or recognizes an exemption or otherwise relieves a restriction, the rule being adopted herein may be made effective immediately. 5 U.S.C. 553(d). Finally, because no notice of proposed rulemaking is required, a regulatory flexibility analysis is unnecessary. 5 U.S.C. 603(a), 604(a).

List of Subjects in 17 CFR Part 1

Commodity options, Contract markets, Delegation of authority, (Government agencies).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a), 4c, and 8a, and 15 thereof, 7 U.S.C. 4a, 6c, 12a, 19, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

[1] In a separate **Federal Register** notice being published today, the Commission is requesting comment on whether it should modify the existing pilot program to allow qualifying exchanges to be designated for up to five options on futures contracts not involving the commodities specifically enumerated in Section 2(a)(1)(A) of the Commodity Exchange Act ("Act").

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.41b is revised to read as follows:

§ 1.41b Delegation of Authority to the Director of the Division of Trading and Markets and Director of the Division of Economic Analysis.

(a) The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis, with the concurrence of the General Counsel or his or her delegee, to be exercised by either of such Directors or by such other employee or employees of the Commission under the supervision of such Directors as may be designated from time to time by the Directors, the authority to approve, pursuant to Section 5a(12) of the Act and § 1.41(b), contract market rules that relate to terms and conditions and that:

(1) Do not materially change the quantity, quality, or other delivery specifications, procedures or obligations under a contract designated for trading by the Commission (such as, but not limited to, rules affecting procedures for inspecting, grading or weighing a commodity, the costs of such procedures, notice deadlines, payment procedures, the content of delivery forms and other similar procedures);

(2) Reflect routine modifications that are expressly required or anticipated by the specific terms of a contract market rule (such as the specification of delivery grades, growths or differentials, the listing of trading months or the modification of trading hours); or

(3) Authorize the listing, in accordance with rules of the contract market which have been approved by the Commission, of option contracts that expire after the termination of the designation of that board of trade as a contract market for the trading of commodity options.

(b) The Director of the Division of Trading and Markets or the Director of the Division of Economic Analysis may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(c) Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis under this section.

Issued in Washington, D.C. on June 15, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-16541 Filed 6-20-84; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 31

Interim Final Rules for Certain Leverage Transactions; Corrections

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rules; corrections.

SUMMARY: This document corrects certain omissions and other errors in, and makes certain technical amendments to, the interim final rules for certain leverage transactions as published in the **Federal Register** on February 13, 1984, at 49 FR 5498, *et seq.*

EFFECTIVE DATE: These corrections and technical amendments shall become effective on June 21, 1984.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254-9880; Lawrence B. Patent, Special Counsel, Division of Trading Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254-8955; or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254-6990.

SUPPLEMENTARY INFORMATION: On February 13, 1984, the Commodity Futures Trading Commission published in the **Federal Register** interim final rules pertaining to certain leverage transactions (49 FR 5498). Those rules as published contain certain inadvertent omissions and other technical errors which could, if not corrected, cause some confusion to the persons to whom these rules apply as well as to members of the public who enter into leverage contracts pursuant to these rules. To eliminate this potential for confusion, the Commission is hereby making the corrections and technical amendments to the rules specified below.

As noted above, the Commission has determined to make these corrections and technical amendments effective immediately upon publication in the **Federal Register**. However, should any

persons believe themselves to be affected adversely by the immediate effective date of these corrections and technical amendments, they may petition the Commission for relief pursuant to §31.24 of the interim final rules (49 FR 5541).

The corrections and technical amendments to the Commission's interim final rules for certain leverage transactions are as follows:

1. On page 5512, in the first column, in line 12, the word "or" should be "of."

2. On page 5515, in the first column, the first sentence of the second full paragraph should be corrected to read "An LTM which uses leverage customer funds to margin futures contracts or to purchase commodity options used as cover for the LTM's obligations on leverage contracts must use a commodity account *which is separate from any trading account* containing futures or option contracts which do not represent cover." (The italicized material had been omitted in the interim final rules document.)

3. On page 5515, in the third column, 10 lines from the bottom, the word "may" should be "must".

PART 31—[CORRECTED]

4. On page 5521, in the first column under the heading "E. List of Subjects" and the subheading "17 CFR Part 31," the third and fourth lines should be corrected to read "transaction merchants and associated persons of leverage transaction merchants, Minimum financial".

5. On page 5531, in the first column, in § 31.7(c), the first line should be corrected to read "The requirements of § 1.12(c)".

6. On page 5532, in the first column, in § 31.9(a)(4), in line 12, the first word should be "in", not "is".

7. On page 5534, in the second column, in § 31.11(e)(2), in line 4, the second word should be "three" not "there".

8. The Commission has become aware of some confusion among prospective LTMs regarding the method of calculating the percentage price change necessary to break-even required in the disclosure document and confirmation statement pursuant to § 31.11(a)(3) and (k), respectively. The Commission notes that the disclosures to customers specified in § 31.11 require in some places that LTMs state certain charges in dollar amounts while an individual LTM might calculate such charges as a percentage of the bid price of a leverage contract which will change over the life of the contract. For example, the termination charge might be 3 percent of the bid price for a leverage contract which, since it is variable, cannot be specified exactly in advance of repurchase by the LTM. Since the specified formats require the calculation to be made under the assumption that the leverage contract will be held for one year, in making the calculation, the LTM may use the currently prevailing charge (*e.g.*, 3 percent) based on the price necessary to break-even at the time the calculation is made.

The Commission has also become aware that the required percentage to break-even calculations may in certain instances result in an ambiguous figure, particularly in the case of repurchase where, as noted above, termination charges are expressed as a percentage of the LTM's bid price. However, the Commission remains convinced that this information generally would be valuable to leverage customers and prospective leverage customers. In view of this, Commission staff explored various methods of specifying the required calculation which would eliminate such ambiguity for all cases, *i.e.*, in the case where termination charges are based on a percentage of the repurchase price, or in the case where termination charges are stated as a fixed absolute dollar amount without regard to repurchase price. To eliminate this ambiguity, the Commission is amending the specified formats by revising the required disclosure statement to identify separately the termination charges after all other amounts affecting the break-even prices have been calculated. The Commission is also availing itself of this opportunity to correct typographical errors and make other minor technical amendments to the formats appended to the Commission's final interim leverage regulations.

9. Upon publication of the interim final leverage rules in the **Federal Register** the Commission noted that § 31.11(k)(1), as adopted, inadvertently required an LTM to send confirmation statements only to first-time leverage customers. The Commission intended at the time of adoption of the leverage rules to require written confirmation to all leverage customers of all leverage transactions. The Commission believed, and continues to believe, that written confirmation in the prescribed format is a prime customer protection measure and good business practice for LTMs.

Accordingly, on page 5534, in the third column, § 31.11(k)(1) is revised to read: "(k)(1) Within 24 hours after the entry into a leverage contract, each leverage transaction merchant shall furnish to each leverage customer, by first-class mail or other, at least equivalent, means of communication, a written confirmation statement in a format specified by the Commission containing: (1) the following bold-faced statement in at least ten point type:

If you are a first time leverage customer you may rescind your first leverage contract purchase subject only to actual price losses but otherwise without penalty for three business days following and including receipt of this confirmation. Actual losses are calculated by subtracting the ask price of the leverage contract at the time of the customer's rescission from the asking price at which the leverage contract was purchased and which appears on this confirmation. To rescind this contract send a telegram to (name and address of LTM) or you may telephone (name of LTM) at (telephone number). If you rescind by telephone, you must also send immediate written affirmation by telegram, by certified letter or by at least equivalent means to the address provided above.

10. The Commission has also become aware of some confusion among prospective LTMs regarding the definitions of minimum leverage margin and maintenance leverage margin as provided in § 31.4(r). Prospective LTMs have indicated that the present construction of § 31.4(r) does not properly describe the distinction between the concepts of minimum leverage margin and maintenance leverage margin. As constructed, § 31.4(r) might be interpreted to mandate a common minimum leverage margin and maintenance leverage margin.

The Commission is aware of the distinction between the concepts of minimum leverage margin and maintenance leverage margin. For example, § 31.11(a)(2)(v) requires an LTM to provide in its customer disclosure statement an explanation of margins applicable to each leverage contract, including, as required, initial leverage margins, minimum leverage margins and maintenance leverage margins. Moreover, § 31.11(k)(2) (xiv) and (xv) require the LTM's customer confirmation statement to state in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into, the minimum leverage margin (§ 31.11(k)(2)(xiv)), and the maintenance leverage margin (§ 31.11(k)(2)(xv)). Thus, the rules adopted by the Commission clearly distinguish between the concepts of minimum leverage margin and maintenance leverage margin for the purpose of an LTM's required disclosure to customers of types of margin and margin amounts.

The Commission wishes to note that when it initially made available for comment its proposed regulations for certain leverage transactions (48 FR 28668 (June 23, 1983)), § 31.4 contained separate definitions for minimum leverage margin (§31.4(r)) and maintenance leverage margin (§ 31.4(s)). Although the Commission believes the current regulations clearly differentiate between the concepts of minimum leverage margin and maintenance leverage margin, the Commission is amending § 31.4 of the final interim regulations to avoid any confusion that might exist by restoring the separate definitions for minimum leverage margin and maintenance leverage margin. Accordingly, on page 5527 in the third column, § 31.4(r) is revised to read:

"Minimum Leverage Margin" means the amount of funds which a leverage transaction merchant requires a leverage customer to maintain on deposit for each open leverage contract in the leverage customer's account.

Further, on page 5528 in the first column, § 31.4(s) is added to read:

"Maintenance Leverage Margin" means the level to which the funds in a leverage customer's account must be restored after a margin call to the leverage customer has been effected by the leverage transaction merchant.

Copies of the corrected sample format of the illustrative example of a leverage transaction required by § 31.11(a)(3), and of the written confirmation required by § 31.11(k) appear at the end of this document.

Issued in Washington, D.C., on June 15, 1984.

Jane K. Stuckey,

Secretary of the Commission.

Note.—This form will not be shown in the Code of Federal Regulations.

Date: _____

Disclosure Statement, Illustrative Transaction

Commodity _____
Contract Expiration: _____
Leverage Transaction Merchant's Ask Price Per Contract _____
Leverage Transaction Merchant's Bid Price Per Contract _____

BREAK-EVEN CALCULATION FOR A LEVERAGE CONTRACT LEFT OPEN FOR ONE YEAR [a]

	If contract is repurchased	If contract is liquidated	If delivery is taken
Initial charges			
Carrying charges			
Bid-Ask spread			[b]
Price to break-even excluding termination charges	[c]	[c]	[c]
Termination charges			
Total price to break-even			

BREAK-EVEN CALCULATION FOR A LEVERAGE CONTRACT LEFT OPEN FOR ONE YEAR [a]—Continued

	If contract is repurchased	If contract is liquidated	If delivery is taken
Percentage price change to break-even	[c]	[c]	[c]
Price Series to Evaluate the Leverage Contract			
Source of the Price Series			

[a] Based on current fee schedules, which are subject to change.
[b] Bid-ask spread not applicable since delivery is taken at contract ask price.
[c] Equals initial and carrying charges and spread plus bid price of the contract.
[d] Equals initial and carrying charges plus the ask price per contract. Does not include any expenses which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection or discounts typical in the retail market.
[e] Equals total price to break-even divided by the bid price per contract.
[f] Equals total price to break-even divided by the ask price per contract.

Note.—This form will not be shown in the Code of Federal Regulations.

If you are a first-time leverage customer you may rescind your first leverage contract purchase subject only to actual price losses but otherwise without penalty for three business days following and including receipt of this confirmation. Actual losses are calculated by subtracting the ask price of the leverage contract at the time of the customer's rescission from the ask price at which the leverage contract was purchased and which appears on this confirmation. To rescind this contract send a telegram to (name and address of LTM) or you may telephone (name of LTM) at (telephone number). If you rescind by telephone, you must also send immediate written affirmation by telegram, by certified letter or by at least equivalent means to the address provided above.

Confirmation Statement

Date: _____
Transaction I.D. Number _____
Commodity _____
Contract Expiration: _____
Leverage Transaction _____
Merchant's Ask Price Per Contract _____
X Number of Contracts _____
Total Value _____

BREAK-EVEN CALCULATION FOR A LEVERAGE CONTRACT LEFT OPEN FOR ONE YEAR [a]

	If contract is repurchased	If contract is liquidated	If delivery is taken
Initial			
Carrying charges			
Bid-ask spread			[b]
Price to break-even excluding termination charges	[c]	[c]	[c]
Termination charges			
Total price to break-even			
Percentage price change to break-even	[c]	[c]	[c]

[a] Based on current fee schedules, which are subject to ask price.
[b] Bid-ask spread not applicable since delivery is taken at contract ask price.
[c] Equals initial and carrying charges and spread plus bid price of the contract.
[d] Equals initial and carrying charges plus the ask price per contract. Does not include any expenses which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection or discounts typical in the retail market.
[e] Equals total price to break-even divided by the bid price per contract.
[f] Equals total price to break-even divided by the ask price per contract.

Margin Requirements (Dollars Per Contract)

Initial Margin _____
Minimum Margin _____
Maintenance Margin _____
Price Series to Evaluate the Leverage Contract _____
Source fo the Price Services _____

[FR Doc. 84-16532 Filed 6-20-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 82N-0314]

GRAS Status of Peptones

AGENCY: Food and Drug Administration.

ACTION: Final rule.

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

EFFECTIVE DATE: July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-6950.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 3, 1982 (47 FR 54456), FDA published a proposal to affirm that peptones are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on peptones and the report of the Select Committee on GRAS Substances (the Select Committee) on peptones are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of peptones, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for

these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of peptones recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for peptones were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of peptones under conditions different from those set forth in this final rule has been waived.

Two comments were received from food manufacturers in response to the proposal. The comments raised three issues. The comments and the agency's responses are as follows:

1. One comment questioned the inclusion of specific protein sources in the proposal for use in the manufacture of peptones. The comment argued that the listing of specific sources was inconsistent with the Select Committee's opinion that peptones derived from enzymatic and acid hydrolysis of food-grade protein sources would not be expected to be toxic, if they were manufactured in accordance with current good manufacturing practice. The comment therefore requested that the proposal be modified to permit any safe and suitable protein source to be used in the manufacture of peptones; or that lactalbumin, egg albumin, whey protein, corn gluten, and wheat gluten be added to the list of protein sources in the regulation.

FDA has thoroughly reviewed this comment and discussed it further in telephone conversations with the company that submitted it. The agency acknowledges that the Select Committee was of the opinion that peptones derived from enzymatic and acid hydrolysis of food-grade protein sources would be expected to be safe. However, the Select Committee also expressed its concern over the potential use of wheat gluten or peptic digests of gluten in the manufacture of peptones because these substances may cause problems for persons with celiac disease. FDA shared this concern and therefore included in the proposal a description of the specific protein sources reported by the Select Committee as currently used in the manufacture of peptones.

Conversations with the company have revealed that wheat gluten and corn gluten are not used by this company in the manufacture of peptones. The company was primarily interested in the potential use of egg albumin and lactalbumin (also known as whey protein) in the manufacture of peptones for use as nutrient supplements in medical foods. FDA has therefore limited its review to consideration of the GRAS status of peptones derived from these protein sources and of whether peptones may be used as nutrient supplements in food.

Based upon its review of the data and information contained in the Select Committee's report on peptones, the agency concludes that peptones derived from egg albumin and lactalbumin (whey protein) are as safe as those derived from the protein sources originally listed in the proposal. Therefore, the agency is amending the final rule to include egg albumin and lactalbumin (whey protein) among the protein sources for the production of peptones. The agency, however, is denying the comment's request that other protein sources be listed in the regulation because of the concerns expressed by the Select Committee and because the agency has no evidence that any other protein sources are currently in use.

FDA has also considered whether peptones derived from the protein sources listed in this final rule may be safely used as nutrient supplements in food. The agency concludes that there is a large margin of safety for the use of peptones in food and that the additional exposure to these ingredients that will result from their use as nutrient supplements would be well within this safety margin. Accordingly, the agency is adding this technical effect to the final rule.

2. One comment indicated that peptones are currently used in food categories in addition to those that were reported in the proposal: as surface-active agents in fruit and water ices and in processed fruits and fruit juices and as processing aids in gelatins, puddings, and fillings. The comment requested that the agency modify the final rule to affirm as GRAS the use of peptones in these additional food categories.

The agency has reviewed this comment and concurs that peptones may be safely used in the food categories reported. Upon reflection, FDA has decided that it is not necessary to list in the regulation the food categories in which peptones are used. Both the Select Committee and the agency have concluded that a large margin of safety exists for the use of peptones, and that a reasonably foreseeable increase in the level of consumption of peptones, including that which results from their use in the food categories reported in the comment, will not adversely affect human health. Therefore, the agency has decided to affirm the GRAS status of peptones when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of peptones is based on the evaluation of currently known uses, the regulation sets forth the technical effects that FDA has evaluated.

3. One comment requested that § 184.1553(a) be amended to include protease enzymes that are derived from safe and suitable microbial sources among the enzymes that can be used in the hydrolysis of the source protein. The comment attached a copy of a 1960 letter from FDA that stated that the use of proteases obtained from nonpathogenic strains of *Bacillus subtillus, Aspergillus flavus oxyzae,* or *Aspergillus niger* is GRAS. The comment also noted that the agency had recently affirmed a protease enzyme derived from *B. licheniformis* as GRAS.

The agency agrees that protease enzymes derived from nonpathogenic and nontoxic strains of the four microorganisms mentioned above may be safely used in the manufacture of peptones. Enzymes derived from these microorganisms have been safely used in food production for many years, and the agency concludes that their use in the production of peptones will not present any new toxicological problems. The agency is concerned however that use of the term "safe and suitable" to describe the protease enzymes that can be used in making peptones is too broad and may be subject to misinterpretation. The agency is therefore amending § 184.1553(a) to permit the use of proteolytic enzymes that are considered by FDA to be GRAS or that are regulated as food additives.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for peptones used as direct human food ingredients and would incorporate these specifications into the regulation when

they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, peptones for direct food uses must comply with the description in § 184.1553 and be of food grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

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

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

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

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended by adding new § 184.1553, to read as follows:

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

§ 184.1553 Peptones.

(a) Peptones (CAS Reg. No. 977027–88–5) are a variable mixture of polypeptides, oligopeptides, and amino acids that are produced by partial hydrolysis of casein, animal tissue, soy protein isolate, gelatin, defatted fatty tissue, egg albumin, or lactalbumin (whey protein). Peptones are produced from these proteins using proteolytic enzymes that either are considered to be generally recognized as safe (GRAS) or are regulated as food additives. Peptones are also produced by denaturing any of the proteins listed in this paragraph with safe and suitable acids or heat.

(b) FDA is developing food-grade specifications for peptones in cooperation with the National Academy of Sciences. In the interim, these ingredients must be of a purity suitable for their intended use.

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

(1) These ingredients are used as nutrient supplements as defined in § 170.3(o)(20) of this chapter; as processing aids as defined in § 170.3(o)(24) of this chapter; and as surface-active agents as defined in § 170.3(o)(29) of this chapter.

(2) These ingredients are used in food at levels not to exceed current good manufacturing practice.

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

Effective date. This regulation shall be effective July 23, 1984.

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

Dated: May 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-16510 Filed 6-20-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 680

[Docket No. 80N-0051]

Allergenic Products; Criteria for Source Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to establish manufacturing or propagation criteria for certain allergenic source materials (molds, and mammals and birds), require the submission of a listing of allergenic source materials and suppliers by licensed manufacturers, and require records of the manufacturing process of each lot of source material. This regulation is intended to give manufacturers of the final products and FDA increased assurance that an allergenic source material has been properly obtained, identified, or processed and is safe for use in an injectable human drug product.

DATE: Effective October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Center for Drugs and Biologics (formerly National Center for Drugs and Biologics) (HFN–368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 15, 1983 (48 FR 32361), FDA reproposed regulations for allergenic source materials that were first proposed on September 26, 1978 (43 FR 43472)

Allergenic Products, defined in 21 CFR 680.1(a), include any licensed biological product intended for the diagnosis, prevention, or treatment of allergies. Allergenic source materials used to produce an Allergenic Product include allergens, such as molds, feathers, and hair. It is essential that the source material be suitable for manufacture into final Allergenic Products, most of which are administered to humans by injection. FDA's Center for Drugs and Biologics has examined certain allergenic source materials that unlicensed suppliers were shipping to licensed manufacturers of Allergenic Products. FDA's examinations revealed that occasionally the unlicensed source material suppliers ship such manufacturers incorrectly identified or contaminated allergenic source materials. If licensed manufacturers use incorrectly identified or contaminated source materials, the resulting licensed Allergenic Product used by practitioners may be harmful. If a patient receives and reacts to an incorrectly identified diagnostic Allergenic Product, the practitioner may give a patient a long series of costly and ineffective injection treatments for the wrong allergen. If a practitioner gives a patient an Allergenic Product that is contaminated with an unknown allergen, the patient may become sensitized to the contaminant(s), unnecessarily complicating the patient's treatment and causing a worsening of the patient's condition. Also, the unknown

contaminating allergen rarely may cause a severe allergic reaction in a patient.

The criteria established in this final rule for manufacture or propagation of a specific source material provide requirements to assure the identity and purity of molds or the good health of certain animals (mammals and birds) intended for use as an allergenic source material. However, the requirements in this final rule concerning listing of nonlicensed establishments and recordkeeping apply to any licensed manufacturer who uses any allergenic source material to manufacture a final Allergenic Product. Notwithstanding the requirements in this final rule that apply to nonlicensed source material establishments, FDA emphasizes that the manufacturer of the licensed final product must continue to ensure that the allergenic source materials used in its manufacturing will produce a final product that meets current standards of purity and quality.

Interested persons were provided 60 days to submit comments on the proposal of July 15, 1983. FDA received three letters of comment in response to the proposals and several letters included more than one comment. A summary of the comments received and FDA's responses follow.

1. One comment on proposed § 680.1(b)(2)(iii) concerning the requirements for processing molds requested that the requirement be clarified to specify that only three consecutive lots representative of the processing of molds need to be tested and test data approved by FDA, not three consecutive lots of each species of molds that are produced.

FDA agrees with the comment. Manufacturers may use one standard operating procedure for processing several species of molds, if the procedure is applicable to each such species. If different procedures are necessary for the processing of a certain species of mold, a separate standard operating procedure for that species of mold, including tests on three consecutive lots of mold, is required. Accordingly, in the final rule § 680.1(b)(2)(iii) is amended to clarify that only three consecutive lots of a representative species of mold produced by a particular standard operating procedure are required to be tested to determine the acceptable limits and kinds of contamination in the molds.

2. One comment on proposed § 680.1(b)(2)(iii) concerning the requirements for standard operating procedures for molds stated that manufacturers of allergenic extracts already are required to have written standard operating procedures approved by FDA and, therefore, the proposed requirements under § 680.1(b)(2)(iii) are unnecessary.

FDA disagrees with the comment. Although §§ 211.100, 211.160, 211.180, 601.2, and 601.12 of the regulations now require licensed manufacturers of Allergenic Products to maintain written standard operating procedures that have been approved by FDA, these regulations do not prescribe specific requirements for the processing of molds. FDA intended that proposed § 680.1(b)(2)(iii) clarify the requirements concerning the standard operating procedures for the processing of molds. Further, proposed § 680.1(b)(2)(iii) applies to molds produced at an unlicensed establishment and intended for use as an allergenic source material by a manufacturer of a licensed final Allergenic Product. In such cases, the licensed manufacturer may prepare, and submit to FDA for approval, the standard operating procedures of the unlicensed manufacturer. Alternatively, an unlicensed mold manufacturer may prepare, and submit to FDA for approval, its own standard operating procedure in the form of a master file (see 21 CFR 314.11).

3. Three comments on proposed § 680.1(b)(3)(ii) concerning the requirement for quarantine of animals and use of only healthy animals acknowledged the need for use only of animals that are in good health and free from detectable skin diseases as a source material for Allergenic Products. However, two comments said that a quarantine period prior to collection of the allergen is not necessary, that it may increase costs, and that the same objective would be achieved by requiring a veterinarian or other competent individual to inspect and certify the good health of the animal.

FDA agrees with the comments. Based on the information provided to FDA by the comments, FDA now believes that a quarantine period is not required if prior to collection of the allergen the good health of the animals is determined by a licensed veterinarian or a competent individual under the supervision and instruction of a licensed veterinarian. The manufacturer's standard operating procedures must specify a reasonable time limit between the veterinary examination and collection of the allergen, and the manufacturing records must state clearly how the good health of the animals has been determined. Because FDA and the comments agree that only healthy animals should be used for allergenic source materials, the agency will continue to review this issue and, if further requirements are determined to be necessary, will amend the regulations appropriately. Accordingly, in the final rule § 680.1(b)(3)(ii) is amended to provide for a determination of good health of animals and delete the requirement for animal quarantine.

4. One comment on proposed § 680.1(b)(3)(ii) concerning the requirement for veterinary care of animals said that veterinary certification or supervision is unnecessary for an animal used as a source of allergens when these allergens are obtained from a professional pet groomer. The comment asked that FDA clarify the veterinary care requirements related to a source material such as feathers collected from animals obtained from dealers licensed by the U.S. Department of Agriculture (USDA) and processed feathers collected from feather-stuffed materials.

FDA disagrees with the comment. FDA disagrees that the veterinary examination that would be required under § 680.1(b)(3)(ii) is unnecessary where the source material of animal origin is obtained from an animal pet tended by a professional pet groomer. Because FDA is eliminating in the final rule the requirement for animal quarantine (see paragraph 3 above), the requirement for veterinary examination of animals, including pets, is of added importance to assure that the allergenic source material is derived from healthy animals.

Therefore, allergenic source material collected from an animal that is a pet may be used in the manufacture of an Allergenic Product, if the veterinary examination of the animal is performed within the timeframe specified in the manufacturer's standard operating procedure that has been approved by FDA and the manufacturer can be certain that its labeling of the final product accurately identifies the source material used in the manufacture of that final product. Further, the regulation allows use of other allergenic source materials of epidermal origin, such as bird feathers that are obtained from dealers licensed by USDA and bird feathers used to produce a feather-stuffed material, when a veterinary examination of the animal is performed within the timeframe specified in the manufacturer's standard operating procedure. The veterinary examination may be performed at a location other than the licensed manufacturer of the Allergenic Product, including the location of a licensed dealer, if the manufacturing records identify the veterinary examiner and the time and location of the examination. FDA proposed that animals obtained from

dealers licensed by USDA be exempt from the specific quarantine and veterinary care requirements because USDA's provisions for licensed dealers prohibit the housing of animals of different species in the same primary enclosure and require that the establishment of appropriate programs of veterinary care are at least as stringent as the requirements proposed by FDA. FDA's proposed regulation was not intended to establish different criteria for animals obtained from such licensed dealers and animals obtained from other sources. Because FDA's regulation neither prohibits the use of allergenic source material from animals obtained from such licensed dealers nor imposes any additional requirements for use of such animals, FDA believes that the reference to licensed dealers in the proposed codified text is unnecessary and that the regulation would be clarified by deleting that reference. Accordingly, in the final rule FDA is amending § 680.1(b)(3)(vi) by deleting the reference to licensed dealers.

5. One comment on proposed § 680.1(c) concerning the required listing of source materials and suppliers stated that such listing information should be treated by FDA as confidential business information.

FDA agrees that under the applicable provisions of the Freedom of Information Act (5 U.S.C. 552(b)) and FDA regulations concerning confidential information (21 CFR 20.61 and 601.51), the listing required from each licensed manufacturer of Allergenic Products under § 680.1(c) will not be available for public disclosure.

6. One comment asked that the final rule permit a manufacturer to process further a source material that did not comply with the manufacturer's own specifications. Such processing may include cleaning and defatting in preparation for proper storage.

FDA advises that this rule will not prohibit further processing of a source material that does not comply with a manufacturer's own specifications. There are approximately 2,000 different source materials used to make Allergenic Products. It may be appropriate to perform further processing steps on some of those source materials and such processing steps and specific source materials should be identified in the manufacturer's standard operating procedures. When a manufacturer follows the applicable regulations and its FDA-approved standard operating procedures, further processing of a source material to enable the source material to meet the manufacturer's specifications is permitted.

FDA proposed that this rule be effective 60 days after its date of publication in the **Federal Register**. No comments were received concerning the effective date. However, FDA now believes that an effective date of 60 days after publication of the final rule may not allow sufficient time for manufacturers to prepare to implement the rule. FDA believes that an effective date of 120 days after publication would be appropriate and would eliminate any potential hardship on manufacturers in meeting the requirements of this rule. Therefore, this regulation is effective on October 19, 1984. In addition to the other changes discussed above that have been made in the final rule, the references to the Director, Office of Biologics, are changed to the Director, Office of Biologics Research and Review (HFN–800), Center for Drugs and Biologics, to reflect a recent reorganization within FDA (March 19, 1984; 49 FR 10168).

The agency has determined pursuant to 21 CFR 25.25(b)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Section 680.1(c) of this rule contains new collection of information requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA submitted a copy of the proposal for this rule to the Office of Management and Budget (OMB) for its review of these collection of information requirements. OMB has approved these requirements and has assigned to them OMB control number 0910–0161.

FDA has reexamined the regulatory impact and regulatory flexibility implications of the regulations in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The agency concludes that 18 Allergenic Product manufacturers will be affected by these requirements, of which approximately 14 are small manufacturers. Costs per firm could possibly vary from zero to several thousand dollars, depending upon current practices, number of source suppliers, kinds of source materials, and applicability of exemptions. The anticipated costs are insufficient to warrant designation of this rule as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291 or to require a regulatory flexibility analysis. Accordingly, under section 605(b) of the Regulatory Flexibility Act, the Commissioner of Food and Drugs certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch.

List of Subjects in 21 CFR Part 680

Biologics, Blood.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 510, 704, 52 Stat. 1049–1050 as amended, 67 Stat. 477 as amended, 76 Stat. 794–795 as amended (21 U.S.C. 351, 360, 374)) and under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under 21 CFR 5.11, Part 680 is amended as follows:

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

1. In § 680.1 by revising paragraph (b) and adding new paragraphs (c) and (d) to read as follows:

§ 680.1 Allergenic products.

* * * * *

(b) *Source materials*—(1) *Criteria for source material.* Only specifically identified allergenic source materials that contain no more than a total of 1.0 percent of detectable foreign materials shall be used in the manufacture of Allergenic Products, except that this requirement shall not apply to molds and animals described under paragraph (b)(2) and (3) of this section, respectively. Source materials such as pelts, feathers, hairs, and danders shall be collected in a manner that will minimize contamination of the source material.

(2) *Molds.* (i) Molds (excluding rusts and smuts) used as source material in the manufacture of Allergenic Products shall meet the requirements of § 610.18 of this chapter and § 680.2 (a) and (b).

(ii) Mold cultures shall be free of contaminating materials (including microorganisms) prior to harvest, and care shall be taken to minimize contamination during harvest and subsequent processing.

(iii) Mold manufacturers shall maintain written standard operating procedures, developed by a qualified individual, that will ensure the identity of the seed culture, prescribe adequate processing of the mold, and specify the acceptable limits and kinds of contamination. These limits shall be based on results of appropriate tests performed by the manufacturer on at least three consecutive lots of a mold that is a representative species of mold subject to the standard operating procedures. The tests shall be performed at each manufacturing step during and

subsequent to harvest, as specified in the standard operating procedures. Before use of the mold as a source material for Allergenic Products, in accordance with 21 CFR 601.2, the standard operating procedures and test data from the three representative lots described above shall be submitted to and approved by the Director, Office of Biologics Research and Review (HFN–800), Center for Drugs and Biologics.

(Collection of information requirements approved by the Office of Management and Budget and assigned OMB control number 0910–0124.)

(3) *Mammals and birds*—(i) *Care of animals.* Animals intended as a source material for Allergenic Products shall be maintained by competent personnel in facilities or designated areas that will ensure adequate care. Competent veterinary care shall be provided as needed.

(ii) *Health of animals.* Only animals in good health and free from detectable skin diseases shall be used as a source material for Allergenic Products. The determination of good health prior to collection of the source material shall be made by a licensed veterinarian or a competent individual under the supervision and instruction of a licensed veterinarian provided that the licensed veterinarian certifies in writing that the individual is capable of determining the good health of the animals.

(iii) *Immunization against tetanus.* Animals of the equine genus intended as a source material for Allergenic Products shall be treated to maintain immunity to tetanus.

(iv) *Reporting of certain diseases.* In cases of actual or suspected infection with foot and mouth disease, glanders, tetanus, anthrax, gas gangrene, equine infectious anemia, equine encephalomyelitis, or any of the pock diseases among animals intended for use or used as source material in the manufacture of allergenic Products, the manufacturer shall immediately notify the Director, Office of Biologics Research and Review (HFN–800), National Center for Drugs and Biologics.

(v) *Dead animals.* Dead animals may be used as source material in the manufacture of Allergenic Products: *Provided*, That (*a*) the carcasses shall be frozen or kept cold until the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decomposition processes do not adversely affect the allergen, and (*b*) when alive, the animal met the applicable requirements prescribed in paragraph (b)(3) (i), (ii), and (iii) of this section.

(vi) *Mammals and birds inspected by the U.S. Department of Agriculture.* Mammals and birds, subject to inspection by the U.S. Department of Agriculture at the time of slaughter and found suitable as food, may be used as a source material, and the requirements of paragraph (b)(3) (i) through (iv) of this section do not apply in such a case. Notwithstanding U.S. Department of Agriculture inspection, the carcasses of such inspected animals shall be frozen or kept cold until the allergen is collected, or shall be stored under other acceptable conditions so that the postmortal decomposition processes do not adversely affect the allergen.

(c) *Listing of source materials and suppliers.* Each licensed manufacturer shall initially list with the Director, Office of Biologics Research and Review (HFN–800), Center for Drugs and Biologics, the name and address of each of the manufacturer's source material suppliers. The listing shall identify each source material obtained from each source material supplier. The licensed manufacturers shall update the listing annually to include new source material suppliers or to delete those no longer supplying source materials. (Collection of information requirements were approved by the Office of Management and Budget and assigned OMB control number 0910–0161.)

(d) *Exemptions.* (1) Exemptions or modifications from the requirements under paragraph (b) of this section shall be made only upon written approval by the Director, Office of Biologics Research and Review (HFN–800), Center for Drugs and Biologics.

(2) Nonlicensed source material suppliers are exempt from drug registration.

2. In § 680.2 by reserving paragraph (e) and by adding new paragraph (f) to read as follows:

§ 680.2 Manufacture of allergenic products.

* * * * *

(e) [Reserved]

(f) *Records.* A record of the history of the manufacture or propagation of each lot of source material intended for manufacture of final Allergenic Products shall be available at the establishment of the manufacturer of the source material, as required by § 211.188 (OMB control number 0910–0139) of this chapter. A summary of the history of the manufacture or propagation of the source material shall be available at the establishment of the manufacturer of the final product.

Effective date. This regulation is effective on October 19, 1984.

(Secs. 501, 510, 704, 52 Stat. 1049–1050 as amended, 67 Stat. 477 as amended, 76 Stat. 794–795 as amended (21 U.S.C. 351, 360, 374)); (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: June 5, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84–16508 Filed 6–20–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 140

Licensed Indian Traders and Bureau of Indian Affairs Employees Contracting and Trading With Indians

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing this final rule which permits certain contracting and trading between employees of the Bureau of Indian Affairs and Indians. Certain types of trading are being regulated to prevent overreaching and possible conflicts of interest.

EFFECTIVE DATE: July 23, 1984.

SUPPLEMENTARY INFORMATION: This rule is being promulgated to implement Pub. L. 96–277 (94 Stat. 544; 18 U.S.C. 437) which repealed certain previous laws (25 U.S.C. 68, 68a, 87a and 441) dating back to the Indian Intercourse Act of 1834 (4 Stat. 38; 25 U.S.C. 68) which regulated trading between Federal employees and Indians. This final rule is published in exercise of the rulemaking authority delegated by the President to the Secretary of the Interior, pursuant to Executive Order No. 12328. Executive Order No. 12328 gives the Secretary of the Interior and the Secretary of Health and Human Services, respectively, the authority to regulate trade between employees of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) and Indians.

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

The Bureau of Indian Affairs published a proposed rule on October 7, 1983 (48 FR 45789), that offered the public an opportunity to comment on regulations which prescribed the conditions governing trade between employees of the Bureau of Indian

Affairs and Indians. Comments on the proposed rule were received from four sources—individuals, Indian organizations, law firms representing various Indian interests and BIA field officials.

The views expressed by commenters ranged from suggestions that the rule be more stringent than proposed, or, in the alternative, that the effort to regulate trading with Indians be abandoned. Representatives for several Indian interests stated that the provisions of the statute and the proposed rule do not go far enough to prevent BIA employees from overreaching their authority in their relationship with Indians.

The law requires that certain types of trading be regulated to prevent overreaching and possible conflicts of interest on the part of the BIA employee, when trading with Indians.

One commenter suggested that the regulations include employees of the Indian Health Service of the United States Department of Health and Human Services. The BIA has no jurisdiction over IHS employees. Regulations controlling IHS employees trading with Indians must be developed and issued by that Agency.

The following paragraphs summarize the comments and suggestions received and actions taken.

One commenter expressed disappointment that the proposed regulations do not resolve the issue presented in *Wright* v. *Schweiker, et al.*, No. 82–1392 (8th Cir. 1982), a suit brought by Indian employees of the Bureau of Indian Affairs and the Indian Health Service to obtain grazing permits from their tribes at a tribal rate—a rate which is less then the appraised values set by the Bureau of Indian Affairs for non-tribal members. Under previous law relating to employees trading with Indians, the BIA concluded the employees could not receive the preferential permits. Except as provided in Subsection (b)(2) Section 437 of Title 18, Unites States Code, Section 437 states that nothing shall be construed as perventing any employee of the Bureau who is Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such employee who is an Indian from being a member of or receiving benfits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary of the Interior or his/her designee has prescribed or shall prescribe.

Thus, grazing permits, such as those at issue in *Wright* v. *Schweiker*, for members of an Indian tribe, who are also employees of the BIA, are permissible trading transactions if not prohibited by 18 U.S.C. § 437(b)(2). Because the proposed rule did not define commercial trading, which is prohibited under § 437(b)(2), a definition of "commerical trading" has been added to the regulations at § 140.5(a)(7).

Several commenters asked what the term "fair market value" in Section 140.5(e)(2)(iii) means as applied to acquisition of grazing permits. When a grazing permit is issued to a tribal member it may be issued at a tribal rate which is less than the "fair market value" of the permit. Therefore, the following has been added to § 140.5(e)(2)(iii): "or the employee is the recipient of a benefit for tribal members for which a uniform charge to all members is made."

One commenter suggested that the last three words of the definition of "contract" in § 140.5(a)(5) be deleted since, presumably, transactions would involve sales both to and from Indians. The last three words have been deleted as suggested.

One commenter suggested that "any service" be deleted from § 140.5(d)(1) because BIA employees should not be providing services to Indians. This suggestion was rejected as the language is quoted directly from 18 U.S.C. § 437.

Several comments were received suggesting the exemption of transactions of less than $1,000 was too low and several suggested $1,000 was too high. The comments illustrate the difficulty of setting an appropriate level at which trading transactions will be approved and below which they will be exempt from approval. It was decided that the $1,000 level would be retained for the present.

A comment that sales should be recorded to discourage attempts to evade the approval level by breaking up $1,000 or more sales into smaller sales was rejected on the basis that its perceived effectiveness would not be worth the costs it would entail.

One commenter suggested that motor vehicle sales leave a great deal of room for overreaching and should not be exempt from approval. This suggestion was duly considered and it was decided the trading of automobiles should be subject to approval if the trade involves $1,000 or more. An appropriate change has been made in § 140.5(d)(1) to provide for this.

One commenter suggested that a section be added which exempts purchases made by BIA employees from Indian-owned businesses that sell goods and services to the Indians at the same terms and prices that are sold to the general public. This suggestion was rejected. The only perceived effect of this proposal would be to provide an exception to the requirement that transactions involving $1,000 or more must be approved, and we find no justification for doing that.

One commenter proposed elimination of § 140.5(e) to prevent BIA employees from acquiring interests in trust property to eliminate the possibility of speculation in Indian oil and gas rights. The statute, however, provides for acquisitions of rights in trust property, subject to certain specific restrictions. Since the prohibition on commercial trading prevents speculation in Indian oil and gas rights, nothing needs to be done to the proposed rule to prevent such speculation. The comment is rejected.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.).*

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environment Policy Act of 1969.

This rule does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. § 3504(h). The primary author of this document is John G. Combs, Bureau of Indian Affairs, Division of Personnel Management, telephone number (202) 343–8718.

List of Subjects in 25 CFR Part 140.

Indians, Business and industry, Penalties.

PART 140—LICENSED INDIAN TRADERS AND BUREAU OF INDIAN AFFAIRS EMPLOYEES CONTRACTING AND TRADING WITH INDIANS

Accordingly, Part 140 of Chapter I of Title 25 of the Code of Federal Regulations is amended as follows:

1. The authority and cross reference sections under the Table of Sections are revised to read as follows:

Authority: Sec. 5, 19 Stat. 200, se. 1, 31 Stat. 1066 as amended; 25 U.S.C. § 261, 262; 94 Stat. 544, 18 U.S.C. § 437; 25 U.S.C. 2 and 9, and 5 U.S.C. § 301, unless otherwise noted.

Cross Reference.

For law and order regulations on Indian Reservations, see part 11 of this Chapter. For regulations pertaining to business practices on Navajo, Hopi and Zuni reservations, see Part 141 of this Chapter. For additional regulation of certain employees trading with Indians, see 43 CFR Part 20.735–28 and 29.

2. Section 140.5 is revised to read as follows:

§ 140.5 Bureau of Indian Affairs employees not to contract or trade with Indians except in certain cases.

(a) Definitions of terms as used in this part:

(1) "Indian" means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land.

(2) "Bureau" or the "Bureau of Indian Affairs" means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.

(3) "Employee" means an officer, employee, or agent of the Bureau of Indian Affairs.

(4) "Secretary" means the Secretary of the Interior.

(5) "Contract" means any agreement made or under negotiation with any Indian for the purchase, transportation or delivery of goods or supplies.

(6) "Trading" means buying, selling, bartering, renting, leasing, permitting and any other transaction involving the acquisition of property or services.

(7) "Commercial trading" means any trading transaction where an employee engages in the business of buying or selling services or items which he/she is trading.

(b) With the exceptions provided in subsection (b) of section 437 of Title 18, the United States Code, section 437 provides that whoever, being an officer, employee, or agent of the Bureau of Indian Affairs, has (other than as a lawful respresentative of the United States) any interest, in such officer, employee, or agent's name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interest:

(1) In any contract made or under negotiation with any Indian, for the purchase, transportation or delivery of goods or supplies for any Indian, or

(2) In any purchase or sale of any service or real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more than $5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

(c) The further subsections of this section authorize certain employees contracting and trading with Indians as authorized by the exceptions in Section 437 of Title 18, United States Code. All such contracting and trading is subject to the express provision of Section 437 that none of the sales or purchases so authorized may be made if the purpose of any such sale, trade, or purchase is that of commercially selling, reselling, trading, or bartering such property.

(d)(1) Under authority granted by section 437(b)(1) of Title 18, United States Code, employees of the Bureau of Indian Affairs may with the approval of an authorized officer of the Bureau, as designated in (d)(2) of this subsection, purchase from or sell to an Indian any service or any real or personal property, not held in trust by the United States or subject to a restriction against alienation imposed by the United States, or any interest in such property. In addition, employees may purchase from Indians without approval from an authorized officer of the Bureau any non-trust or unrestricted personal property for home use or consumption the value of which property does not exceed $1000. Where the purchase or sale price is less than $1,000, employees may also purchase motor vehicles for their personal use from Indians or sell their personal motor vehicles to Indians without obtaining approval of such purchases or sales from an authorized officer of the Bureau. Approval must be obtained if the purchase or sale price is $1,000 or more.

(2) As used in (d)(1) above an authorized officer of the Bureau of Indian Affairs for employees on reservations and in agencies or in field service units shall be the superintendent or other officer in charge of the unit in which the employee is employed. The authorized officer for the superintendent or officer in charge is his or her immediate supervisor. The authorized officer for employees in area offices is the Area Director, and the authorized officer for an Area Director is his or her immediate supervisor. The authorized officer for employees in the Central Office is the Deputy Assistant Secretary—Indian Affairs (Operations).

(e) No employee of the Bureau of Indian Affairs may have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau if such employee is employed in the office or installation of the Bureau which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States, except that, as authorized by section 437(b)(1) of Title 18, United States Code an employee of the Bureau may have such an interest if such purchase or sale is approved by an authorized officer of the Bureau, as designated in paragraphs (e) (3) to (5) below, and the conditions in (e) (1) and (2) below are satisfied to the extent to which they are applicable to the transaction concerned:

(1) The coveyance or granting of any interest in property held in trust or subject to restriction against alienation imposed by the United States is otherwise authorized by law.

(2) Trading by employees with Indians which involves property or funds which are either held in trust by the United States or are subject to restrictions against alienation imposed by the United States must be conducted on the basis of sealed bid or public auction. If the trading involves leases or sales of trust or restricted Indian land it must be conducted on the basis of sealed bids. Such requirements for sealed bid or public auction may only be waived by the Assistant Secretary for Indian Affairs on the basis of a full report showing:

(i) The need for the transaction,

(ii) The benefits accruing to both parties,

(iii) That the consideration for the proposed transaction shall be not less than the fair market value of the trust or restricted property or interest therein, unless the employee is involved in a transaction in accordance with 25 CFR § 152.25 (c) or (d) or 25 CFR § 162.5(b) (1), (2), or (3) or the employee is the recipient of a benefit for tribal members for which a uniform charge to all members is made, and

(iv) An affidavit as follows shall accompany each proposed transaction: "I (name) (title), swear (or affirm) that I have not exercised any undue influence nor used any special knowledge received by reason of my employment in the Bureau in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction."

(3) The authorized officer of the Bureau for employees employed on reservations, in agencies or service units is one who is not a relative by blood or marriage of the employee, and is not

employed at the employee's reservation, agency or service unit. That officer must also be employed at not less than one grade level higher than such employee at the Wahington, District of Columbia, Central Office or at an Area Office other than that with authority over the employee's reservation, agency, or service unit.

(4) The authorized officer of the Bureau for employees employed in Area offices is one who is not a relative by blood or marriage of the employee, is not employed at the employee's area office, and must be employed at not less than one grade level higher than the employee at the Washington, District of Columbia, Central Office.

(5) The authorized officer of the Bureau for employees employed at the Washington, District of Columbia, Central Office is the Secretary.

(f) Except as provided in subsection (b)(2) of Section 437 of Title 18, United States Code as implemented by this section, nothing in the cited law shall be construed as preventing any employee of the Bureau who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such employee who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary or his/her designee has prescribed or shall prescribe.

§ 140.6 [Removed]

3. Section § 140.6 is removed.

Sidney L. Mills,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 84-16402 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 84-40]

Marine Event; Coronado 4th of July Rehearsals and Demonstration

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will establish Special Local Regulations for the Coronado 4th of July Rehearsals and Demonstration in Coronado, CA. This event will be held on 4 July 1984, at Glorietta Bay, with rehearsals on 29 June–2 July (3 July inclement weather backup day). These regulations are needed to provide for the safety of life and property on navigable waters during the periods set forth.

EFFECTIVE DATE: These regulations become effective on 29 June 1984 and terminate on 4 July 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590–2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. The application to hold this event was not received until 5 May 1984, and there was not sufficient time to publish proposed rules in advance or to provide for a delayed effective date. Nevertheless, interested persons wishing to comment may do so by submitting written comments to the office listed under **FOR FURTHER INFORMATION CONTACT** in this preamble. Commenters should include their name and address, identify this notice CGD11 84–40, and give reasons for their comments. Based on comments received, the regulation may be changed.

Drafting Information

The drafter of this regulation are LTJG Jorge Arroyo, Chief, Boating Affairs Branch, Eleventh Coast Guard District, Project Officer, and CDR M.K. Cain, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

Citizens Committee for the Coronado Fourth of July Celebration "Coronado 4th of July Rehearsals and Demonstration" will be conducted beginning 29 June 1984. This event will have Navy Underwater Demolition Seal teams in water, parachute, and helicopter operations which could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects In 33 CFR Part 100

Marine Safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following § 100.35–11–84–40

§ 100.35–11–84–40 Coronado Fourth of July Rehearsals and Demonstration.

(a) *Regulated area.* That portion of the San Diego Bay from the tip of the marina, Lat 32 degrees 40'43"N, Long 117 degrees 10'20.5"W, NE to Lat 32 degrees 40'48.5"N, Long 117 degrees 10'10.5"W, E along shoreline to Lat 32 degrees 40'43.5"N, Long 117 degrees 10'00"W, E to Lat 32 degrees 40'46"N, Long 117 degrees 09'58"W, S to Lat 32 degrees 40'37.5"N, Long 117 degrees 09'58.5"W, SW to shore at Lat 32 degrees 40'31"N, Long 117 degrees 10'03.5"W; thence NW along shoreline to initial point.

(b) *Effective date.* The regulated area will be closed intermittently to all vessel traffic from 1:30 PM to 4:30 PM on 29 June-2 July (3 July inclement weather backup date) and from 2:00 PM to 4:00 PM on 4 July 1984.

(c) *Special Local Regulations.* (1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by U.S. Coast Guard operated and employed small craft, law enforcement agencies and/or the sponsor's vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect at the end of each period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: June 15, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84-16583 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 09-84-07]

Special Local Regulations; Chicago Park District Air and Water Show

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Chicago Park District Air & Water Show. This event

will be held on Lake Michigan on 13–15 July 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 13 July 1984 and terminate on 15 July 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Chicago Park District Air and Water Show will be conducted in the Chicago Harbor area on 13–15 July 1984. This event will have an estimated 300 boats and many aerial events which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, Coast Guard Station Calumet Harbor, IL).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35–0918 to read as follows:

§ 100.35–0918 Lake Michigan—Chicago Harbor/Illinois.

(a) *Regulated area.* (1) That portion of Lake Michigan 1,500 feet on both sides of a line from the north end of the Jackson Park breakwall to the easternmost edge of Promontory Point.

(2) That portion of Lake Michigan 1,500 feet on both sides of a line from the northwest corner of the filtration plant retaining wall to the North Avenue Jetty Light (LLNR 2300).

(b) *Special local regulations.* (1) Regulated area (1) above will be closed to vessel navigation or achorage from 11:00 a.m. (local time) until 2:30 p.m. on 13 July 1984.

(2) Regulated area (2) above will be closed to vessel navigation or anchorage from 2:00 p.m. (local time) until 5:00 p.m. on 14–15 July 1984.

(3) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the partol, in the performance of their assigned duties.

(4) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 18, 1984.

J. R. Kirkland,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 84–16602 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CCGD13 84–04]

Establishment of Special Local Regulations for the Harbor Fair Offshore Race on Elliott Bay, Seattle, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This notice establishes special local regulations for a part of Elliott Bay to be in effect from 1100 to 1700 Pacific daylight time, 23 June 1984. This action is required to permit the conducting of an approved marine event. It is intended to restrict general navigation in the area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: June 23, 1984 between the hours of 1100 and 1700 Pacific daylight time.

FOR FURTHER INFORMATION CONTACT: LCDR J. M. Hammond, Boating Safety Office (206–442–7356).

SUPPLEMENTARY INFORMATION: On 12 April 1984, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (48 FR 6135). One comment was received in response to this notice.

Drafting Information

The principal persons involved in drafting this proposal are LCDR J. M. Hammond, USCG Project Officer, Thirteenth Coast Guard District Boating Safety Office, and LT A. W. Bogle, USCG Project Attorney, Thirteenth Coast Guard District Legal Office. Since there was insufficient time to allow a full thirty day delay before the effective date of this Final Rule and also for a full 45 day comment period after publication of the notice of proposed rulemaking, this final rule will become effective in less than 30 days.

Discussion of Comments

In addition to the one comment received in response to the notice of proposed rulemaking, the race sponsor provided copies to the Coast Guard of four letters it had solicited from shoreside businesses and maritime activities whose interest might be adversely affected by the event. These letters were considered in the promulgation of this Final Rule. None of the letters submitted opposed the proposed regulation or the holding of the event, however one comment qualified its nonopposition by requesting that the race course not extend past Pier 56. This letter also requested that access to Pier 56 not be obstructed by spectator boats. A second letter pointed out the potential problems associated with large numbers of spectator boats near the ferry lanes and requested that no spectator boats be allowed at the south end of the course near the turn. In response to these comments, the southerly end of the race course has been moved 500 yards to the northwest to minimize the potential for interference with traffic from Pier 56 and the Washington State Ferry Docks. This regulation has been revised to reflect these changes. Additionally, an additional margin of safety has been provided for spectator craft by prohibiting such craft from approaching within 200 yards of the race course. Finally, the regulation has been clarified by providing that, although vessels may not transit to and from or change anchorage locations in the Smith Cove Anchorage (East and West) during the period of time this regulation is in effect, vessels anchored at the time the regulation becomes effective may remain so anchored unless otherwise

directed by the Coast Guard Patrol Commander.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.0 of 5–22–80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal because the regulations will affect only spectators and participants in the race and applies to a small area of Elliott Bay for a limited period of time. Additionally, any adverse economic consequences to businesses affected by this regulation are expected to be minimal due to the short duration of the race and the offsetting economic benefits anticipated to such businesses from the presence of a large number of shore spectators expected to attend the event. Based upon this assessment, it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these rules, if promulgated, will not have significant economic impact on a substantial number of small entities. Also, this regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal regulations and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (Water).

Proposed Regulation

In consideration of the foregoing the Coast Guard is amending Part 100 of Title 33, Code of Federal Regulations, by adding § 100.35–1301, to read as follows:

§ 100.35–1301 Elliott Bay/Harbor Fair Offshore Race.

(a) This regulation will be in effect on 23 June 1984 between the hours of 1100 Pacific Daylight Time and 1700 Pacific Daylight Time.

(b) The Coast Guard will maintain a patrol consisting of active and auxiliary Coast Guard vessels in the vicinity of the below described area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander is empowered to forbid and control movement of vessels on the race course and in the adjoining water areas immediately prior to, during, and after the race for such time as he finds it necessary for the safe and orderly conduct of the program.

(c) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is:

(1) The race course on the waters of Elliott Bay which is: Point A 47–38–11.5N 122–24–47.5W; Point B 47–37–52N 122–24–54.5W; Point C 47–36–25.4N 122–21–26.2W; Point D 47–36–23N 122–21–11.5W; Point E 47–37–18N 122–22–14.5W.

(2) All waters within 200 yards of the race course.

(d) Movement of vessels into and out of the anchorages and marine facilities in the area of the race course may be restricted by the Patrol Commander during the hours this regulation is in effect.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: June 7, 1984.

R. J. Copin,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 84–16606 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–01–M

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33 CFR Part 100

[CGD 09–84–11]

Special Local Regulations; International Freedom Festival Air and Water Show

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the International Freedom Festival Air & Water Show. This event will be held on the Detroit River on June 23 and 24, 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 23 June 1984 and terminate on 26 June 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The International Freedom Festival Air and Water Show will be conducted on the Detroit River on 23 and 24 June 1984. In the event of inclement weather this event will be held on 25 and 26 June 1984. This event will have a variety of water activities and air events which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Detroit, MI).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0908 to read as follows:

§ 100.35–0908 International Freedom Festival Air and Water Show, Detroit River.

(a) *Regulated Area.* That portion of the Detroit River which lies between 083 degrees 01.9 minutes West, and 083 degrees 03 minutes West, from the international boundary to the U.S. shoreline.

(b) *Special Local Regulations.*

(1) The above area will be closed to navigation or anchorage by vessels less than 65 feet in length from 6:00 p.m. (local time) until 10:00 p.m. on 23 and 24 June 1984. In case of inclement weather, the above area will be closed from 6:00 p.m. (local time) until 10:00 p.m. on 25 and 26 June 1984.

(2) No vessel shall anchor in or around the main shipping channel of the Detroit River within the U.S. waters nor shall any spectator craft impair the free passage of any commercial vessel in the main fairways of the Detroit River.

(3) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum

and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(4) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 6, 1984.

J. R. Kirkland,

Captain, U.S. Coast Guard Acting Commander, Ninth Coast Guard District.

[FR Doc. 84-16606 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-84-02]

Special Local Regulations; International Freedom Festival Fireworks Display, Detroit River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the International Freedom Festival Fireworks. This event will be held on the Detroit River on July 2, 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective 8:00 pm (local time) to 12:00 pm on July 2, 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The International Freedom Festival Fireworks Display will be conducted on the Detroit River on 02 July 1984. An unusually large concentration of spectator boats could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group, Detroit, MI).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-0909 to read as follows:

§ 100.35-0909 International Freedom Festival Fireworks Display, Detroit River.

(a) *Regulated Area.* (1) The following area will be closed to vessel navigation or anchorage for vessels of 65 feet in length or greater from 8:00 p.m. (local time) until 12:00 p.m. on 02 July 1984:

The U.S. waters of the Detroit River between the Ambassador Bridge and the downstream end of Belle Isle.

(2) The following portion of the Detroit River will be closed to all vessel traffic, from 8:00 p.m. (local time) until 12:00 p.m. on 02 July 1984:

The area bound on the south by the International Boundary, on the west by 083 degrees 03 minutes West, on east by 083 degrees 02 minutes West, and the north by the U.S. shoreline.

(b) *Special Local Regulations.*

(1) Vessels under 65 feet shall begin clearing the shipping channels at 11:30 p.m. local or when the fireworks display end, whichever comes first.

(2) Fireworks barges will be moved to positions in the Detroit River after 5:00 p.m. on 02 July 1984, and will be removed immediately after the fireworks display. The barges will be located within 950 feet of the U.S. riverbank opposite each of the following landmarks: Cobo Hall, Veterans Memorial Bldg., and the Ford Auditorium. Vessel masters shall pass with caution. Each barge will be marked in accordance with rule 30 of the Inland Rules of the road for a vessel at anchor, and a fixed white light on each corner of the barges will be shown at night and an orange bouy with horizontal white bands will mark each special mooring.

(3) If the weather on 02 July 1984 is inclement, the fireworks display and the river closure will be postponed until 8:00 p.m. to 12:00 p.m. on July 3, 1984. If postponed, notice will be given on 02 July 1984 over the U.S. Coast Guard Radio Net.

(4) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a "no wake" speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(5) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 18, 1984.

J. R. Kirkland,

Captain, U.S. Coast Guard Acting Commander, Ninth Coast Guard District.

[FR Doc. 84-16605 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-84-10]

Special Local Regulations; WIVB-TV Waterfront Festival Fireworks Display—Niagara River, Black Rock Canal

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the WIVB-TV Waterfront Festival Fireworks. This event will be held on the Black Rock Canal on July 3, 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective 4:00 pm (local time) to 11:00 pm on July 3, 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation.

Drafting Information:

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Officer of Search and Rescue and LCDR A.R. Butler, project attorney, Ninth Coast Guard District Legal Officer.

Discussion of Regulations:

The WIVB–TV Waterfront Festival Fireworks Display will be conducted on the Black Rock Canal on July 3, 1984. This event will have falling debris and ash, a submerged firing cable from the barge to the control station at LaSalle Park, and an unusually large concentration of spectator boats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station Buffalo, NY).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary §100.35–0909 to read as follows:

§ 100.35—0909 Niagara River, Black Rock Canal.

(a) *Regulated Area:* The following area will be closed to vessel navigation or anchorage for all vessels from 4:00 p.m. (local time) until 11:00 p.m. on July 3, 1984:

The Black Rock Canal bound on the south by a line between Black Rock Canal Buoy 3 (LLNR 421) and the southern end of the LaSalle Park Boat Ramp and the north by a line between Black Rock Canal Buoys 14 (LLNR 429) and 15 (LLNR 430).

(b) *Special Local Regulations.*

(1) A fireworks barge will be moved to position in the Black Rock Canal after 4:00 p.m. on June 30, 1984, and will be removed by 12:00 a.m. on July 5, 1984. The barge will be attached to the breakwall 100 meters northwest of Black Rock Canal Buoy 7 (LLNR 423), opposite LaSalle Park. There will be a submerged firing cable from the barge to the control station at LaSalle Park which will be removed immediately after the fireworks is completed and, in any event, prior to 11:00 p.m. on July 3, 1984.

(2) If the weather on July 3, 1984 is inclement, there will be no alternate date for the display.

(3) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(4) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S. C. 454; 49 U.S. C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 5, 1984.

J. R. Kirkland,

Captain, U.S. Coast Guard Acting Commander, Ninth Coast Guard District.

[FR Doc. 84–16607 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–84–06]

Special Local Regulations; Stroh Gold Cup Regatta, Detroit River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Stroh Gold Cup Regatta to be held on the Detroit River. This event will be held on 11, 12, 13 and 15 July 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 11 July 1984 and terminate on 15 July 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from date of publication. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Stroh Gold Cup Regatta will be conducted on the Detroit River on the 11–13, and 15 July 1984. This event will have an estimated 25 Hydroplanes which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Detroit, MI).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0907 to read as follows:

§ 100.35–0907 Stroh Gold Cup Regatta, Detroit River.

(a) *Regulated Area.* That portion of the Detroit River lying between Belle Isle and the U.S. shoreline, bound on the west by the Belle Isle Bridge and on the east a north-south line drawn through the Waterworks Intake Crib Light (LL 1022).

(b) *Special Local Regulations.*

(1) The above area will be closed to navigation or anchorage from 8:00 A.M. (local time) until 12:00 A.M. and from 1:00 P.M. until 5:00 P.M. on the 11, 12, 13 and 15 July 1984.

(2) In addition, two safety zones for race craft will be established. The first will be from the Waterworks Intake Crib Light (LL 1022) eastward to the Detroit Edison Lighted Buoy 1A (LL 1023) then north to the Edison Boat Club. The second safety zone will be within an area bound by a line drawn from the center span of the Belle Isle Bridge to the stacks at the Uniroyal Plant, north to the U.S. shore.

(3) An escape zone for recreational craft will also be established from the Rooster Tail Marina out to Lake St. Clair.

(4) Special care shall be exercised by the Master or operator of every vessel proceeding up or down the main channel of the Detroit River between Belle Isle and Windmill Point.

(5) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(6) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 18, 1984.

J. R. Kirkland,

Captain, U.S. Coast Guard Acting Commander, Ninth Coast Guard District.

[FR Doc. 84-16604 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 5-T84-06]

Special Local Regulations: Regatta; Elizabeth River Power Boat Race

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: Special local regulations are adopted for the Elizabeth River Power Boat Race. This event will be held on the Elizabeth River, between the Norfolk and Portsmouth downtown areas. It will consist of 35 outboard powered boats 13 feet to 19 feet in length racing a triangular course at the junction of the Eastern and Southern branches of the Elizabeth River. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 1:00 pm, 21 July 1984 and terminate at 5:00 pm, 21 July 1984. In case of inclement weather causing the event to be postponed, these regulations become effective at 1:00 pm, 22 July 1984 and terminate at 5:00 pm, 22 July 1984. If the event is postponed, the Patrol Commander will issue a broadcast Notice to Mariners.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Duane I. Preston, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804-398-6204).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 26 April 1984, and there was not sufficient time remaining to publish proposed rules in advance of the event.

Drafting Information

The drafters of this regulation are LCDR Duane I. Preston, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and LT Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

The following organizations are jointly sponsoring the Elizabeth River Power Boat Race:

1. Norfolk FESTEVENTS, INC.
2. City of Portsmouth.
3. Portsmouth Power Boat Association.

The event will consist of six (6) classes of boats running two (2) heats per class. Closure of the waterway for any extended period is not anticipated and thus commercial traffic should not be severely disrupted at any given time.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35-505 to read as follows:

PART 100—[AMENDED]

§ 100.35-505. Elizabeth River, Norfolk, Virginia

(a) *Regulated Area:* The waters of the Elizabeth River and its branches from shore to shore, bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

(b) *Special Local Regulations:* Except for participants in the Elizabeth River Power Boat Race, or persons or vessels authorized by the Coast Guard Patrol Officer, no person or vessel may enter or remain in the above area. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(d) The Coast Guard Patrol Officer is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed at the West side of Otter Berth, Town Point Park.

(e) The Coast Guard Patrol Officer has been authorized to stop the race to allow the transit of backed up marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations will be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 1, 1984.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 84-16586 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD11 84-54]

Marine Event; Parker Area Championship Budweiser Tube Float

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will establish Special Local Regulations for the Parker Area Championship Chamber Budweiser Interstate Tube Float at Lake Moovalya, Parker, Arizona. These regulations are needed to provide for the safety of life and property on navigable waters during the periods set forth.

EFFECTIVE DATE: These regulations become effective on 23 June 1984 and terminate on 23 June 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. The

application to hold this event was not received until 29 May 1984, and there was not sufficient time to publish proposed rules in advance.

Nevertheless, interested persons wishing to comment may do so by submitting written comments to the office listed under **"FOR FURTHER INFORMATION CONTACT"** in this preamble. Commenters should include their name and address, identify this notice CGD11 84–54, and give reasons for their comments. Based on comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Chief, Boating Affairs Branch, Eleventh Coast Guard District, Project Officer, and CDR M. K. Cain, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

Parker Area Chamber of Commerce "Parker Area Championship Chamber Budweiser Interstate Tube Float" will be conducted on Lake Moovalya beginning on 23 June 1984. This event will have 1500 intertube floaters that could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended by adding a temporary § 100.35–11–84–54 to read as follows:

§ 100.35–11–84–54 Parker Area Championship Budweiser Tube Float.

(a) *Regulated Area:* That portion of the Lake Moovalya, Parker, Arizona from Echo Lodge on the California side to down river approximately 3 miles to La Paz County Park.

(b) *Effective Date:* The regulated area will be closed intermittently to all vessel traffic from 11:15 AM to 4:30 PM on 23 June 1984.

(c) *Special Local Regulations:*

(1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by law enforcement agencies and/or the sponsor's vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect at the end of each period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: June 13, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84–16582 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD2 84–08]

Special Local Regulations: St. Paul Riverfront Days, St. Paul, MN.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 839.5 to 840.2, Upper Mississippi river.

Marine events will be held between the dates June 13 thru 24, 1984, at St. Paul, Minnesota. These special local regulations are needed to provide for the safety of life and property on navigable waters during the events.

EFFECTIVE DATES: These regulations will be effective on the following dates; June 13, 15, 16, 17, 22, 23 and 24, 1984.

These regulations will also be effective on June 18, should inclement weather affect the races scheduled on June 16, 1984.

FOR FURTHER INFORMATION CONTACT: CDR. R. B. Bower, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive St., St. Louis, Mo 63103 (314) 425–5971.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Upper Mississippi River between miles 839.5 and 840.2 during the "St. Paul Riverfront Days", June 13 thru 24, 1984, inclusive. These events will consist of water ski shows, power boat races, a rowing race, towboat races, cruiser races, and a sternwheeler race, which could pose hazards to navigation in the area.

Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The revised applications and schedules to hold the event were not received until April 25, 1984, and there was insufficient time remaining to publish proposed rules in advance of the event, or to provide for a delayed effective date.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated ares is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W. L. Giessman, USCGR, Project Officer, Boating Technical Branch, and LT. R. E. Kilroy, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0207 to read as follows:

§ 100.35–0207 Upper Mississippi River, miles 839.5 through 840.2.

(a) *Regulated Area:* The area between Mile 839.5 and 840.2 Upper Mississippi River is designated the regatta area, and may be closed to commercial navigation or mooring during the following dates and (local) times:

June 13, 6:30 p.m. to 8:30 p.m.
June 15, 6:30 p.m. to 8:30 p.m.

June 16, 1:00 p.m. to 8:30 p.m.
June 17, 11:00 a.m. to 8:30 p.m.
June 18, 2:00 p.m. to 5:00 p.m. should inclement weather affect event scheduled June 16.
June 22, 7:00 p.m. to 9:00 p.m.
June 23, 2:00 p.m. to 8:30 p.m.
June 24, 12:00 noon to 8:30 p.m.

All times listed are local time.

The above times represent a guideline for possible intermittent river closures not to exceed three (3) hours in duration each. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations:* Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol, while they are operating in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8MHZ) when required, by the call sign "Coast Guard Patrol Commander".

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the marine event area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35–0207 will be effective on the following dates and times:

June 13, 6:30 p.m. to 8:30 p.m.
June 15, 6:30 p.m. to 8:30 p.m.
June 16, 1:00 p.m. to 8:30 p.m.
June 17, 11:00 a.m. to 8:30 p.m.
June 18, 2:00 p.m. to 5:00 p.m. should inclement weather affect event scheduled June 16.
June 22, 7:00 p.m. to 9:00 p.m.
June 23, 2:00 p.m. to 8:30 p.m.
June 24, 12:00 noon to 8:30 p.m.

All times listed are local time.

(33 U.S.C. 1233; 49 U.S.C. 108; 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: June 11, 1984.

S. B. Vaughn,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 84–16598 Filed 6–20–84; 8:45 am]
BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD3–84–36]

Special Local Regulations: Liberty Cup Regatta, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Liberty Cup Regatta sponsored by the Harbor Festival Foundation, Inc. of New York. This sailboat racing event will be held off the south shore of Staten Island from June 29, 1984 to July 3, 1984. This regulation is needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: This regulation becomes effective on June 29, 1984 through July 3, 1984 between the hours of 8:00 a.m. to 7:00 p.m. daily.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. Although the application for this event was received at the Third District Boating Safety Office on April 6, 1984, the determination of the area where this regulation will take effect was not agreed upon until May 25, 1984. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LTJG D.R. Cilley, Project Officer, Boating Safety Office and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Liberty Cup Regatta is just one of several marine events making up this year's Harbor Festival 1984, celebrating the Fourth of July in the Port of New York/New Jersey. The Harbor Festival Foundation, Inc. will sponsor this international, world class, sail boat race series designed as a miniature "America's Cup" competition. This match series will be a competition between eight (8), 30 foot identical sailing Auxiliary vessels. These vessels will be racing on a diamond shaped course with windward and leeward legs of 1.5 nautical miles in length. The sponsor will provide four (4) yachts to mark the corners of the race course, the exact location of which will be set up daily depending on the wind conditions. Great Kills Harbor on Staten Island will serve both as the race headquarters and the staging area for the race boats and their crews. Mariners should use caution in this area as the race participants, under committee patrol boat escort will enter and depart this area enroute the race course throughout the effective period. A regatta patrol under the control of the Coast Guard Patrol Commander will supervise this event in conjunction with the vessels provided by the race sponsor and other local government agencies. All patrol vessels provided by the sponsor will fly a distinctive flag or similar device on the race days to aid in their identification. A safety voice broadcast will be issued by the Coast Guard to properly notify boaters of this event and the contents of this regulation issued for its control. In order to provide for the safety of life and property on navigable waters the Coast Guard will regulate the movement of vessels prior to and during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water)

PART 100—[AMENDED]

Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–308 to read as follows:

§ 100.35–308 Liberty Cup Regatta, New York

(a) *Regulated Area:* Raritan Bay commencing in position 40 degrees 30 minutes 05 seconds N, 074 degrees 08 minutes 55 seconds W; thence southeast to position 40 degrees 28 minutes 49 seconds N, 074 degrees 03 minutes 06 seconds W; thence north to position 40 degrees 32 minutes 48 seconds N, 074 degrees 02 minutes 30 seconds W; thence northwest to the southeast tip of Swinburne Island to position 40 degrees 34 minutes 31 seconds N, 074 degrees 04 minutes 44 seconds W on the south shore of Staten Island thence following the shoreline westward to position 40 degrees 32 minutes 04 seconds N, 074

degrees 08 minutes 55 seconds W to include Great Kills Harbor.

(b) *Effective Period:* This regulation will be effective from 8:00 a.m. to 7:00 p.m. on June 29, 1984 through July 3, 1984. The approved rain date is July 5, 1984 and this regulation will be in effect for the same time period.

(c) *Special Local Regulations:*

(1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) All spectators shall remain 150 yards from the sailing vessels participating in the race.

(3) No spectator shall enter, pass through or remain within the diamond course area as marked by the sponsor provided yachts unless authorized by the race sponsor or Coast Guard patrol personnel.

(4) All spectators shall navigate using extreme caution and shall travel at no wake speeds when within ¼ mile of race participants and when within Great Kills Harbor.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include Commissioned, Warrant and Petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(6) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

(33 U.S.C. 1233; 49 U.S.C. 108; 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: June 4, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 84-16600 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD3-83-72]

Anchorage Ground; Delaware River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the U.S. Army Corps of Engineeers, Philadelphia District, the U.S. Coast Guard is changing a portion of the eastern boundary of Anchorage 12 on the Delaware River at Gloucester, NJ. A marginal wharf being constructed in the Delaware River by Holt Hauling and Warehousing Systems, Inc., under U.S. Army Corps of Engineers permit NAPOP-R-83-0047, encroaches slightly upon a portion of the eastern boundary of Anchorage 12. The purpose of this rule making is to bring the regulatory description of Anchorage 12 in line with actual usable anchorage ground.

EFFECTIVE DATE: July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) K. L. King, Commander (mpv-p), Third Coast Guard District, at (212) 668-7179.

SUPPLEMENTARY INFORMATION: On January 26, 1984, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (49 FR 3210). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The drafters of this notice are LTJG K. L. King, project officer for Commander (mpv-p), Third Coast Guard District, and Mrs. M. A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Comments

One comment was received from the Pilots' Association for the Bay and River Delaware. This organization was in full agreement with the proposed change to a portion of the eastern boundary of Delaware River Anchorage 12.

Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since this minor change to a portion of the boundary of Anchorage 12 will not impact upon business competition, the operation of State or local governments, or the regulations of other programs or agencies. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations, and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final regulation: In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.157(a)(13) to read as follows:

PART 110—[AMENDED]

§ 110.157 Delaware Bay and River.

(a) * * *

(13) Anchorage 12 between Gloucester and Camden. On the east side of the channel adjoining and on the upstream side of Anchorage 11, from the Gloucester to Camden, bounded as follows: Beginning at a point on the east edge of the channel at latitude 39°54'16"; thence northerly along the edge of the channel to latitude 39°56'32.5"; thence 133°, 283 yards to a point on a line 100 feet west of the established pierhead line; thence southerly along this line to latitude 39°54'34"; thence 196°16', 882 yards to latitude 39°54'08.5"; thence 354°36', 267 yards to the point of beginning. The area between New York Shipbuilding Corporation Pier No. 2 and the MacAndrews and Forbes Company pier, Camden, shall be restricted to facilitate the movement of carfloats to and from Bulson Street, Camden. The area in front of the Public Service Electric and Gas Company pier shall be restricted to facilitate the movement of vessels to and from the pier. Should the anchorage become so congested that vessles are compelled to anchor in these restricted areas, they must move immediately when another berth is available.

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46; and 33 CFR 1.05-1(g))

Dated: June 5, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-16584 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD-83-2R]

Establishment of Special Anchorage Area; Mattapoisett Harbor, Mattapoisett, Massachusetts

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule will amend the anchorage regulations so as to establish a Special Anchorage Area in the east and west sides of Mattapoisett Harbor, Mattapoisett, Massachusetts at the request of the town of Mattapoisett.

This rule is necessary to insure that mariners are aware that small craft may be moored or anchored in this area and would relieve the anchored craft of the requirement to carry and display anchor lights while utilizing this Special Anchorage.

EFFECTIVE DATE: This regulation becomes effective July 23, 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Chris Oelschlegel, U.S. Coast Guard Marine Safety Office, John O. Pastore Federal Building, Providence, Rhode Island 02903. Tel: (401) 528–5335.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a notice of proposed rulemaking (Vol. 48 FR No. 166, P. 38652) and invited comments. No comments were received.

Drafting Information

The drafters of this regulation are LTJG Chris Oelschlegel, U.S. Coast Guard, U.S. Coast Guard Marine Safety Office, John O. Pastore Federal Building, Providence, Rhode Island and LT Susan Krupanski, U.S. Coast Guard, Project Attorney, Commander (dl), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts.

Discussion of Regulation

The Coast Guard, at the request of the Town of Mattapoisett, Massachusetts, is amending the Anchor Regulations by establishing a Special Anchorage Area in Mattapoisett Harbor, Mattapoisett, Massachusetts. The anchorage area will be for the use of the general public. The number of small commercial shellfishing and pleasure crafts utilizing Mattapoisett Harbor warrants the establishment of the Special Anchorage Area. In Special Anchorage Areas vessels of not more than 65 feet in length, when at anchor, are not required to carry or display anchor lights. The shoreline is bounded by town property controlled by the Mattapoisett Harbor Development Committee and the remainder is privately owned.

The designation of this Special Anchorage Area will have no significant impact on the quality of the human environment. This action is consistent to the maximum extent practicable with the Massachusetts Coastal Zone Management Plan. Environmental information can be obtained from Mr. P. V. Kaselis, Environmental Specialist, First Coast Guard District, 150 Causeway Street, Boston, MA 02114.

Economic Assessment and Certification

This proposed regulation has been reviewed under the provisions of Exective Order 12291 and has been determined not to be a major rule. In addition, this proposed regulation is considered to be non significant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) it is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

PART 110—[AMENDED]

In consideration of the foregoing, Part 110 of Title 33 of the Code of Federal Regulations is amended by adding section 110.45a to read as follows:

§110.45a Mattapoisett Harbor, Mattapoisett, Mass.

(a) Area No. 1 beginning at a point on the shore at latitude 41°39′23″ N., longitude 70°48′50″ W.; thence 128.5° T. to latitude 41°38′45″ N., longitude 70°48′02″ W.; thence 031° T. to latitude 41°39′02″ N., longitude 70°47′48″ W.; thence along the shore to the point of beginning.

(b) Area No. 2 beginning at a point on the shore at latitude 41°39′24″ N., longitude 70°49′02″ W.; thence 142.5° T. to latitude 41°38′10″ N., longitude 70°47′45″ W.; thence 219° T. to latitude 41°37′54″ N., longitude 70°48′02″ W.; thence along the shore to the point of beginning.

Note.—Administration of the Special Anchorage Area is exercised by the Harbormaster, Town of Mattapoisett pursuant to a local ordinance. The town of Mattapoisett will install and maintain suitable navigational aids to mark the perimeter of the anchorage area.

(33 U.S.C. 2030, 2035, and 2071; 49 CFR 1.46, 33 CFR 1.05–1(q))

Dated: June 18, 1984.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 84–16588 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 12–84–02]

Drawbridge Operation Regulations; Connection Slough, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Reclamation District No. 2027, the Coast Guard is adding regulations governing the Mandeville-Bacon Island bridge over Connection Slough near Stockton, California. This change is being made because there has been little demand for bridge openings during the night hours. This action will relieve the bridge operator of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Bridge Administrator, at (415) 437–3514.

SUPPLEMENTARY INFORMATION: On March 19, 1984, the Coast Guard published a proposed rule (49 FR 10126) concerning this amendment. The Commander, Twelfth Coast Guard District, also published this proposal as a Public Notice dated Apirl 2, 1984. Interested persons were given until May 3, 1984 to submit comments.

Drafting Information

The drafters of this rule are Rose E. Guerra, project officer, and Lieutenant C. A. Amen, project attorney.

Discussion of Comments

No comments were received. At the suggestion of the Coast Guard the bridge operator has voluntarily installed a radiotelephone at the bridge as a service to mariners. A DOT evaluation has not been prepared because of minimal economic impact. The section number has been renumbered to 117.150 to conform to the numbering system established on April 24, 1984 (49 FR 17450).

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been

determined not to be major rules. They are considered to be non-significant in accordance with guidelines set out in Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(d) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by adding a new Section number: 117.150 to read as follows:

§ 117.150. Connection slough.

The draw of the Reclamation District No. 2027 bridge between Mandeville and Bacon Islands, mile 2.5 near Stockton, shall open on signal from May 1 through October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draw shall open on signal if at least four hours notice is given to the drawtender during regular operating hours, or to the Rio Vista bridge across the Sacramento River, mile 12.8. The draw shall open on signal if at least one hour notice is given for emergency vessels owned, operated or controlled by the United States or the State of California, for commercial vessels engaged in rescue or emergency salvage operations, or for vessels in distress.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: May 23, 1984.

W. F. Merlin,

Captain, U.S. Coast Guard, Commander, Twelfth Coast Guard District, Acting.

[FR Doc. 84–16585 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 147

[CCGD11–84–04]

Establishment of Temporary Safety Zone Around Structure Being Constructed on the Outer Continental Shelf (OCS)

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule.

SUMMARY: This document implements a temporary OCS Safety Zone and related regulation under the provisions of 33 CFR 147.10(c). The Safety Zone was established around the construction site of Platform Eureka, a structure being constructed on the OCS off of Southern California. The Commander, Eleventh Coast Guard District has made a determination that this Safety Zone is necessary to promote the safety of life and property on the structure, its appurtenances, attending vessels and other vessels on the adjacent waters during the installation and construction period.

EFFECTIVE DATE: The Safety Zone described herein is effective from 4:30 a.m. on June 30, 1984 through September 13, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert Varanko, Commander (mcs), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822, (213) 590–2301.

SUPPLEMENTARY INFORMATION: The Commander, Eleventh Coast Guard District has determined that the establishment of a temporary Safety Zone is necessary to promote the safety of life and property on the structure, its appurtenances, attending vessels and other vessels on the adjacent waters during the installation and construction periods. Further, he has determined that without the establishment of a temporary Safety Zone, an imminent danger would exist. Therefore, this regulation is issued without publication of a Notice of Proposed Rulemaking and is effective in less than 30 days from the date of publication. Immediate notification was accomplished utilizing Broadcast Notice to Mariners.

Drafting Information

The principal persons involved in the drafting of this rule are Lieutenant Commander Robert Varanko, Project Manager, Eleventh Coast Guard District Marine Safety Division and Commander M. K. Cain, Project Counsel, Eleventh Coast Guard District Legal Office.

Summary of Final Evaluation

This regulation is considered to be of a temporary nature in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the rule has not been conducted since its impact is expected to be minimal.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Title 33, Code of Federal Regulation, Subpart 147 is hereby amended by establishing a new § 147.T1114 as follows:

§ 147.T1114 Platform EUREKA temporary safety zone, San Pedro Channel.

(a) *Description.* A circle 500 meters in radius around the construction site of Platform Eureka. The position of the center of the construction site is 33°33'50" N., 118°07'00" W.

(b) *Regulations.* No vessel may enter or remain within the Safety Zone except: (1) Vessels involved in the actual installation and construction of the platform and (2) any other vessels specifically authorized by the Commander, Eleventh Coast Guard District.

(c) *Effective date.* This Safety Zone and its related regulation are effective from 4:30 a.m., June 30, 1984 through September 13, 1984.

Authority: 43 U.S.C. 1333(d)(1), 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b).

Dated: June 18, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard Commander Eleventh Coast Guard District.

[FR Doc. 84–16581 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD3–84–08]

Safety Zone Regulations: New York, New Jersey, Sandy Hook Channel, Raritan Bay, Arthur Kill

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around all loaded Liquefied Petroleum Gas (LPG) vessels during their transit through New York Harbor. The safety zone will be discontinued, for LPG vessels entering port when they are safely moored at the LPG receiving facility in the Arthur Kill and, for LPG vessels departing the port, when they pass the Scotland Lighted Horn Buoy "S" (LLNR 1619) at the entrance to Sandy Hook Channel. This safety zone is needed to minimize the risk of collision between LPG carriers and other vessels. This precautionary measure is deemed necessary in consideration of the nature and quantity of the LPG cargo involved and the limited ability of these vessels to take

evasive action when maneuvering through New York Harbor or approaching and departing the terminal. This safety zone regulation requires each person to comply with the general safety zone regulations contained in 33 CFR 165.23 which prohibits persons from entering the safety zone without the authorization of the Captain of the Port. Mariners will be provided advance notice of scheduled LPG vessel harbor transits through the Port of New York via Marine Safety Information Radio Broadcast.

EFFECTIVE DATE: July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Peter C. Blaisdell, Acting Port Safety Officer, Captain of the Port, New York, Building 109, Governors Island, NY 10004, telephone (212) 668–7834.

SUPPLEMENTARY INFORMATION: On March 29, 1984, the Coast Guard published a notice of proposed rulemaking in the Federal Register for this regulation (49 FR 12282). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are Lieutenant Gary W. Chappell, project officer, Captain of the Port, New York, and, Ms. M. A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Comments

No comments were received regarding the proposed rule and no changes have been made in the final rule.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Its economic impact is expected to be minimal since the theory and practice of establishing a safety zone around a loaded LPG vessel has been in effect for many years. Small and large companies with vessels operating in New York Harbor are aware of scheduled LPG vessel harbor transits and adjust their vessel movements accordingly causing minimum economic impact.

Since the impact of this regulation is expected to be minimal the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.310 to read as follows:

§ 165.310 New York, New Jersey, Sandy Hook Channel, Raritan Bay, Arthur Kill-Safety Zone.

(a) The following areas are established as Safety Zones during the specified conditions:

(1) For incoming tank vessels loaded with Liquefied Petroleum Gas, the waters within a 100 yard radius of the LPG carrier while the vessel transits the Sandy Hook Channel, Raritan Bay East and West Reach, Ward Point Bend East and West Reach, and the Arthur Kill to the LPG receiving facility. The Safety Zone remains in effect until the LPG vessel is moored at the LPG receiving facility in the Arthur Kill.

(2) For outgoing tank vessels loaded with LPG, the waters within a 100 yard radius of the LPG carrier while the vessel departs the LPG facility and transits the Arthur Kill, Ward Point Bend West and East Reach, Raritan Bay West and East Reach, and Sandy Hook Channel. The safety zone remains in effect until the LPG vessel passes the Scotland Lighted Horn Buoy "S" (LLNR 1619) at the entrance to the Sandy Hook Channel.

(b) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(c) The Captain of the Port will notify the maritime community of periods during which this safety zone will be in effect by providing advance notice of scheduled arrivals and departures of loaded LPG vessels via a Marine Safety Information Radio Broadcast.

(33 USC 1225 and 1231; 49 CFR 1.46; 33 CFR 160.5)

Dated: May 31, 1984.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, New York

[FR Doc. 84-16601 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Special Uses; Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises parts of the existing 36 CFR 251 and 261 by more clearly defining who is required to have a special-use authorization for recreation use of National Forest System lands. It also makes technical and editorial changes to clarify other parts of the existing rules.

EFFECTIVE DATE: June 21, 1984.

ADDRESS: Comments or questions on these final rules may be addressed to: R. Max Peterson, Chief, (2340), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David A. Hammond, Recreation Staff, Room 4247—South Building, 12th and Independence Avenue SW., Washington, D.C. 20013, (202) 447–2311.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service, USDA, has the responsibility for management of recreation resources on 190 million acres of National Forest, National Grassland and other lands known collectively as the National Forest System. Present regulations governing use of these lands do not adequately explain when advanced permission is required for certain recreation activities and assemblies.

Ambiguous language in the present regulations sometimes leads to confusion by the public and could result in lack of uniform application by Forest Officers. Changes in terminology and conflicting wording in the existing rule have necessitated technical and editorial updating of other parts of 36 CFR Part 251 and of 36 CFR Part 261.

Analysis of Public Comment

Analysis of the present regulation through administrative appeals and court challenges has indicated the need to clarify certain parts relating to what types of recreation uses of National Forest lands require a written authorization and who is required to have such authorization.

A proposed revision of the present regulation was published August 4, 1983, at 48 FR 35465.

The proposed rule generated little public interest. A total of eleven (11)

responses were received on the proposal, distributed as follows:

Type of respondent	Number of comments received	Percent of the total
Citizens	2	18
Environmental Organization	1	9
Forest Service Units	7	64
Government, excluding U.S.D.A.	1	9
Total	11	100

The majority of comments were very specific in nature and contained recommendations applicable to particular sections of the rule. Most of the comments were of a technical nature regarding rewording certain sections to provide additional clarity. The public comments were from two individuals belonging to an organization which objects to the permitting process on the basis of constitutional rights.

All suggestions and comments were reviewed and considered in preparation of this final rule. Responses are available for review at the office of the Director of Recreation, Forest Service, USDA, Room 4241 South Agriculture Building, 12th & Independence Avenue SW., Washington, D.C.

The following summarizes the major comments and suggestions received on the proposed revision of 36 CFR Part 251 and 36 CFR Part 261, and the Department's response to these comments. Comments are keyed to the section numbers and headings of the proposed rule document.

Section 251.51 Definitions.

Comment: Most respondents suggested that the word "not" had been left out of the definition of recreation event where it refers to an event "* * * that involves competition, entertainment, or training such as, but (not) limited to animal or vehicle races * * *"

Response: This exclusion resulted from a printing error. The word "not" is added to the text in the final rule.

Comment: A respondent questioned why the wording "by ten (10) or more participants and/or spectators" contained in the definition of recreation event is excluded from the definition of special event.

Response: Analysis of the definition of the two types of events indicates that there is no reason to exclude the criterion of ten (10) or more participants from the definition of special event, and it has been added as suggested.

Section 251.53 Special use authorizations.

Comment: It was pointed out that the authority cited for issuance of authorizations for special events should be under the Act of June 4, 1897 (16 U.S.C. 551), instead of the Land and Water Conservation Fund Act of September 3, 1964 (16 U.S.C. 4601).

Response: The term "special event" has been added to § 251.53(a) which now reads "Permits governing occupancy and use, including special events, under the Act of June 4, 1897 (30 Stat. 35: 16 U.S.C. 551)". The term is eliminated from part 251.53(k)

Comment: A respondent pointed out that reference to issuing a permit for "specialized recreation uses" had been eliminated from 251.53(k) and they felt this should be reinstated since it is specifically provided for in the law.

Response: In the final rule the term "other specialized recreation uses" is added to 251.53(k). With this change and with deletion of the L&WCF citation for "special event", 251.53(k) will read "Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601–6a(c)), for recreation events and other specialized recreation uses".

Section 251.54 (i) Denial of application for special event.

Comment: Two letters were received from, and a meeting held with, one group that uses the National Forests for annual gatherings. This group objects to the rule on the basis that the requirement to obtain a written authorization to gather on National Forest land violates their rights under the First Amendment to the Constitution.

Response: Recent court cases have held that while groups have the right under the First Amendment to gather on Federal lands, the land managing agencies have the responsibility and the authority to control that use through an authorization (permit) process. The existing rule requires all groups to have a special use permit. The revised rule severely restricts the reasons for which a Forest Officer may deny an authorization for a special event. Therefore, the final rule has not been changed on the basis of this concern.

Section 261.3 Interfering with a Forest Service officer, volunteer or "hosted enrollee" or giving false report to a forest officer.

Comment: One respondent suggested that the term "hosted enrollee" be changed to read "human resources program enrollee". The term "hosted enrollee" is vague and may not include such programs as the Senior Community Service Employment Program or others which are highly visible to the public at National Forest facilities.

Response: The term "human resources program enrollee" was substituted, in the final rule, for the term "hosted enrollee".

The proposed rule also makes technical and conforming amendments to certain sections of 36 CFR Part 261, which set forth those activities that are prohibited on National Forest System lands. Comments on proposed revisions to Part 261 are given below.

Section 261.9 (f) Property.

Comment: An environmental organization wanted the words fungicide and herbicide added to this section to make it read "Using any pesticide, fungicide, or herbicide except for personal use as * * *"

Response: The word pesticide is a generic word which applies to insecticides, fungicides, herbicides or any other agent used to control plant or animal pests. The rule, as proposed, will provide the protection this group wants.

Section 261.10(m) Occupancy and Use.

Comment: One respondent suggested that the word "rental" be eliminated from part (m) and that it be revised by adding "or other charges" to read: "(m) Failing to pay any special use fee or other charges as required."

Response: This recommendation was adopted and incorporated in the final rule.

Section 261.16(b) National Forest Wilderness.

Comment: The proposed rule would revise paragraph (b) to exclude the word "bicycle" from the provision prohibiting "(b) Possessing or using a hang glider or bicycle". It was pointed out that there is a conflict between this section and 261.57(h) which states that bicycles are prohibited from wildernesses when provided by an order.

Response: The reference to bicycle was supposed to be retained in 261.16(b) and eliminated from 261.57(h). Section 261.16(b) will not be changed in this revision. The final rule revises 36 CFR 261.57(h) to exclude the word "bicycle".

With incorporation of the changes noted above, the final rule establishes uniform guidelines for requiring a special-use authorization for recreational activities and special events on National Forest System lands while allowing flexibility needed to meet special conditions of particular areas. This uniformity will assure better understanding by the public of the circumstances under which they are required to have an authorization for use of National Forest land. This will, in turn, reduce the amount of time required

to administer National Forest units and reduce instances where law enforcement action is required.

This action has been reviewed pursuant to Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. The rule will have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary for Natural Resources and Environment has determined that this action does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because the action will not have a significant economic impact on a substantial number of small entities; it imposes no paperwork or recordkeeping requirements on small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

There are no new paperwork or information collection requirements contained in the rule. Any authorizations issued pursuant to this rule will be applied for on Forest Service Form 2700–3 which has previously been approved for use by the Office of Management and Budget and assigned Control Number 0596–0082.

List of Subjects in 36 CFR Parts 251 and 261

Administrative practice and procedure, Law enforcement—prohibitions, National Forests, and Public lands—Permits.

Therefore, for the reasons set forth in the preamble, Parts 251 and 261 of Title 36 of the Code of Federal Regulations are amended as follows:

PART 251—LAND USES [AMENDED]

1. The authority citation for 36 CFR Part 251 reads as follows:

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, Sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472), 90 Stat. 2776 (43 U.S.C. 1761–1771), unless otherwise noted.

Other authorities are listed in 36 CFR 251.53.

2. In 36 CFR 251.50, paragraphs (a), (c), and (d) are revised to read as follows:

§ 251.50 Special uses.

(a) All uses of National Forest System land, improvements, and resources, except those provided for in the regulations governing the disposal of timber (Part 223) and minerals (Part 228) and the grazing of livestock (Part 222), are designated "special uses" and must be approved by an authorized officer.

* * * * *

(c) With the exception of "recreation events" and "special events" as these terms are defined in § 251.51 of this part and unless otherwise provided by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter, special-use authorization is not required for the noncommercial use or occupancy of National Forest System lands or facilities for camping, picknicking, hiking, fishing, hunting, horse riding, boating, or similar recreational activity.

(d) Unless otherwise required by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter, the use of existing forest development roads and trails does not require a special-use authorization; however, any such use is subject to compliance with all Federal and State laws governing the roads or trails to be used.

3. 36 CFR 251.51 is amended by redesignating paragraphs (i), (j), (k), and (l) as (j), (k), (m), and (n) respectively, and adding new paragraphs (i) and (l) to read as follows:

§ 251.51 Definitions.

* * * * *

(i) "Recreation event"—a planned, organized, or publicized recreational activity engaged in by a total of ten (10) or more participants and/or spectators, that involves competition, entertainment, or training such as, but not limited to, animal or vehicle races or rallies, dog trials, fishing contests, rodeos, fairs, regattas, and games.

* * * * *

(l) "Special event"—a meeting, assembly, demonstration, parade, or other activity, engaged in by ten (10) or more participants and/or spectators, for the purpose of expression or exchange of views or judgments.

* * * * *

4. In 36 CFR 251.53, paragraph (a) and paragraph (k) are revised to read as follows:

§ 251.53 Authorities.

Special-use authorizations may be issued for:

(a) Permits governing occupancy and use, including special events, under the act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

* * * * *

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601–6a(c)), for recreation events and other specialized recreation uses;

* * * * *

5. In 36 CFR 251.54, the heading and introductory clause of paragraph (h) is revised and a new paragraph (i) is added to read as follows:

§ 251.54 Special use applications.

* * * * *

(h) *Denial of applications for a special use other than a special event.* An application for a special use other than a special event may be denied if the authorized officer determines that:

* * * * *

(i) *Denial of application for special event.* An application for a special event shall be granted unless the authorized officer determines that:

(1) The special event would conflict with another use which has been previously approved by special use authorization, contract, or approved operating plan, under this Part or Part 222, 223, or 228 of this Chapter; or

(2) The special event would present a clear and present danger to the public health or safety; or

(3) The special event would be of such nature or duration that it could not reasonably be accommodated in the particular place and time applied for; or

(4) The application proposes activities that are contrary to the provisions of Part 261 of this Chapter or the provisions of any other Federal or State criminal law.

When an application is denied on the basis of paragraph (i)(1) or (i)(3) of this section, the authorized officer shall provide the applicant the opportunity to accept an alternative site or time selected by that officer.

PART 261—PROHIBITIONS [AMENDED]

6. The table of contents for 36 CFR Part 261 is amended by removing § 261.3a and by revising the entry for § 261.3 to read as follows:

Sec.

* * * * *

261.3 Interfering with a Forest Officer, volunteer, or human resource program enrollee or giving false report to a Forest Officer.

* * * * *

7. The authority citation for 36 CFR Part 261 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011, (f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246, (i)), unless otherwise noted.

8. 36 CFR 261.1a is revised to read as follows:

§ 261.1a Special use authorizations, contracts and operating plans.

The Chief, each Regional Forester, each Forest Supervisor, and each District Ranger or equivalent officer may issue special-use authorizations, award contracts, or approve operating plans authorizing the occupancy or use of a road, trail, area, river, lake, or other part of the National Forest System in accordance with authority which is delegated elsewhere in this Chapter or in the Forest Service Manual. These Forest Officers may permit in the authorizing document or approved plan an act or omission that would otherwise be a violation of a Subpart A or Subpart C regulation or a Subpart B order. In authorizing such uses, the Forest Officer may place such conditions on the authorization as that officer considers necessary for the protection or administration of the National Forest System, or for the promotion of public health, safety, or welfare.

§ 261.2 [Amended]

9. 36 CFR 261.2 is amended by inserting, in correct alphabetical order, the definition of "special use authorization" to read as follows:

* * * * *

"Special-Use Authorization" means a permit, term permit, lease or easement which allows occupancy, or use rights or privileges of National Forest System land.

* * * * *

§ 261.3a [Amended]

10. The text of 36 CFR 261.3a is revised and redesignated as paragraph (c) of 36 CFR 261.3, and the heading for § 261.3 is revised to read as follows:

§ 261.3 Interfering with a Forest officer, volunteer, or human resource program enrollee or giving false report to a Forest officer.

* * * * *

(c) Threatening, intimidating, or intentionally interfering with any Forest officer, volunteer, or human resource program enrollee while engaged in, or on account of, the performance of duties for the protection, improvement, or administration of the National Forest System or other duties assigned by the Forest Service.

11. In 36 CFR 261.6, paragraphs (a) and (h) are revised to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree, or other forest product, except as authorized by a special-use authorization, timber sale contract, or Federal law or regulation.

* * * * *

(h) Removing any timber, tree or other forest product, except as authorized by a special-use authorization, timber sale contract, or Federal law or regulation.

12. In 36 CFR 261.9, paragraph (f) is revised to read as follows:

§ 261.9 Property.

* * * * *

(f) Using any pesticide except for personal use as an insect repellent or as provided by special-use authorization for other minor uses.

* * * * *

13. In 36 CFR 261.10, paragraph (a), (b), (c), (g), (i), (j), and (k) are revised and paragraph (m) is added to read as follows:

§ 261.10 Occupancy and use.

The following are prohibited:

(a) Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, or other improvement on National Forest system land or facilities without a special-use authorization, contract, or approved operating plan.

(b) Taking possession of, occupying, or otherwise using National Forest System lands for residential purposes without a special-use authorization, or as otherwise authorized by Federal law or regulation.

(c) Selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation, or special-use authorization.

* * * * *

(g) Posting, placing, or erecting any paper, notice, advertising material, sign, or similar matter without a special-use authorization.

* * * * *

(i) Operating or using a public address system, whether fixed, portable or vehicle mounted, in or near a campsite or developed recreation site or over an adjacent body of water without a special-use authorization.

(j) Use or occupancy of National Forest System land or facilities without special-use authorization when such authorization is required.

(k) Violating any term or condition of a special-use authorization, contract or approved operating plan.

* * * * *

(m) Failing to pay any special use fee or other charges as required.

14. In 36 CFR 261.12, paragraph (a) is revised to read as follows:

§ 261.12 Forest development roads and trails.

The following are prohibited:

(a) Violating the load, weight, height, length, or width limitations prescribed by State law except by special-use authorization or written agreement or by order issued under § 261.54 of this Chapter.

* * * * *

15. In 36 CFR 261.14, paragraph (p) is revised to read as follows:

§ 261.14 Developed recreation sites.

* * * * *

(p) Distributing any handbill, circular, paper or notice without a special-use authorization.

16. In 36 CFR 261.17, paragraph (c) is revised to read as follows:

§ 261.17 Boundary Waters Canoe Area, Superior National Forest.

* * * * *

(c) Using wheels, rollers, or other mechanical devices for the overland transportation of any watercraft, except by special-use authorization, or as authorized by Federal law or regulation.

17. 36 CFR 261.18 is revised to read as follows:

§ 261.18 Pacific Crest National Scenic Trail.

It is prohibited to use a motorized vehicle on the Pacific Crest National Scenic Trail without a special-use authorization.

18. 36 CFR 261.57 paragraph (h) is revised to read as follows:

§ 261.57 National Forest Wilderness

* * * * *

(h) Possessing or using a wagon, cart or other vehicle.

* * * * *

Dated: June 8, 1984.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 84-16480 Filed 6-20-84; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OAR-FRL-2612-5; TN-011]

Approval and Promulgation of Implementation Plans, Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of TSP, SO_2 and Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving certain requests by Tennessee to redesignate a number of counties for particulate (TSP), sulfur dioxide (SO_2), and ozone (O_3). Other redesignation requests made by Tennessee are not being approved because they are not adequately supported by data or other demonstration required by EPA redesignation policy. This action was proposed in the October 13, 1983, Federal Register (48 FR 46549). A public comment period was announced, and it is noted here that comments were received.

EFFECTIVE DATE: This action is effective July 23, 1984.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the appropriate location:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE, Atlanta, GA 30365

Division of Air Pollution Control, Tennessee Department of Health and Environment, 150 9th Avenue North, Nashville, Tennessee 37203

Library, Office of Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005.

Also, a Technical Support Document in which the criteria upon which EPA evaluated the State's requests is set forth, may be examined at the Public Information Reference Unit (address given above).

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory, EPA Region IV Air Management Branch, at the Atlanta address above, telephone 404/881-3286 [FTS 257-3286].

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act provides for changes in attainment status designation by the Administrator. Tennessee has submitted several requests that EPA promulgate new air quality classifications for various areas with respect to various pollutants. The criteria upon which EPA evaluated these requests is set forth in a Technical Support Document (TSD) that has been placed in the rulemaking record for this Agency action. The TSD explains the basis and the purpose behind the action taken today.

Tennessee submitted a petition requesting redesignation of certain nonattainment and unclassified areas on December 9, 1982. After EPA had commented on the requests, Tennessee requested reconsideration of certain areas and supplied supplemental information on January 21, 1983. In addition to requesting the changes in attainment status designation, Tennessee has revised its State Implementation Plan (SIP), changing the list which identifies the nonattainment areas in the State; these changes were submitted to EPA on January 19, 20, and 21, February 9, March 4, 14, and 22, April 6, and June 1, 1983, as SIP revisions.

As reported in the October 14, 1983, proposal notice (40 FR 46550) EPA would not consider the following changes requested by Tennessee for the reasons stated: Shelby County, from nonattainment to attainment for ozone, because the calculated number of expected exceedances is greater than 1.0; Fayette and Tipton Counties, from unclassified to attainment for ozone, because they are in the same air shed as Shelby County and influenced by its urban impact; Bradley County, from nonattainment to unclassified for ozone, because no air quality data or emission reduction summary was available with which to determine the status of this county; and a portion of LaFollette, from primary and secondary nonattainment for TSP to secondary nonattainment, because although four quarters of air quality data were submitted, the State was unable to identify commensurate emission reductions.

EPA originally proposed (40 FR 46550) to approve the redesignation of the Nashville area (Davidson, Rutherford, Sumner, Williamson, and Wilson Counties) from nonattainment to attainment for ozone. However, subsequent analysis of the ozone data for 1983 shows that the calculated number of expected exceedances for the downwind monitoring site for this group of counties which are in a common airshed is greater than 1.0. As a result, EPA is not taking final action on the redesignation of the Nashville area for ozone. Reconsideration of this requested redesignation will be made after the 1984 ozone data is analyzed.

On the basis of eight quarters of data showing attainment plus implementation of an approved SIP, EPA proposed to redesignate the following areas from TSP nonattainment, primary and secondary, to secondary nonattainment only: portions of Davidson and Hamilton Counties; and on the basis of four quarters of data plus a demonstration of emission reduction, it was proposed to redesignate the following areas from TSP nonattainment primary and secondary, to attainment for all TSP standards: portions of Campbell, Sullivan, and Shelby Counties.

Also, on the basis of eight quarters of data, EPA proposed to redesignate the following areas from SO_2 nonattainment, primary and secondary: portions of Benton and Humphreys Counties to secondary nonattainment only, and a portion of Polk County to attainment for all SO_2 standards.

On the basis of a demonstration that emission densities are equal to or less than other rural areas where monitoring data shows attainment, it was proposed to change the designation of Grainger County, Jefferson County, and the unclassifiable areas in AQCR's 007 (Tennessee portion), 207, 208, and 209 (except Fayette and Tipton Counties) from ozone unclassifiable to attainment. On the basis of four quarters of data plus a demonstration of emission reduction, it was proposed to redesignate the following ozone nonattainment areas to attainment: Knox County, Maury County, and Sullivan County. Public comments were as follows:

Comments

(1) One representative of an industrial source wrote in support of the reclassification of the Kingsport TSP nonattainment area and the Sullivan County ozone nonattainment areas to attainment status.

(2) The Memphis and Shelby County Health Department has requested that their February 2, 1983, request for reclassification be withdrawn due to findings in a recent review of ozone data obtained at the Frayser and Shelby County Mudville Monitoring stations.

(3) The Tennessee Division of Pollution Control has requested that action on there classification of Polk County to attainment for all SO_2 standards be delayed due to exceedances found in SO_2 ambient air quality on two consecutive days in October of 1983.

Action

In light of all information received and considering all comments the following

actions are being taken. EPA is not redesignating: Shelby, Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from nonattainment to attainment for ozone; Fayette and Tipton Counties, from unclassified to attainment for ozone; Bradley County, from nonattainment to unclassified for ozone; and a portion of LaFollete, from primary and secondary nonattainment for TSP to secondary nonattainment, all for reasons already discussed.

As proposed, the following areas are being redesignated from TSP nonattainment, primary and secondary, to secondary nonattainment only: portions of Davidson and Hamilton Counties; and the following are being redesignated from TSP nonattainment, primary and secondary, to attainment for all TSP standards: portions of Campbell, Sullivan and Shelby Counties. In considering the redesignation of portions of Hamilton County, it was determined that the current attainment status of the area is not a result of emission reductions brought about by economic downturn in the area.

EPA is not taking final action on the proposed redesignations of portions of Benton and Humphreys Counties from SO_2 nonattainment, primary and secondary, to secondary nonattainment only. These areas are affected by stacks subject to Section 123 of the Clean Air Act and EPA's stack height regulations. (*See* 47 FR 5864 (Feb. 8, 1982), codified at 40 CFR 51.1, 51.12 and 51.18 (1983).) On October 13, 1983 the United States Court of Appeals for the District of Columbia Circuit overturned portions of EPA's stack height regulations. *Sierra Club* v. *EPA*, 719 F.2d 436. The decision has been appealed to the United States Supreme Court by a group of affected industries. Until the judicial process is completed and the stack height regulations are either upheld by the Court or revised, EPA intends to stay action on redesignations from nonattainment to attainment for areas affected by stacks subject to Section 123 requirements.

EPA is delaying a decision on the reclassification of Polk County from SO_2 nonattainment, primary and secondary, to attainment for all SO_2 standards in light of the request by the Tennessee Division of Air Pollution Control. EPA has agreed to delay action until an investigation can be completed by Tennessee and a final determination made.

EPA is also delaying action on the redesignation of the Nashville area (Davidson, Rutherford, Sumner, Williamson and Wilson Counties) from nonattainment to attainment for ozone. Reconsideration of this requested redesignation will be made after the 1984 ozone data has been analyzed.

As proposed, the following areas are being redesignated from unclassifiable for ozone to attainment: Grainger County, Jefferson County, and the unclassified areas in AQCR's 007 (Tennessee portion), 207, 208, and 209 (except Fayette and Tipton Counties). Also, the following areas are being redesignated from ozone nonattainment to attainment: Knox County, Maury County, and Sullivan County, on the basis of four quarters of data plus a demonstration of emission reduction.

The reader should note that none of the Tennessee counties today redesignated from unclassifiable to attainment for ozone will be listed in the attainment status tables of Subpart C, 40 CFR Part 81; this is because section 107 of the Clean Air Act does not provide for such a distinction.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

(Sections 107 and 110 of the Clean Air Act (42 U.S.C. 7407 and 7410))

Dated: June 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding subparagraph (58) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(58) Materials related to attainment status designations of various areas, submitted on January 19, 20, and 21, February 9, March 4, 14, and 22, April 6, and June 1, 1983, by the Tennessee Department for Health and Environment.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

2. In § 81.343, the Tennessee-TSP table is revised to read as follows:

§ 81.343 Tennessee.

TENNESSEE—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Campbell County within downtown LaFollette.	X	X		
Those portion of Davidson County within a section of downtown Nashville and in West Nashville.		X		
That portion of Hamilton County within approximately the city limits of Chattanooga.		X		
That portion of Knox County within a section of downtown Knoxville.			X	
That portion of Maury County within the northern section of Columbia.			X	
That portion of Roane County within a downtown section of Rockwood.			X	
Rest of State				X

4. In § 81.343, the Tennessee-O_3 table is amended by removing the entries for Knox County, Maury County, and Sullivan County.

[FR Doc. 84-16538 Filed 6-20-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 61

[AD-FRL 2611-4]

National Emission Standards for Hazardous Air Pollutants; Amendments to Asbestos Standard: Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule for amendments to the Asbestos Standard that was published April 5, 1984 (49 FR 13657). This action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, Standards Development Branch, ESED (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541-5624.

Dated: June 11, 1984.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

The following corrections are made in 40 CFR Part 61 appearing on page 13657 in the issue of April 5, 1984:

1. On page 13661, column two, the definition of "asbestos waste from control devices" is corrected by replacing the word "in" with "by."

2. On page 13661, column two, the term "Emergency renovation operations" is corrected to "Emergency renovation operation."

3. On page 13661, column three, in the definition of "strip," insert "a" between "part of" and "facility."

4. On page 13661, column three, in the third line of the definition of "structural member," replace the word "loan" with "load."

5. On page 13662, column one, § 61.143, the first two lines are corrected to read "No person may surface a roadway with asbestos tailings or * * *"

6. On page 13662, column two, § 61.145(b), the sixth line is corrected to read, "components, only the * * *"

7. On page 13662, column three, § 61.146(c)(3), the first sentence is corrected to read, "Estimate of the approximate amount of friable asbestos material present in the facility in terms of linear feet of pipe, and surface area on other facility components."

8. On page 13664, column one, § 61.152, the first sentence, third line is corrected to read, "§§ 61.147 and 61.149 shall:"

9. On page 13664, column one, § 61.152(b)(1)(iv), the word "hazardous" should be capitalized.

10. On page 13664, column three, § 61.154(a), the third and fourth lines are corrected to read "61.147(d)(2), 61.148(b)(2), 61.149(b), 61.151(b), 61.151(c)(1)(ii), 61.152(b)(1)(ii), and 61.152(b)(2)(ii) shall:"

11. On page 13664, column three, § 61.154(a)(1)(i), the third line is corrected to read, "no more than .995 kilopascal (4 inches water gage), as".

[FR Doc. 84-16528 Filed 6-20-84; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 717

[OPTS-83001E; TSH-FRL 2600-8]

Confirmation of Effective Date for Recordkeeping and Reporting Procedures

Correction

In FR Doc. 84-14977 beginning on page 23182 in the issue of Tuesday, June 5, 1984, make the following corrections:

1. On page 23183, first column, **SUPPLEMENTARY INFORMATION,** line two, "2070-007" should read "2070-0017".

2. On the same page, first column, **SUPPLEMENTARY INFORMATION,** first complete paragraph, line seventeen, "2070-007" should read "2070-0017".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 26, 30, 31, 32, 35, 70, 71, 75, 77, 78, 90, 91, 94, 96, 97, 107, 108, 109, 163, 188, 189, 192, 195, 196

[CGD 79-032]

Pilot Boarding Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising its installation, equipment, and operating standards for embarking and disembarking pilots on vessels underway or at anchor. These regulations combine existing requirements with international standards contained in Regulation 17, Chapter V, of the Convention for Safety of Life at Sea (SOLAS) 1974, and add new provisions concerning replacement steps. The regulations apply to all U.S. vessels and certain foreign vessels that board pilots when calling at U.S. ports. The purpose of these regulations is to minimize the potential for hazardous situations when boarding pilots.

EFFECTIVE DATE: These regulations become effective on July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant John Astley (202-426-4431).

SUPPLEMENTARY INFORMATION: On October 5, 1983, the Coast Guard published a notice of proposed rulemaking (48 FR 45425) concerning these regulations. Interested parties were given until November 19, 1983, to submit comments. Eight letters were received.

Discussion of Comments and Changes Made

1. The proposed rules prohibited pilot ladders from having more than 2 replacement steps and required that lighting for pilot boarding equipment be permanently installed. In accordance with recommendations of several commenters, these provisions have been deleted from the final rules. Further analysis of these provisions showed that their underlying safety purposes could be accomplished as effectively through compliance with the remaining rules in the proposal.

2. The proposed rules required pilot boarding equipment for all vessels that normally employ pilots. One commenter stated that this requirement should not apply to vessels that have a pilot on board as a part of the regular crew complement. An exception has been added for these vessels in the final rules.

3. One commenter recommended deleting the requirement to have approved replacement steps because it is inconsistent with SOLAS requirements. SOLAS allows 2 non-approved steps to be inserted for damaged steps. The requirement for approved replacement steps has been retained in the final rules. Non-approved steps are often not of adequate quality for safe use. In upcoming meetings of the International Maritime Organization, the Coast Guard will be urging changes to the SOLAS requirements for pilot ladders to incorporate a provision on approved replacement steps.

4. One commenter stated that the requirement to mark replacement steps differently from other steps is unnecessary and should be deleted. This comment has not been adopted. As stated in the notice of proposed rulemaking, the purpose of this requirement is to alert the user that a particular step has been replaced and that due caution should be exercised when stepping on it.

5. One commenter stated that the Coast Guard should require a manufacturer's instruction manual covering replacement step installation. This comment has not been adopted. Both the proposed and final rules have a similar provision requiring each

replacement step to be "secured by the method used in the original construction of the ladder, and in accordance with the manufacturer's instructions."

6. The comments included recommendations that the use of tag lines in boarding operations be regulated, that heavy pilot ladders be prohibited, and that a recall system be established for faulty equipment. Analysis of these recommendations failed to demonstrate a hazard or problem that warrants additional regulations. Prudent handling of tag lines and pilot ladders should prevent accidents. Also, both the proposed and final rules provide that, if a vessel has only one pilot ladder, the ladder must "be capable of being easily transferred to and rigged for use on either side of the vessel." A recall system would be an excessive measure when considering that the equipment will be periodically inspected by the Coast Guard in addition to shipboard maintenance required by these regulations.

7. The proposed rules required uninspected vessels that normally employ pilots to carry pilot boarding equipment. This requirement has been deleted from the final rules. It became evident as a result of further study of the proposed rules that uninspected vessels do not normally employ pilots and, accordingly, the requirement is unnecessary.

Effective date of final rules: These rules will become effective one year from the date of publication. A one year delay should provide sufficient time to purchase and install upgraded equipment.

Final evaluation and economic certification: These final rules are considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

A final regulatory evaluation has been prepared and placed in the public docket. It may be inspected or copied at Room 4402, 2100 Second St., S.W., Washington, D.C. from 7:30 a.m. to 4:00 p.m. Copies may also be obtained by contacting the person listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph.

The principal costs of these regulations to vessel owners will involve purchasing pilot ladders that meet 46 CFR Subpart 163.003. Approximately 720 vessels will have to comply with the regulations. Approximately 80% of the affected vessels already have an approved pilot ladder. Assuming that most vessels have, on the average, a 30 foot ladder costing $1,500, the total cost of the regulations will be as follows: (720 vessels x 20% needing new ladders x $1,500 per ladder = $216,000.) For an individual vessel, the $1,500 cost can be prorated over an estimated 5 year service life of the ladder. By comparison, normal vessel operating costs exceed $10,000 per day.

Other costs involving maintenance, installation, and operation should be minimal. The vessels involved already have accommodation ladders and lighting, as required under existing regulations, and no new costs should arise from complying with these rules. Pilot hoists are optional and, accordingly, costs to use them will be elective.

The purpose of these regulations is to minimize the potential for hazardous situations when boarding pilots. Resulting benefits should include a reduction in injuries associated with these boarding operations.

The Coast Guard has assessed the environmental effects of this rulemaking and found no foreseeable significant impact on the environment.

Based upon the analysis of costs per vessel, as discussed above, the Coast Guard certifies that these rules will not have a significant economic impact on a substantial number of small entities.

Authority: The principal authority for these regulations is 46 U.S.C. 3306 and 3703 (Pub. L. 98–89 of August 26, 1983). These laws replace old 46 U.S.C. 375, 391a, and 416. However, paragraph one of the regulations below cites the old laws as authority since they appear as citations in the current edition of Title 46, Code of Federal Regulations. Referring to the old laws rather than the new ones is permitted under Section 2(b) of Pub. L. 98–89. In a separate rulemaking project, the Coast Guard is in the process of replacing the old authority citations in Title 46 with the new cites in Pub. L. 98–89.

List of Subjects

46 CFR Part 24

Marine safety, Vessels, Fishing vessels, Passenger vessels, Authority delegation.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements, Vessels, Navigation (water), Passenger vessels, Fishing vessels.

46 CFR Part 30

Administrative practice and procedure, Foreign relations, Hazardous materials transportation, Penalties, Tank vessels, Barges.

46 CFR Part 31

Marine safety, Tank vessels, Barges, Law enforcement, Flammable materials.

46 CFR Part 32

Marine safety, Fire protection, Tank vessels, Barges.

46 CFR Part 35

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Tank vessels, Barges, Seamen.

46 CFR Part 70

Passenger vessels, Marine safety, Foreign trade, Treaties.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Foreign trade, Law enforcement.

46 CFR Part 75

Marine safety, Passenger vessels.

46 CFR Part 77

Marine safety, Passenger vessels, Navigation (water).

46 CFR Part 78

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements, Navigation (water).

46 CFR Part 90

Cargo vessels, Marine safety, Administrative practice and procedure, Authority delegations (Government agencies).

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Law enforcement.

46 CFR Part 94

Cargo vessels, Marine safety.

46 CFR Part 96

Cargo vessels, Marine safety, Navigation (water).

46 CFR Part 107

Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 108

Fire prevention, Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 109

Reporting and recordkeeping requirements, Vessels, Continental shelf oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 163

Marine safety.

46 CFR Part 188

Oceanographic vessels.

46 CFR Part 189

Marine safety, Oceanographic vessels.

46 CFR Part 192

Marine safety, Oceanographic vessels, Communications equipment.

46 CFR Part 195

Marine safety, Oceanographic vessels, Navigation (water).

46 CFR Part 196

Marine safety, Oceanographic vessels, Reporting and recordkeeping requirements, Navigation (water), Penalties.

In consideration of the foregoing, the Coast Guard amends Title 46, Code of Federal Regulations, as follows:

1. **Authority:** 46 U.S.C. 375, 391a, and 416; 49 U.S.C. 108; 50 U.S.C. 198; 49 CFR 1.46.

2. By removing the words "pilot ladders" in § 31.01–5(a), § 31.10–15(b), § 71.20–15(a), § 71.25–10(a), § 91.20–15(a), § 91.25–10(b), § 189.20–15(a), and § 189.25–10(a) and by inserting in their place the words "pilot boarding equipment."

3. By adding § 30.10–50, § 70.10–36, § 90.10–30, and § 188.10–56 and by revising § 107.11. The text of the sections is set out only once. The text of each section is identical except for the section number in the heading.

§ . Pilot Boarding Equipment and Point of Access.

(a) "Pilot Boarding Equipment" means a pilot ladder, accommodation ladder, pilot hoist, or combination of them as required by this subchapter.

(b) "Point of Access" means the place on deck of a vessel where a person steps onto or off of pilot boarding equipment.

4. By removing § 26.03–15, § 35.01–20, § 75.50–5(a)(3), § 94.50–5(b)(2), § 108.711, § 109.343, § 109.345 and § 192.50–5(b)(2).

5. By adding new Subpart 32.90 consisting of § 32.90–1, Subpart 77.40 consisting of § 77.40–1, Subpart 96.40 consisting of § 96.40–1, Subpart 195.40 consisting of §§ 195.40–1, and 108.719. The text of each section is identical except for the section number in the heading. The text of the sections is set out only once.

Subpart —Pilot Boarding Equipment

§ . Pilot Boarding Equipment.

(a) This section applies to each vessel that normally embarks or disembarks a pilot from a pilot boat or other vessel.

(b) Each vessel must have suitable pilot boarding equipment available for use on each side of the vessel. If a vessel has only one set of equipment, the equipment must be capable of being easily transferred to and rigged for use on either side of the vessel.

(c) Pilot boarding equipment must be capable of resting firmly against the vessel's side and be secured so that it is clear from overboard discharges.

(d) Each vessel must have lighting positioned to provide adequate illumination for the pilot boarding equipment and each point of access.

(e) Each vessel must have a point of access that has—

(1) a gateway in the rails or bulwark with adequate handholds; or

(2) Two handhold stanchions and a bulwark ladder that is securely attached to the bulwark rail and deck.

(f) The pilot boarding equipment required by paragraph (b) of this section must include at least one pilot ladder approved under subpart 163.003 of this chapter. Each pilot ladder must be of a single length and capable of extending from the point of access to the water's edge during each condition of loading and trim, with an adverse list of 15°.

(g) Whenever the distance from the water's edge to the point of access is more than 30 feet, access from a pilot ladder to the vessel must be by way of an accommodation ladder or equally safe and convenient means.

(h) Pilot hoists, if used, must be approved under subpart 163.002 of this chapter.

6. By adding new § 35.01–55, Subpart 78.90 consisting of § 78.90–1, Subpart 97.90 consisting of § 97.90–1, and Subpart 196.95 consisting of § 196.95–1. The text of each section is identical except for the section number in the heading. The text of the sections is set out only once.

Subpart —Pilot Boarding Operations

§ . Pilot Boarding Operation:

(a) The master shall ensure that pilot boarding equipment is maintained as follows:

(1) The equipment must be kept clean and in good working order.

(2) Each damaged step or spreader step on a pilot ladder must be replaced in kind with an approved replacement step or spreader step, prior to further use of the ladder. The replacement step or spreader step must be secured by the method used in the original construction of the ladder, and in accordance with manufacturer instructions.

(b) The master shall ensure compliance with the following during pilot boarding operations:

(1) Only approved pilot boarding equipment may be used.

(2) The pilot boarding equipment must rest firmly against the hull of the vessel and be clear of overboard discharges.

(3) Two man ropes, a safety line and an approved lifebuoy with an approved water light must be at the point of access and be immediately available for use during boarding operations.

(4) Rigging of the equipment and embarkation/debarkation of a pilot must be supervised in person by a deck officer.

(5) Both the equipment over the side and the point of access must be adequately lit during night operations.

(6) If a pilot hoist is used, a pilot ladder must be kept on deck adjacent to the hoist and available for immediate use.

7. By adding a new § 109.347 to read as follows:

§ 109.347 Pilot boarding equipment.

(a) The master or person in charge shall ensure that pilot boarding equipment is maintained as follows:

(1) The equipment must be kept clean and in good working order.

(2) Each damaged step or spreader step on a pilot ladder must be replaced in kind with an approved replacement step or spreader step, prior to further use of the ladder. The replacement step or spreader step must be secured by the method used in the original construction of the ladder, and in accordance with manufacturer instructions.

(b) The master or person in charge shall ensure compliance with the following during pilot boarding operations:

(1) Only approved pilot boarding equipment may be used.

(2) The pilot boarding equipment must rest firmly against the hull of the vessel and be clear of overboard discharges.

(3) Two man ropes, a safety line and an approved lifebuoy with an approved water light must be at the point of access and be immediately available for use during boarding operations.

(4) Rigging of the equipment and embarkation/debarkation of a pilot must be supervised in person by a deck officer.

(5) Both the equipment over the side and the point of access must be adequately lit during night operations.

(6) If a pilot hoist is used, a pilot ladder must be kept on deck adjacent to the hoist and available for immediate use.

8. In § 163.003–13 by adding a new paragraph (c)(10), and revising the introductory text of paragraph (d) and revising (g) to read as follows:

§ 163.003–13 Construction.

* * * * *

(c) * * *

(10) Each replacement step must be either white or yellow instead of the orange color required under paragraph (c)(8) of this section, and must have the special marking required in § 163.003–25(b).

(d) *Spreaders.* Each pilot ladder with 5 or more steps must have one or more spreaders that meet the following requirements:

* * * * *

(g) *Special arrangements for pilot hoists.* Each pilot ladder produced for use with an approved pilot hoist must have at least 8 steps. The top ends of its suspension members need not have an eye splice or thimble or be arranged as required in paragraph (b) of this section if necessary to permit attaching the ladder to fittings of a particular pilot hoist. The spreader required in paragraph (d) of this section may be omitted from an 8 step ladder for a pilot hoist.

8. By adding a new § 163.003–25(b) to read as follows:

§ 163.003–25 Marking.

* * * * *

(b) In addition to the markings required under paragraph (a) of this section each step sold as a replacement step must be branded or otherwise permanently and legibly marked with the words "REPLACEMENT STEP ONLY."

Dated: June 13, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–16288 Filed 6–20–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[General Docket No. 80–113, RM–3232, RM–3537; FCC 84–175]

Amendment of the Commission's Rules With Regard to the Multipoint Distribution Service; and Petitions for Rulemaking Regarding the Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting new rules for the Multipoint Distribution Service (MDS). The rules define adjacent channel interference and cochannel interference and establish a protected service area for MDS stations. The reasons for adopting these rules are to facilitate settlement of interference disputes in this service and to aid in the location of new stations.

DATE: The new rules will be effective on July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Kevin Kelley, Domestic Facilities Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 634–1860.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 21

Communications common carriers, Point-to-Multipoint microwave.

First Report and Order

In the matter of amendment of parts 21, 74, and 94 of the Commission Rules and Regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service (OFS). Amendment of Part 21 of the Commission's Rules to make the prior coordination requirement of § 21.100(d) applicable to Multipoint Distribution Service. Amendment of Part 21 of the Commission's Rules to define the Interference Studies Required by § 21.902(c) and to Establish Minimum Criteria for the Acceptance of Newly Filed Applications Proposing the Construction of New MDS Stations or the Amendment of Existing MDS Authorizations; General Docket No. 80–113, RM–3232 and RM–3537.

Adopted: April 26, 1984.

Released: June 14, 1984.

By the Commission.

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Appendix A—List of Commentars.
Appendix B—Amended Rules

I. Introduction

1. On April 24, 1980, the Commission released a Notice of Inquiry and Proposed Rulemaking in this Docket in which it proposed changes to Subpart K of Part 21 of the Rules pertaining to the Multipoint Distribution Service (MDS).[1] An inquiry was made concerning the possible application of the proposed rules to the 2500–2690 MHz band that the Commission had proposed be shared by the MDS, the Instructional Television Fixed Service (ITFS) and the Private Operational Fixed Microwave Service (OFS).[2]

2. The ITFS channels are licensed primarily to educational institutions that use them to transmit instructional television material to remote locations such as schools, hospitals and industrial plants. The MDS channels are used primarily for the distribution of premium television to hotels, motels, and single family and multiunit residences.

3. Approximately 70 entities submitted comments and reply comments in response to the *Notice.* On February 10, 1982, Microband Corporation of America (Microband) submitted a 3 volume proposal to create what it termed a "wireless cable system" using frequencies in the 2500–2690 MHz band.[3] Microband simultaneously submitted a "Motion for Acceptance of Additional Comments" requesting that its proposal be accepted as additional comments in this proceeding and in the companion proceeding in General Docket No. 80–112, which was granted.[4] Approximately 150 reply comments were received in response to the Microband proposal.[5]

4. On May 26, 1983, the Commission adopted a Report and Order in the companion proceeding in General Docket No. 80–112 reallocating 8 channels in the 2500–2690 MHz band from the ITFS to the MDS. The channels reallocated were the four channels in the "E" Group (E_1, 2596–2602 MHz; E_2, 2608–2614 MHz; E_3, 2620–2626 MHz and E_4, 2632–2638 MHz) and the four

[1] Notice of Inquiry and Proposed Rulemaking in General Docket No. 80–113, FCC 80–137, 45 FR 29350 (1980) (hereinafter cited as *Notice.*)

[2] Notice of Inquiry, Proposed Rulemaking and Order in General Docket No. 80–112, FCC 80–136, 45 FR 29323 (released May 2, 1980) (hereinafter cited as *Companion Notice.*)

[3] Proposal of Microband Corporation of America, General Docket Nos. 80–112 and 80–113 (February 10, 1982) (hereinafter cited as *Microband Proposal*).

[4] Order Accepting Additional Comments, 47 FR 18,932 (1982).

[5] A list of all those submitting comments in this proceeding is contained in Appendix A. This list includes all comments both formal and informal. Comments that were not filed in a timely manner are hereby accepted as informal comments. Some entities submitted more than one set of comments and hence are listed more than once.

channels in the "F" Group (F_1, 2602–2608 MHz; F_2, 2614–2620 MHz; F_3, 2626–2632 MHz and F_4, 2638–2644 MHz).[6]

5. Before the adoption of the *Multichannel Order*, the MDS was allocated two channels. In the 50 areas listed in Section 21.901(c) of the Rules, 47 CFR 21.901(c), the channels are each 6 MHz wide and are designated channel 1 (2150–2156 MHz) and channel 2 (2156–2162 MHz). In all other areas, channel 1 is available but channel 2 is replaced by channel 2A that is only 4 MHz wide (2156–2160 MHz). Only channel 1 and channel 2 have sufficient bandwidth to transmit a standard television signal (6 MHz of bandwidth is required). Prior to the adoption of the *Multichannel Order*, there were twenty-eight, 6 MHz channels available for ITFS use. As a result of the reallocation, the ITFS is now authorized twenty, 6 MHz channels in all markets. In addition, all ITFS applicants for and licensees and permittees of the channels reallocated to the MDS as of the date of reallocation are grandfathered. Thus, as a result of the reallocation, the MDS is now authorized ten, 6 MHz channels in the fifty metropolitan areas where two, 6 MHz channels were previously available and nine, 6 MHz channel and one, 4 MHz channel in all other areas. In both situations, the reallocated channels are subject to the rights of grandfathered ITFS users.[7]

6. In the *Notice*, we observed the MDS technical rules were adopted in 1974 [8] when there were no MDS stations in operation. As the service has become operational, a number of technical problems have been encountered by licensees in the operation of their stations and by the Commission's staff in processing the large number of MDS applications that were not fully anticipated by the technical rules. One source of difficulty encountered both by those operating MDS stations and those processing applications was actual or anticipated electrical interference between stations operating on the same channel in adjacent areas or between stations on adjacent channels operating in the same areas. When we adopted the existing rules, we depended on informal coordination between those involved to anticipate and resolve interference conflicts. This informal procedure has not been successful because we have experienced a large number of circumstances in which proposals for construction of new stations or modification of existing stations are met with formal petitions alleging electrical interference.[9] We therefore decided there was a need to establish technical rules to resolve these conflicts. It was also our intention to establish criteria that would guide us in locating new stations.

7. At the time of the adoption of the *Notice*, a similar set of problems did not exist in either the ITFS or the OFS. In the ITFS, this was because the larger number of channels available allowed channel assignments to be made so that very little adjacent area, cochannel operation or same area, adjacent channel operation was authorized. In the OFS, these problems had not occurred because the channels assigned to that service were very lightly used. We recognized, however, that if we decided to reallocate some of the ITFS channels to the OFS and/or the MDS, similar problems might occur in these services. For this reason, we asked for comments on the feasibility of applying the proposed new technical rules to all services sharing the band.

II. The Proposed Rules

8. In the *Notice*, we proposed several new rules for the MDS to govern matters relating to interference. The proposed rules concerned cochannel and adjacent channel interference standards, a standard receiving antenna, the definition of a protected service area, transmitting antenna height and location standards, and adjacent channel transmitter location standards. In this section, we will address each of these matters. In the Notice of Inquiry portion of the *Notice*, we requested comment on several issues, including the appropriateness of applying the proposed MDS rules to the ITFS and OFS users of the 2500–2690 MHz band. We will discuss the applicability of each of the proposed MDS rules to the ITFS. Also, notwithstanding the Commission's decision to prohibit use of the H group (OFS) channels for video entertainment services until August 1, 1985,[10] the OFS channels ultimately may be used in part for delivery of video entertainment programming. Therefore, some of the same considerations raised with respect to MDS technical standards may be made generally applicable to OFS.

A. Interference Standards

1. Cochannel Interference

9. Section 21.902(c) of the Commission's Rules, 47 CFR 21.902(c), requires that all MDS applications include an analysis of the potential for harmful interference to all existing and previously proposed cochannel or adjacent channel operations with transmitters located within 50 miles of the applicant's proposed transmitter location. We have received many petitions to deny containing claims that a newly proposed cochannel station would cause harmful interference to the petitioner's stations, but often the petitions do not state what constitutes harmful cochannel interference. Similarly, the existing MDS rules do not contain a definition of harmful cochannel interference. In the *Notice*, we proposed that an undesired cochannel signal be deemed to be causing harmful cochannel interference when the ratio of the desired signal to the undesired cochannel signal was less than 45 dB at the output of a standard receiving antenna oriented to receive the maximum desired signal.

10. Our choice of 45 dB as the proposed standard was based both on previous Commission determinations and generally accepted international standards. Since 1952 the Commission has recognized, that for Grade B service with no frequency offset, (see paragraphs 14–18 below for a discussion of the use of frequency offset techniques to reduce cochannel interference problems) a signal that is within 45 dB of the desired signal is an interfering signal.[11] This standard was reiterated by the Commission in the Low Power Television and VHF "Drop-In" Rulemaking Proposals.[12] It is also the standard used by the CCIR.[13]

11. The 45 dB ratio was established on the basis of tests conducted by the Television Allocation Study Organization (TASO) in which actual television pictures, both with and without cochannel interference, were

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[6] Report and Order, General Docket No. 80–112, 94 F.C.C. 2d 1203 (1983) (hereinafter cited as *Multichannel Order*).

[7] A complete description of the reallocation plan is contained in the Multichannel Order. *Multichannel Order*, at 1248.

[8] Report and Order, Docket No. 19493, 45 F.C.C. 2d 616 (1974), *recon.*, 57 F.C.C. 2d 301 (1975).

[9] *Notice*, at para. 3.

[10] Private Operational-Fixed Microwave Service; Various Methods of Transmitting Program Material to Hotels and Similar Locations and; Use of the Business Radio Service for the Transmission of Motion Pictures or Other Program Material to Hotels or Other Similar Points, 48 FR 32,576, 32,583 (July 18, 1983). *See also*, 47 CFR 94.61(b) n.20.

[11] Television Assignments, 41 F.C.C. 142, 177 (1951).

[12] TV Translators and Low Power Stations, 87 F.C.C. 2d 610, 613 (1981); Table of TV Channel Allotments, 83 F.C.C. 2d 51; 93 (1980).

[13] *Ratio of Wanted-to-Unwanted Signal for AM Vestigial Sideband Color Television Systems*, Report 306–4, Recommendations and Reports of the CCIR, 1982 Volume XI, Part 1, Broadcasting Service (television) 225, (1982) (hereinafter cited as CCIR Report 306–4). The CCIR recommendation of 45 dB is just *tolerable* interference that occurs between 1% and 10% of the time. An additional 10 dB of protection would be required to provide a picture with just *perceptible* interference. The latter is the recommended standard where both the wanted and unwanted signals are substantially non-fading.

compared by a panel of viewers.[14] When the ratio of the desired signal to the undesired signal was 45 dB, the picture observed was judged to be "passable" or better by 60% of those viewing the picture.[15] Passable refers to one of six television picture grades used by the TASO to rate the quality of television pictures. A passable picture is defined as one in which the interference is perceptible but not objectionable. A picture of this quality is designated a TASO Grade 3 picture.[16] The next higher grade picture, a TASO Grade 2 or fine, is obtained when the ratio is in the 50 to 55 dB range.

12. Because signal strength received is dependent on both a transmitting antenna's proximity and power, defining what constitutes an interfering signal determines how close together stations can be located or alternatively, how much power stations can radiate. Increasing the ratio to 50 dB would mean that a new applicant would be required to locate its transmitter further from an existing station and/or to radiate less power. Since new stations would be required to locate further from existing stations, there would be fewer opportunities for new stations to be licensed. Of course, receiving sites located further from the existing station would be less likely to experience harmful cochannel interference.

13. On the other hand, reducing the ratio below 45 dB would mean new stations could be located closer to existing stations and hence there would be more stations available. It would also mean that some of those receiving service from the existing station would be receiving a level of service inferior to that received under the 45 dB standard.

14. One commenter, John F. X. Browne, suggested that 45 dB was not sufficient protection and that we should adopt 50 dB as the standard. Mr. Browne claimed the additional protection is needed to combat the "low frequency beat" that is typical of cochannel interference. He further suggested that these deleterious effects can be ameliorated by using "exotic methods such as precisely controlled frequency offsets."[17] The effect of cochannel interference referred to by Mr. Browne is that which occurs when cochannel stations are operating on their nominal frequencies and the ratio of the desired channel signal to the undesired channel signal is less than 45 dB at the television receiver. The interference shows up as a slowly moving horizontal bar superimposed on the television picture. The width of the bar and the speed at which it moves are determined by the difference in frequency between the visual carrier of the desired station and the visual carrier of the undesired station. This difference, which is apparently the low frequency referred to by Mr. Browne, is commonly called the frequency offset between the two stations.

15. The Commission has long been aware that controlling the offset between cochannel transmitters located in adjacent areas increases the level of undesired signal that can be tolerated by approximately 17 dB.[18] That is when the frequency offset between the transmitters is maintained at 10 KHz±1 KHz a passable television picture (TASO Grade 3) will be available where the ratio of the desired signal to the undesired signal is 28 dB as contracted with the 45 dB ratio required when the offset is not controlled. If the offset is maintained within ±2 Hz (this is called a "precise" frequency offset), the required ratio is reduced another 6 dB to 22 dB.[19]

16. Because of the higher frequencies used for MDS transmission (also ITFS) using frequency offset techniques is technically more difficult than at either VHF or UHF television frequencies. For this reason we have not required closely spaced MDS stations (or ITFS stations) to use this technique to reduce the possibility of cochannel interference problems. We have, however, always required that all applicants and licensees "make exceptional efforts to avoid harmful interference to other users and to avoid blocking * * * cochannel use in nearby cities." 47 CFR 21.902(a). In the first instance in which we authorized the MDS station to increase its power from 10 watts to 100 watts, we recognized that using frequency offset techniques would reduce the required desired to undesired signal ratio by at least 16 dB. Because of this, that grant was subject to the condition that the licensee use frequency offset techniques if a station were subsequently authorized in an adjacent area.[20]

17. Thus, we conclude that, although Mr. Browne is correct in stating that frequency offset techniques will reduce the effects of cochannel interference, we do not agree stations not using these techniques require more than the 45 dB of protection we proposed.

18. Another commenter, Cox Cable Communications, Inc. (CCCI) suggested that we use 55 dB rather than 45 dB because our calculations "do not take into considerations reflections, refractions, ducting, ground waves and other deleterious phenomena that can only be properly evaluated while a system is in actual operation.[21] These phenomena do produce signal levels in practice that may vary considerably from the levels that would be predicted by standard propagation calculations. In some situations, the desired signal will be affected more than the undesired signal; in other situations the undesired signal will be affected more. It is more likely, however, that the undesired signal, which generally travels over a much longer propagation path, will be affected by such phenomena.

19. Another commenter, R. L. Vega, suggested that the protection ratio proposed was too high and that 40 dB was adequate. Mr. Vega claimed the lower protection ratio was justified because the Commission analysis did not consider significant propagation factors that reduce the level of the undesired signal received.[22] These are apparently the same factors cited by CCCI to support its argument that a higher ratio should be used. Reducing the ratio would allow stations to be located closer together thereby reducing

[14] Engineering Aspects of Television Allocations, Report of the Television Allocations Study Organization to the Federal Communications Commission, 535–537, (March 16, 1959) (hereinafter cited as TASO *Report*). *See also*, Dean, at *Measurements of the Subjective Effects of Interference in Television Reception*, 48 Proceedings of the IRE 1035 (June 1960). (This is a detailed summary of the TASO tests of the effects of interference on perceived television picture quality).

[15] *Id.* at 536 (Figure 42).

[16] The six TASO grades and their description are:

Grade 1, Excellent. The picture is of extremely high quality, as good as you could desire.

Grade 2, Fine. The picture is of high quality providing enjoyable viewing. Interference is perceptible.

Grade 3, Passable. The picture is of acceptable quality. Interference is not objectionable.

Grade 4, Marginal. The picture is poor in quality and you wish you could improve it. Interference is somewhat objectionable.

Grade 5, Inferior. The picture is very poor but you could watch it. Definitely objectionable interference is present.

Grade 6, Unusable. The picture is so bad that you could not watch it. *Id.* at 506.

[17] Comments of John F. X. Browne, General Docket No. 80–113, 2–3 (September 2, 1980) (hereinafter cited as Brown Comments).

[18] Table of TV Channel Allotments, *supra* note 12, at 93.

[19] Kalagian, G.S., A Review of the Technical Planning Factors for VHF Television Service, FCC/OST Report RS77–01, 12 (March 1, 1977). National Technical Information Service No. 266341.

[20] Micro-TV, Inc., 54 F.C.C. 2d 100, 101–102 (1975).

[21] Comments of Cox Cable Communications, Inc. General Docket No. 80–113, 2–3 (September 2, 1980) (hereinafter cited as CCCI Comments).

[22] Comments of Richard L. Vega, Northstar Communications, Elborn MDS Company, San Bernadino MDS Company, Angeles MDS Company, and Microwave Communications Systems, Inc., General Docket No. 80–113, 4 (September 2, 1980) (hereinafter cited as Vega Comments).

what Mr. Vega refers to as "white" areas (this refers to areas between stations that cannot be served by either station). Of course locating the stations closer together also will increase the possibility of cochannel interference. In any case, what CCCI and Mr. Vega are really arguing is not that the proposed ratio is incorrect but rather that the methods used to calculate it are not always accurate. We agree; however, we do not believe that we should adopt a different standard in an attempt to account for unquantifiable propagation phenomena. Neither CCCI nor Mr. Vega offered any analytical or experimental data to support the suggested changes in the standard. We believe that 45 dB is a reasonable compromise between insuring that a licensee has an adequate level of protection and insuring there are sufficient stations to serve the public.

20. Several members of the ITFS community suggested that because the proposed standard was based on entertainment programming it was not necessarily appropriate for other types of programming.[23] Their claim was that programming material that contains more detail requires a higher level of protection than ordinary entertainment programming. They cited schematic diagrams, mathematical formulas, and detailed textual information as examples of material that would require more protection against cochannel interference than entertainment programming. We are aware that the level of cochannel interference that viewers will find unacceptable is dependent upon the nature of the material being transmitted. In the TASO tests, comparisons were made between a scene with relatively little detail and one with considerable detail; the results of these tests showed that for the same interference level, scenes with more detail are more likely to be perceived as having unacceptable levels of interference than are scenes with less detail.[24]

21. Because our purpose in adopting a definition of what constitutes cochannel interference is to have a basis for determining the separation between cochannel stations, it is not clear that we need to use the same standard in every situation. If it can be shown by an applicant or a licensee that the programming being transmitted is of a type that requires a level of protection greater than that afforded by the standard we are adopting, we can use a standard appropriate for the situation. In such a case, it would be the responsibility of the licensee to show clearly that the 45 dB ratio was not sufficient protection for the service being provided. Such a showing would cnsist of test data similar to that provided in the original TASO report.

22. Several commenters noted that we only considered cochannel interference in situations where both channels were being used to transmit conventional television signals and that we failed to consider the susceptibility of a television signal to cochannel interference caused by a channel carrying digital information.[25] The interference that would result from the transmission of digital data is dependent upon the data rate being transmitted, the modulation method employed, and other characteristics of the digital data system as well as the relative powers of the signals involved. At this time, there is virtually no use of either the 2150–2162 MHz band or the 2500–2690 MHz bands for the transmission of digitized information. We received neither theoretical nor empirical data that could be used to predict the strength of a digitally modulated signal that might cause harmful interference. For these reasons, we do not believe we should consider developing digital vs. video interference standards at this time.

23. On the basis of this analysis, we have concluded that the proposed 45 dB cochannel interference standard represents a reasonable compromise between the need to insure that existing MDS operations do not experience harmful interference from new stations and the need to not restrict unnecessarily the construction of new facilities that will provide service to areas not now being served. We have also concluded that this standard should be used to resolve cochannel interference standards between multichannel MDS stations and the "grandfathered" operators of E–group and F–group ITFS facilities. As noted above, we have received no evidence that ITFS operations need a higher level of protection than do MDS operations. We will also use this standard to resolve any cochannel interference issues involving only ITFS stations. Thus, we are amending the MDS rules to make the proposed interference standard the permanent standard. We are not, at this time, amending Part 74 to make this standard a part of the ITFS rules.

2. Adjacent Channel Interference

24. Adjacent channel interference is interference that occurs as a result of the operation of either an upper adjacent channel transmitter or a lower adjacent channel transmitter in the vicinity of the desired channel system. Adjacent channel interference would not exist if reception equipment did not respond to adjacent channel signals *and* transmission equipment never radiated out of band signals. Unfortunately, this is not the case. Adjacent channel interference can and does occur in two ways. It occurs when the reception equipment produces either a visual or an aural output in response to an adjacent channel signal, and it also occurs when a transmitter emits a signal outside its assigned channel and within an adjacent channel.

25. In the *Notice*, we explained that whether a television receiver produces an undesirable output in response to an undesired adjacent channel signal is affected by three factors: the absolute level of the signals received, the relative level of the signals received, and the design of the receiver itself. On the basis of a 1974 report from the Office of the Chief Engineer,[26] we concluded that if

[23] *See, e.g.*, Comments of Leland Stanford Junior University, General Docket No. 80–113, Attachment, at 3 (September 2, 1980) (hereinafter cited as Stanford Comments).

[24] *TASO Report, supra* note 14, at 537.

[25] *See, e.g.*, Comments of the Corporation for Public Broadcasting, General Docket No. 80–113, 7–8, (September 2, 1980).

[26] FCC, A Study of the Characteristics of Typical Television Receivers Relative to the UHF Taboos, Project Number 2229–3 (June 1974). The purpose of the work described in this report was to investigate certain performance characteristics of UHF television receivers that relate to the so-called "UHF Taboos" that are contained in §§ 73.698 and 73.610(d) of the rules, 47 CFR 73.698, 73.610(d). Tests were conducted on 47 receivers to determine their susceptibility to interference caused by the following type of undesired signals:

Adjacent channels
Image frequency channels
Channel combinations creating intermodulation (two undesireds)
Channels creating cross-modulation
Channels differing in frequency by the IF of the receiver

The results of the tests were presented as a set of graphs that showed the relationship between the level of the desired signal and the level of the undesired signal that would just cause perceptible interference. The undesired levels plotted were the levels that caused perceptible interference in the best receiver, the fifth best receiver, fifth worst receiver, the worst receiver and the mean of the interference producing levels of the 47 receivers. In this order, we are only establishing protection from adjacent channel interference and cochannel interference. We recognize that it is possible that interference problems could occur as a result of the operation of noncolocated channels further removed than 1 channel from the desired station; however, we believe that it is better to deal with such occurrences on a case-by-case basis rather than attempt to setup interference standards at this time. *See also*, Middlekamp, L. C., *UHF Taboos-History and Development*, CE–24 IEEE Transactions on Consumer Electronics 514 (November, 1978) (This article contains a discussion of the technical and policy implications of the taboos.).

the desired signal were 15 dB higher than the undesired adjacent signal there would be little, if any, adjacent channel interference produced by reception equipment. We also pointed out that a conventional MDS downconverter is a nonselective device that will downconvert both MDS channel 1 and MDS channel 2 and present downconverted versions of both to the television receiver. For these reasons, we proposed a rule, § 21.902(b)(5), that would require new stations to provide a signal at the input to the television receiver that was at least 15 dB higher than an undesired adjacent channel signal. Implicit in our proposal was a definition of what constitutes adjacent channel interference. That is an adjacent channel signal will be considered an interfering signal when the ratio of the desired signal to the undersired signal is less than 15 dB when measured at the input of the television receiver that is connected to the output of the MDS downconverter.

26. At this point, it is useful to review the background that lead to our proposal. The adjacent channel interference that occurs when television receivers respond to adjacent channel signals is different depending upon whether the interfering channel is an upper adjacent channel or a lower adjacent channel. Upper adjacent channel interference occurs when the television receiver responds to the visual carrier and sidebands of an upper adjacent channel by producing an unsyncronized, undesired picture superimposed on the desired picture. In the Chief Engineer's test at a desired signal level of −45 dBm (the signal level required by the mean receiver to produce a high quality picture), the ratio of desired signal to undesired signal that produced just perceptible upper adjacent channel interference in the mean receiver was −12 dB. The ratio for the best receiver was −27 dB and for the worst receiver it was +10 dB. Thus at this level of desired signal, there was a 37 dB difference between the ability of the best and worst receivers in rejecting upper adjacent channel interference. At much higher desired signal levels, the receivers did not perform as well. For example when the desired signal level was −15 dBm, the ratio for the mean receiver was 2 dB, for the best receiver it was −12 dB and for the worst receiver it was +16 dB. What these results mean is that depending on the desired signal level, some receivers do not respond to upper adjacent signals until the adjacent signal is considerably stronger (25 dB or more) than the desired signal but that and there are other receivers that respond to upper adjacent channel signals that are a lower level (in some case more than 15 dB lower) than the desired signal.

27. Lower adjacent channel interference occurs when a television receiver responds to the aural carrier and associated sidebands of the lower adjacent channel and is manifested by bar patterns superimposed on the displayed pictures. The results of the Chief Engineer's test showed that most of the receivers tested were more susceptible to lower adjacent channel interference than they were to upper adjacent channel interference. The effect of lower adjacent channel interference also varies with ratio of visual carrier to aural carrier in the adjacent channel signal. The Chief Engineer's tests were done with this ratio set at 10 dB.[27]

28. It can readily be seen from this review of the test data upon which we based our proposed adjacent channel interference standard that our approach was extremely conservative. For example, our proposed standard of a desired to undesired signal ratio of 15 dB was 42 dB higher than the ratio required by the best receiver in the presence of an upper adjacent channel interfering signal when the desired signal level was −45 dBm. It gave 5 dB more protection than required by the worst receiver at this level of desired signal. Only the worst receiver operating under the worst conditions performed poorer than our proposed standard.

29. We did not receive much comment on our proposed adjacent channel interference standard. One commenter did point out that cable television systems operate with equal levels of desired and adjacent channel signals without apparent problem.[28] The National Telecommunications and Information Administration (NTIA) suggested that we should not base our standards on the worst equipment but rather on the best equipment.[29] Microband suggested that the Chief Engineer's test should not be automatically applied to MDS stations.[30] It also suggested that we might look to the cable television industry for guidance in this area.[31] Microband also suggested that in those cases where adjacent channel interference occurs because of the high signal levels involved the solution was merely to pad down the signal input to the receiver.[32]

30. Since this proceeding began, the CCIR has issued the following adjacent channel-protection ratios for UHF and VHF television systems: for lower adjacent-channel interference the ratio of the desired signal to the undesired signal should be equal to or greater than −6 dB; for upper adjacent channel interference the ratio should be equal to or greater than −12 dB. These recommendations are accompanied by the acknowledgement that "fairly conservative values have been chosen to account for the divergence in performance between different types of receivers."[33] The CCIR recommendations also contain the notation "Investigations by Canada [CCIR, 1978–82] indicate the appropriate values appear to be −9 dB for lower adjacent channel and −13 dB for upper adjacent channel on system M/NTSC."[34] The M/NTSC is the television transmission system used in the U.S. and Canada.

31. The lower adjacent channel interference standard recommended by CCIR was based on the assumption that the undesired aural carrier was 7 dB below the undesired visual carrier. If this ratio was increased (the aural carrier reduced relative to the visual carrier), the lower adjacent channel interference standard could be reduced. In its comments filed in this proceeding, Contemporary Communications Corporation recommends that the visual-to-aural ratio be 15–17 dB.[35] John F. X. Browne in his comments points out that cable television systems typically operate with a visual-to-aural ratio of 15 dB and equal level visual carriers without apparent difficulty.[36]

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[27] Section 21.904(d) of the Rules, 47 CFR 21.904(d), requires that, an MDS station being used for television transmission, must maintain the aural signal between 7 and 10 dB below the visual signal. This is the same standard required of broadcast television stations. 47 CFR 73.682(a)15. Cable television systems operate with the aural carrier 15 to 17 dB below the visual carrier to reduce the occurrence of lower adjacent channel interference. This apparently does not effect the audio performance of these systems. *See*, Additional Comment of Contemporary Communications Corporation, General Docket Nos. 80–112 and 80–113, 21 (July 2, 1982). *See also, infra*, para. 29.

[28] Browne Comments, *supra* note 17, at 6.

[29] Comments of the National Telecommunications and Information Administration, General Docket No. 80–113, 7 (September 2, 1980) (hereinafter cited NTIA Comments).

[30] Comments of Microband Corporation of America, General Docket No. 80–113, 63, (September 8, 1983) (hereinafter cited as Microband Comments).

[31] *Id.*

[32] *Id.*

[33] *Ration of the Wanted-to-Unwanted Signal in Monochrone Television*, Recommendation 418–3, Recommendations and Reports of the CCIR, 1982, Volume XI–Part I, Broadcasting Service (Television) 215, 216 (1982).

[34] CCIR Report 306–4, *supra* note 13, at 232.

[35] See, *supra* note 27.

[36] Browne Comments, *supra* note 17, at 6.

32. Although there has not been extensive testing of adjacent channel MDS operations, two such tests have occurred. First was the test that was conducted in New York City in 1974. A statistical analysis of the results of the test indicated that if the ratio of the desired signal to the undesired signal was greater than −2.5 dB, it could be stated at the 72% confidence level that no adjacent interference would be observed. Similarily, it could be stated at the 32% confidence level that if the ratio was between −2.5 and −7.7 dB adjacent channel interference was barely visible and at the 45% confidence level that if the ratio were less than −7.7 dB the interference would be easily visible.[37] Microband included with its comments in this proceeding the results of another adjacent channel test conducted in Cincinnati in 1980.[38] Unfortunately in this test, the ratio of the desired channel signal to the undesired channel signal was between +8 dB and +30 dB. Not unexpectedly no adjacent channel interference was observed on the desired channel.

33. We recognize that the adjacent channel performance of the television receiver is not the only factor that determines the adjacent channel performance of an MDS reception system. A typical MDS reception system consists of an antenna, a downconverter, and a television receiver. The downconverter can consist of an amplifier and a mixer followed by a second amplifier. If there are two or more signals present at the output of the receiving antenna, each of the components in the downconverter could generate intermodulation products that would interfere with television reception. For example, if there were two or more very strong signals present at the input to the first amplifier, the amplifier could be overloaded, that is forced to operate in a nonlinear manner, thereby produce undesired intermodulation products. The mixer that is used to change the frequency of the MDS signal to the desired television channel is inherently nonlinear device that will always produce intermodulation products when more than one signal is present. The second amplifier can also generate intermodulation products if the received signal levels are too high. We did not receive any quantitative information in this proceeding concerning these problems despite the fact that we specifically requested it in the *Notice*. It is known that MDS downconversion equipment is available that can handle 8 equal amplitude adjacent channels but only if the ratio of the visual carrier to aural carrier is increased from the normal 10 dB to 17 dB. The existing MDS system in Phoenix successfully transmits channels 1 and 2 with equal power levels from the same location. Thus, each channel is available at the output of the antenna and no objectionable adjacent interference has been reported.

34. After carefully considering these facts, we have concluded that our proposed adjacent channel interference standard was overly conservative. We believe that a more appropriate ratio would be 0 dB. That is, if the ratio of the desired signal to the undesired signal measured at the output of a standard antenna oriented to receive the maximum desired signal is less than 0 dB, the adjacent channel signal will be deemed to be causing undesirable adjacent channel interference. This protection ratio is higher than the CCIR recommendation for UHF and VHF television systems and lower than performance achieved by more than 90% of the receivers in the Chief Engineer's test. It is also higher than any desired to undesired signal ratio at which adjacent channel interference has been observed in any adjacent channel MDS test.

35. Because many of the existing grandfathered ITFS operations were not designed to operate in the presence of adjacent channels signals, we do not believe that it would be reasonable to use the same adjacent channel interference standards for that service. We are especially concerned about the situation where a grandfathered E group ITFS operator and a multichannel MDS F group operator are operating in the same area. On the one hand, we want to make certain that the MDS operator does not cause harmful interference to the ITFS operator; and on other hand, we do not wish to limit unduly the ability of the new multichannel MDS operator to provide service to the public. Because we have not received any quantitative information on which to base a protection standard for this situation, we will use the Chief Engineer's data. That data showed that if the ratio of the desired signal to the undesired adjacent channel were 10 dB only the worst receiver would experience harmful interference. We assume that the downconversion equipment and television receivers that are in use in the ITFS today together perform at least as well as the worst television receiver tested in the 1974 tests. Thus, we will require multichannel MDS operators to demonstrate that their signal will be at least 10 dB below the adjacent channel ITFS signal. The signals are to be compared at the output of the ITFS receiving antenna with the antenna oriented to receive the maximum ITFS signal. This standard also will be used in cases involving the "bookend" ITFS channel D_4 and G_1. We stress that this 10 dB standard applies only to those ITFS stations that were constructed prior to May 26, 1983. All subsequently constructed stations will only be entitled to protection to the 0 dB standard.

36. If an adjacent channel transmitter emits sufficiently strong spurious emissions that are outside its assigned band but are within the band of a desired channel, such spurious emissions can be a source of cochannel interference to the desired channel. The existing MDS rules require that the spurious emissions from MDS transmitters be at least 40 dB below the main channel signal.[39] Because such emissions constitute cochannel interference to adjacent channel operations, the cochannel interference rule we are adopting today requires that the level of these emissions be such that they are always 45 dB below the level of the desired signal when measured at the output of an antenna, oriented to receive the maximum desired signal, located within the service area of the desired station, and with an unobstructed propagation path to the desired station. The implications of this result for colocated and noncolocated adjacent channel operations and for transmitter standards are discussed further below.[40]

3. The Standard Antenna

37. The determination of whether an undesired signal will cause harmful interference is made at the output terminals of a reference antenna oriented to receive the maximum desired signal. The reference antenna we proposed for use in making this determination has characteristics generally associated with a 2 foot parabolic reflector antenna. We made the choice of these characteristics by comparing the costs, size, and angular discrimination characteristics of the various alternatives. We stress again, as we did in the *Notice*, that we are not requiring that antennas with such characteristics be used but rather that these characteristics are to be used in

[37] F.C.C., Adjacent Channel Interference Test for the Multipoint Distribution Service, FCC/CC No. 75-01, Appendix C (1975).

[38] Microband Comments, *supra* note 30, Appendix V

[39] 47 CFR 21.908(b). This section requires only 30 dB of suppression for transmitters rated at less than 10 watts; there are few, if any, such transmitters in use today.

[40] *See infra* paras. 128–136.

making interference and other calculations.

38. The proposed standard did not elicit much comment from the MDS community. Microband did point out that such antennas cost 8 to 9 times as much as existing antennas, are difficult to install, and are seldom used on private homes.[41]

39. Microband is correct. The antennas commonly used in the MDS industry have lower gain, higher side lobes, and lower front-to-back ratios, than the proposed standard antenna. Reception sites equipped with such antennas are much more susceptible to cochannel interference and also require a much higher signal level to achieve the equivalent picture quality as sites equipped with the standard antenna. We proposed the adoption of a standard antenna to aid in determining when harmful interference was present and to aid in the determination of the boundary of an MDS station's protected service area. In making this proposal, we were aware that most receiving sites would not be subject to harmful cochannel interference nor would they be located in areas of low signal strength. We choose as our proposed standard an antenna that was likely to be used when one or both of these conditions existed.

40. NTIA expressed the belief that our proposed standard be a minimum requirement and that we consider adopting a more completely defined standard in a future proceeding which included side-lobe and back-lobe specifications.[42]

41. NTIA also stressed the importance of recognizing a distinction between mandatory specifications and protection standards. Mandatory specifications are a set of requirements that all equipment must meet and protection standards are defined as "technical and operation characteristics which must be observed to reduce interference to prescribed levels as such interference becomes operationally likely."[43] A licensee that failed to use equipment that met the protection standard would not be entitled to relief from an interfering licensee using proper equipment. We believe that our proposed rule concerning the receiving antenna follows these recommendations.

42. Many members of the ITFS community claimed that the proposed reference antenna had much lower performance standards than the antennas being used at many ITFS receive sites.[44] The use of a larger antenna makes receiving stations less susceptible to interference because such antennas have higher gain in the direction of desired signal and lower gain in the direction of the undesired signal than a smaller antenna. (Of course, when the desired and undesired stations have the same bearing relative to the receiving station the antenna gain characteristics have little effect on the desired to undesired signal ratio.) For this reason, we do not believe that using a 2 foot diameter antenna to make interference calculations would adversely affect those using larger antennas. In fact, the adoption of a larger antenna would be a disadvantage to both grandfathered users of the E and F group channels and to the users of ITFS channels D_4 and G_5 that are adjacent to the E and F group channels. If the receiver sites of such operations actually used 2 foot antennas and the interference calculations were made using the characteristics of a larger antenna, the levels of cochannel and adjacent channel interference that would actually occur would be higher than calculated. Thus, it could appear as a result of calculations that such locations would not experience harmful interference when in practice they would.

43. In addition to its effect on interference susceptibility, antenna size also plays a large part in determining the minimum useful signal. For instance, the gain of a 10 foot parabolic antenna would be in the range of 34–37 dB compared with 20–23 dB for a 2 foot antenna. Thus, a station using a 10 foot antenna would require a power flux density level 10–12 dB below that required by a station using a 2 foot antenna to produce the same quality picture. However, a 10 foot antenna is more expensive and more difficult to install than a 2 foot antenna. In fact, in many locations the installation of such an antenna is impossible. Given the nature of the services which we are addressing, it would not be reasonable to adopt a large antenna as reference antenna. The use of such antennas is discussed further below in our consideration of required signal level.[45]

44. Finally with regard to the proposed standard, we have become aware that its cross-polarization characteristics have caused confusion concerning the maximum cross-polarization discrimination that should be used in making cochannel and adjacent channel interference studies. In a Public Notice issued on June 1, 1979 (PN 18063 June 1, 1979), it was stated that in calculating interference levels the maximum cross-polarization discrimination to be used was 20 dB. In the proposed standard antenna, there are directions in which the cross-polarization discrimination exceeds 20 dB. In particular, between 0° and 9° off the main axis of the antenna the discrimination varies from 25 dB to 20 dB and from approximately 103° to 180° the discrimination is approximately 21 dB. These differences have been a source of controversy in some contested application proceedings. Although we did not receive any comment on this discrepancy in this proceeding, we believe this is the proper forum in which to resolve the matter.

45. As polarized radio signals propagate through the atmosphere, there is a probability that the direction of polarization will change as a result of fluctuations in the propagation path. Such fluctuation can substantially affect the amount of polarization discrimination available at a receiving site. For example, consider a signal that is vertically polarized when it leaves the transmitting antenna and is polarized 10° away from vertical when it reaches a receiving antenna 30 miles away. Approximately 3% of the power in such a signal would be contained in a horizontally polarized component of the signal that did not exist when the signal left the transmitting antenna. In other words, at the receiving antenna, such a signal would consist of a vertically polarized component containing almost the same power as would be contained in a signal that had not undergone a polarization change (actually such a signal would be 0.13 dB below an unshifted signal) and a horizontally polarized component with a power level approximately 15 dB below the unshifted signal. Because the horizontally polarized component of such a signal would not be subject to any polarization discrimination, its effect as an interfering signal would be 5 dB higher than the unaltered, vertically polarized signal that is subject to 20 dB of polarization discrimination and 10 dB higher than the same unaltered signal subject to 25 dB of polarization discrimination ($-15+20=+5$ or $-15+25=+10$). Furthermore, in order to realize the full cross-polarization discrimination of the receiving antenna even when there is no polarization shift, it is necessary for the polarizations of the transmitting and receiving antennas to be exactly 90° apart. Any variation will reduce the polarization

[41] Microband Comments, *supra* note 30, at 48.

[42] NTIA Comments, *supra*, note 29, at 10.

[43] *Id.* at 3.

[44] *See*, e.g., Comments of C. Peter Magrath, President, University of Minnesota, General Docket No. 80–113, Enclosure, "Technical Comments on FCC General Docket No. 80–113" 2 (September 5, 1980).

[45] *See infra*, paras. 78–84.

discrimination in a manner similar to that which occurs when the signal polarization is rotated.

46. For these reasons, we believe that it is reasonable to limit the maximum cross-polarization discrimination that can be used in interference calculations to 20 dB. We believe this approach provides some compensation for the variations described and thus will yield calculation results that are closer to real world results. We have adjusted the standard antenna characteristics accordingly.

47. Finally with regard to the proposed standard antenna, we have become aware that the antenna upon which we based the proposed standards, the Andrew Corporation MD2 series antenna, is no longer being manufactured. We do not believe this fact is of any decisional significance since there are other antennas available with similar electrical characteristics.

48. In summary, we believe that our proposed standard antenna characteristics as modified represent a reasonable model of antennas that might be used either in areas of low signal strength or where interference is likely to occur. For the reason, we are adopting the modified standard as shown in appendix B. We also believe that it is reasonable to use this antenna to adjudicate adjacent channel and cochannel interference questions involving MDS stations and grandfathered ITFS stations using the E and F group channels and also ITFS users of channels D_4 and G_1. We shall also use this antenna to resolve cochannel and adjacent channel questions that might arise concerning ITFS station operations.

B. Protected Service Area

1. Policy Considerations

49. The concept of a protected service area has always been implicit in the MDS rules. We have always required an applicant proposing to construct a new station to submit an interference analysis demonstrating that the proposed station would not cause harmful interference to any existing or previously proposed station located within 50 miles of the new station. 47 CFR § 21.902(c). The boundary of the protected service area was never specified nor was the exact nature of the protection within the service area afforded clearly stated. In attempting to fashion a more precise definition of the protected service, it is necessary first to define the objective we are trying to achieve.

50. Our primary objective is to structure the protected service area so as to maximize the number of sites that can be served and, concomitantly, to minimize the number of sites that are unable to receive service. Specifically, we believe that the protected service area should be that area in which reliable service is available to the majority of receiver locations within the area. We do not believe it is in the public interest to extend the protected service area to include the most remote location that could theoretically receive service assuming ideal propagation conditions existed and the highest quality reception equipment were used. Proceeding in this manner would result in large sections of such extended service areas not being able to receive service from the station serving the area because not all locations between the transmitter and such location would enjoy ideal propagation conditions. Furthermore, the creation of extended service areas might prevent the licensing of new stations that could serve those locations. This is because proposed stations that could serve those areas would more be likely to cause harmful interference within an extended protected service area and thus not be eligible to be licensed.

51. Microband argues strongly that our policy encourages more and closer spaced stations with moderate transmitter power rather than fewer, more widely spaced, stations with higher power with the result that fewer receiver sites will be served.[46] Microband supports its claim with analysis and graphical representations of coverage zones for 3 cities: Chicago, Detroit and Miami. All the data submitted by Microband purport to show that using low power (10 watts) closely spaced stations will result in a much smaller area being served than could be served by a single 100 watt station. In Chicago, Microband shows service from a 100 watt station out to almost 60 miles from the transmitter. Microband states that these analyses represent "real world situations."[47]

52. Microband's analysis is at variance with other studies. On June 19, 1978, Multipoint Communications Corporation, the then licensee of the Chicago MDS station, requested authority to increase its transmitter power from 10 watts to 100 watts. Accompanying that request was an Exhibit "M" that contained the following statement:[48]

> As result of receiving installations that have been made in the Chicago area to make use of the service provided by the existing 10 watt MDS station, many problems have been encountered in obtaining adequate signal strength and quality of received signal. This has resulted in a need to install 4 foot diameter antennas, and even 6 foot diameter antennas. As compared with 2 foot diameter antennas, both 4 foot and 6 foot antennas are significantly more expensive. In addition to the material cost of the antennas, the installation cost rapidly increase with size. For example, the cost of installing a 6 foot antenna is more than double the cost of a 4 foot antenna and a 4 foot antenna installation is 50% more expensive than a 2 foot one. Larger antennas also present significant aesthetic problems to property owners.

53. It was not clear from the exhibit at what distances from the transmitter it was necessary to install the larger antennas; however, the station file also contains a letter from the programmer of the Chicago station to its attorney supporting the 100 watt request. This letter contains the following statement:[49]

> Within a 15 mile range, our successful installation rate has been as low as 30%.

Thus, it is clear that, while it may be theoretically possible to serve the area indicated by Microband in its comments, the reality is that it is very difficult to serve many locations located much closer to the transmitter than the large distances claimed by Microband. The issues of how far from a transmitter it is possible to provide reasonable service and what is an adequate level of transmitter power are discussed in detail in subsequent sections of this *Order* and in the Further Notice of Proposed Rulemaking we are adopting today. We mention them here only to make the point that we do not believe that data presented by Microband supports its contention that more sites could be served by fewer, widely spaced higher power stations than could be served by lower power closer-spaced stations. We also believe it is clear that limiting the size of the protected service area decreases rather than increases the possibility that a cochannel interference problem will occur. This is because sites located at the edge of a smaller protected service area are closer to the desired station and farther from the undesired station than are the sites located at the edge of the larger protected area suggested by Microband. Thus, the calculated ratio of the desired signal to the undesired signal would be lower at distant sites and if the site were partially obstructed, as sites

[46] Microband Comments, *supra* note 30, at 15.

[47] *Id.*, at 25.

[48] Multipoint Distribution Service Station File WOF49, Application File No. 2741-CM-P-78, Exhibit "M", June 19, 1978.

[49] *Id.* Letter from Michael Dubester to Bill Reyner (Aug. 13, 1980).

located farther from the transmitter are more likely to be, it is very likely that the ratio will fall below the minimum acceptable level.

54. We also believe that the size of the protected service area really has very little to do with how close stations can be located to each other. That this is true can be seen by considering the following analysis. First, it must be realized the receiving sites that are most likely to experience harmful cochannel interference are those located on the radial that connects the desired station and the undesired station and are located on the side of the desired transmitter that is away from the undesired transmitter. The receiving antennas at such sites will be pointed directly at both the desired transmitter and the undesired transmitter. If we assume that the transmitting antennas are cross-polarized and that the receiving antenna can provide 20 dB of cross-polarization discrimination, then the propagation loss between the undesired transmitter and such a receive site must exceed the propagation loss between the desired transmitter and the receive site by at least 25 dB if a desired to undesired signal ratio of 45 dB is to be achieved. If we assume free space propagation conditions and look at a site located 10 miles from the desired station, we find that the undesired station must be located at least 168 miles from the desired station to achieve the desired 25 dB differential in propagation loss. A site located 10 miles from the transmitter would be within the protected service area of the desired station regardless of how large the protective service area was as long as the radius was at least 10 miles. Because the difference in propagation loss gets smaller as the site is moved farther from the desired station, all points on the radial located more than 10 miles from the desired station would also experience harmful cochannel interference. Of course, it is extremely unlikely that a station 168 miles away could cause such interference because the receive site would most likely be beyond the radio horizon of the undesired stations. Thus it is clear that it is the location of the radio horizon of the undesired transmitter rather than the size of the desired station's protected service that will determine how close an undesired station can be located to an existing cochannel station. A more reasonable way to determine how close a cochannel station can be located is to assume that all sites located on the radial connecting the two stations and located on the side of the desired transmitter away from the undesired station must be beyond the radio horizon of the undesired station. If we assume the receiving antenna height is 30 feet then, assuming 4/3 earth radius propagation conditions, a 300 foot high transmitter would have to be located 32.2 miles away. A 500 foot transmitter would have to be 39.4 miles away and a 1,000 foot transmitter would have to be 52.5 miles away. The separation requirements are relatively independent of the protected service size.

55. Microband also submitted an analysis of the relationship between antenna height and service area size.[50] The analysis showed the variation in transmitter height as a function of protected service area radius assuming that the stations were located as close as possible. That is each station had a service area of radius r miles and was surrounded by eight other stations. Four of which were located 2r miles away, the other four stations were located 2 times square root of 2r miles away. Using this model, Microband showed that if the service area radius were 15 miles, the transmitter height of all stations would have to be limited to 153 feet. In a further refinement of the analysis, Microband shows that if one of the stations used dual-polarized antennas rather than a single-polarized antenna to achieve omnidirection coverage the transmitter height would have to be less than 27 feet. We agree with Microband's conclusion that this is impractical; however, we do not agree that the solution is to expand the size of the service area. Rather, we believe it is better to limit the size of the service area to that area in which reasonable service can be provided and require subsequently proposed station to not interfere with existing or previously proposed stations. This can be achieved by making adjustments in the separation between stations and in the height of the transmitting antenna. This is the manner in which existing MDS stations have been located.

56. Finally in this regard, we are aware that our rules only require that an applicant submit an interference analysis if the proposed facility is withint 50 miles of an existing or previously proposed adjacent channel or cochannel station. As can be seen from the above analyses, the mileage between these stations is not the only factor that determines whether interference will occur—transmitting antenna height is equally important. In Petition for Rulemaking RM–3232,[51] Microband suggested that we extend the 50 miles requirement to 125 miles—that is require an interference analysis from any applicant that proposes to locate its facility within 125 miles of an existing or previously proposed station. We believe that this is unnecessary. A station located 125 miles from a cochannel or adjacent station would need an antenna height of more than 6,800 feet in order to have a line of sight path to a 30 foot high receiving antenna 125 miles away. We think such an occurrence would be rare. However, we do believe that whenever an applicant proposes to construct a station such that there is a line of sight propagation path between the proposed transmitting antenna and the protected service area of an existing or previously proposed cochannel of adjacent station, the applicant should submit an interference analysis showing the effect of the proposed station on the existing or previously applied for stations. For this reason, we are amending § 21.902(c)(1) of the rules, 47 CFR 21.902(c)(1), to require the submission of such and analysis.

57. Finally in regard to MDS protected service area policy, we stress that it is our intention to enforce rigorously § 21.902(a) of the rules, 47 CFR 21.902(a), that requires, *inter alia*, that "all applicants, permittees, and licensees shall make exceptional efforts to avoid harmful interference to other users and to avoid blocking potential adjacent channel use in the same city and cochannel use in nearby cities." All petitions to deny that include allegations of cochannel or adjacent interference must include a detailed statement of what efforts were made to comply with this section. We do not intend to accept any new MDS applications that do not contain a detailed explanation of how the applicant has complied with this section and how it will comply in the future should the need arise.

58. Another policy issue raised by our protected service area proposal was whether it was desirable to have a protected service area at all. Although most members of the MDS community questioned the wisdom of some or all of the service area characteristics virtually all agreed that there was a need to have a clearly defined protected service area. For example, Contemporary Communications Corporation commented as follows: [52]

> Initially, we would like to register our support for the Commission's efforts to define the zone of protection from electrical interference to be afforded existing and new

[50] Microband Comment, *supra* note 30, at 16–25.

[51] See *infra*, paras. 141–143.

[52] Comment of Contemporary Communications, General Docket No. 80–113, 1 (Sept. 8, 1980).

MDS stations. As the industry has grown, disputes over interference have multiplied and will continue to do so. Clarification in this area should tend to reduce these disputes and save the Commission and the carriers time and expense.

The ITFS community, on the other hand, expressed the view that using a single protected service area definition for all ITFS operations was not appropriate. In support of this view, many ITFS system operators cited examples of receiver sites that were located well beyond the proposed protected service area boundary.[53] Others pointed out that the area served by ITFS facilities is often conterminous with a school district or other political subdivision.[54]

59. We agree that the nature of a typical ITFS operation is different from the typical MDS operation in that an ITFS operator frequently must provide service to certain sites regardless of the engineering difficulties involved whereas an MDS operator will rarely make extraordinary efforts to reach difficult or remote locations. On the other hand, we also believe that the reason that many ITFS operators have not felt the need for a protected service area was that the frequency allocation plan used in that service was such that adjacent channel service in the same area and cochannel service in adjacent areas were seldom required. Finally, the facts that ITFS licensees are primarily interested in spectrum as an aid to further educational purposes and that the spectrum was not congested have led to a tradition that ITFS operators were more collegial than MDS operators and therefore had a greater tendency to work out interference problems among themselves.

60. The reallocation plan that was adopted in the *Multichannel Order* could change this situation. In the first place, the fact that there are fewer channels available for ITFS use will increase the likelihood of interference problems occurring. In addition, because ITFS operators may now lease excess capacity on their facilities, there may be many more sites being served thereby increasing the possibility that interference problems will occur. This is especially likely to occur if the lessee of the excess capacity uses the facility to deliver entertainment programming to single family dwellings. Such sites are unlikely to be as well engineered as traditional ITFS receiver sites.

61. Because of these considerations, we do not think it is appropriate to adopt specific service area boundaries for ITFS operators. We believe that it is in the best interest of that service to continue to allow ITFS operators to engineer their facilities to serve to all sites they have traditionally served regardless of location and to protect all such locations. This should not be taken to be an invitation to ITFS operators to claim expanded service areas by finding remote locations that might conceivably be logical recipients of the service.

62. We do not believe that similar considerations apply during the hours the ITFS facilities are being leased or being used by the licensee for non ITFS purposes. It is likely that lessees of ITFS facilities will be offering services that are similar to those offered on MDS facilities. For this reason, we have concluded that during the hours ITFS facilities are being leased or used by the licensee for non ITFS purposes the service area should be the same MDS service area. In this regard, we also stress that it is the licensee that it protected from harmful interference not the lessee.

63. We did not receive any comment on the applicability of the protected service area concept for OFS stations. At the time the *Notice* was released, there was little interest in the OFS portion of the 2500–2690 MHz band. In Docket 80–112, we decided not to reallocate additional spectrum for OFS channels in recognition of our stated intention that, initially, data and non-entertainment services receive priority consideration over video entertainment services for use of the OFS spectrum.[55] To date, as a result of the new filing period opened August 1, 1983 for applications proposing data and other non-entertainment services on the OFS H group channels, the Commission has received approximately 2,100 applications for these three channels. The MDS and OFS services are similar technically, and many of the same considerations raised with respect to MDS technical standards may be generally applicable to OFS.

64. Finally with regard to policy considerations, we address the question of the nature of the protection afforded within the protected service or, more particularly, what we shall do if a licensee or applicant alleges that harmful interference is taking place or will likely take place as a result of the operation of an existing or proposed station. If a station causes either harmful adjacent channel or harmful cochannel interference within the protected service area of another existing station and that interference is not *de minimis*, we will require the offending station to cease operations until the interference is eradicated. The station alleging that it is being interfered with will be required to make a clear and convincing showing that the interference is occurring.

65. An application that proposes cochannel or adjacent channel operation and does not contain a showing that the proposed operation will not cause harmful interference as described herein will not be accepted for filing.

2. *The Protected Service Area Boundary*

66. In the *Notice*, we determined the boundary of the proposed protected service area by first defining what constitutes a minimally acceptable picture and then calculating the signal level needed at the receiver to produce such a picture. In particular, we calculated the power flux density required to produce a minimally acceptable television picture 99.9% of the time. In making this calculation, we assumed the use of reasonable reception equipment and worst case propagation conditions. The protected service area boundary was defined to be equivalent to the calculated power flux density contour. The policy underlying our proposal was that the protected service area should be the area in which service would generally be available. That is, it would not be reasonable either to protect a licensee's signal where a significant amount of service could not be provided or to not protect a licensee's signal where a significant amount of service could be provided. We recognize that the physics of the situation is such that there is not a sharp dividing line between those areas in which service will be available and those areas in which service will not be available. We believe that our proposals represented a reasonable compromise between the lack of precision in the physical world and the need for precision in our rules. We also proposed certain other limitations on the protected service area boundary that will be discussed below.

67. Before discussing in detail the elements used to determine the proposed boundary, we believe it is important to emphasize what the calculations represent. The calculated power flux density is that which will be available at the far edge of the protected service area. Because power flux density varies as the inverse square of the distance from the transmitter, any unobstructed location closer to the transmitter than the edge of the service

[53] *See e.g.*, Comments of the Catholic Television Network and The National Instructional Telecommunications Council, Inc., General Docket No. 80–113, 6 (Sept. 2, 1980).

[54] Comments of the Joint Council on Educational Telecommunications, General Docket No. 80–112, 2 (Sept. 3, 1980).

[55] *Memorandum Opinion and Order* in Docket 19671, 48 FR at 32583.

area will have a higher power flux density than locations on the boundary. For example, at a location 7½ miles from the transmitter, the power flux density will be 4 times as large as the power flux density 15 miles from the transmitter. Further, the calculation was made assuming worst case propagation conditions. When the propagation conditions are ideal, the signal power available at 15 miles will be 21 dB greater than that available when worst case propagation conditions exist. This means the available signal power will be more than 100 times larger under ideal conditions than it will be under worst case conditions. The signal will be higher than the worst case level 99.9% of the time. Thus, at most locations, most of the time the available signal power will be much higher than the calculated value. This means, of course, that the available picture will be much better than the minimally acceptable standard most of the time.

a. *The Minimally Acceptable Picture.* 68. the first issue to be resolved in determining the needed signal level, and hence the protected service area boundary, is what constitutes a minimally acceptable picture. In the *Notice,* we said that we would consider a minimally acceptable picture to be equivalent to a TASO Grade 4 picture as judged by 50% of those viewing the picture. This picture is called "marginal" and is described as being "poor in quality causing the viewer to wish it could be improved." The interference (or noise) is described as being somewhat objectionable. Whether a given picture meets this standard is determined by the viewing standards of the observer and the type of material being presented as well as the amount of interference. The amount of noise in the picture background is a function of the signal-to-noise ratio available at the input terminals of the television receiver and to a lesser degree the quality of the receiver itself. For a given input signal-to-noise ratio a certain percentage of those viewing a picture will rate it a TASO Grade 4 or better. As the signal-to-noise ratio increases, a larger percentage of those viewing the picture will rate it a TASO Grade 4 or better and as the signal-to-noise ratio decreases a smaller percentage of those viewing it will rate it a TASO Grade 4 or better. In the *Notice,* we defined a minimally acceptable picture as the picture that was available when the signal-to-noise ratio at the television receiver input was such that 50 percent of those viewing the picture would rate it a TASO Grade 4 or better. The signal-to-noise ratio required for this result is 23 dB.[56]

69. We did not receive any comment from the MDS community concerning what constitutes a minimally acceptable picture. Some members of the ITFS community commented that we should have used as TASO Grade 3 picture or, equivalently, that we should have used a higher signal-to-noise ratio.[57] Their disagreements are apparently based on two factors: a perceived need for a higher quality picture in the ITFS and a misinterpretation of how we were using the TASO Grade 4/23 dB signal-to-noise ratio definition.

70. The nature of the video information being transmitted has much to do with the subjective rating a viewer assigns to a television picture. When images containing more than the average amount of detail are being transmitted a higher signal-to-noise ratio is required to achieve a given perception of picture quality. We selected the signal-to-noise ratio for a picture of average detail and believe that it is representative of most material being transmitted by MDS operators.[58] We recognize that some educational material contains much more detail than an average entertainment television picture; however, we have not been presented with any data on how frequently these transmissions occur.

71. Most of those who argued in favor of a higher TASO grade, or, equivalently, for a higher signal-to-noise ratio, as the definition of a minimally acceptable picture appear to be losing sight of what this standard represents. This is not the picture that will be available on the average. At most locations most of the time, a much better picture will be available. Even at the most distant locations the picture available will be better 99.9% of the time.

72. Further, the effect of raising the standard for what constitutes a minimally acceptable picture is to reduce the size of the protected service area if all other factors remained the same. For instance, if we were to raise the standard to a TASO Grade 3 as perceived by at least 90% of those viewing the picture, the required signal-to-noise ratio would be approximately 10 dB higher or 33 dB. Using the equations derived in Appendix 2 of the *Notice,* it can be shown that this signal-to-noise ratio would be available under worst case propagation conditions at a distance of 9.5 miles from the transmitter. We do not believe that a decrease in the size of the service area of this degree is justified by the benefits that would be derived from adopting a higher standard for the minimally acceptable picture.

b. *Signal Availability and Propagation Model Considerations.* 73. The next element in the determination of the needed signal level is the availability of the minimally acceptable picture. The nature of electromagnetic propagation is such that there are frequent changes in the signal level available at receiver locations. Most of these changes are of short duration and small in magnitude and hence not noticeable by the viewer. There are, however, other changes that last for significant periods of time and are of such a magnitude that the received signal is significantly reduced. These changes, which result from a combination of climatic and geographic factors, are referred to as fades. The exact magnitude and duration of these fades are difficult to predict; however, very good mathematical approximations of their behavior are available. In Appendix 2 of the *Notice,* we calculated the signal-to-noise ratio that would be available at least 99.9% of the time under the worst climatic conditions. We did this calculation for several distances from the transmitter and used the results to construct a table of available signal-to-noise ratio as a function of distance from the transmitter.

74. We pointed out in the *Notice* that this means that the available signal would fall below the specified value about 45 minutes per month. Microband in its comments calls this assertion "misleading and inaccurate."[59]

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[56] There appears to be some confusion about the difference between the terms signal-to-noise ratio and carrier-to-noise ratio and the relationship of each to the TASO results. The Corporation for Public Broadcasting, in its Reply Comment filed in General Docket No. 80–112, correctly points out that the signal-to-noise ratios used in the TASO reports are really carrier-to-noise ratio measured at the inputs to the television receiver. The carrier power is defined as the sync tip power and the noise is defined as noise power contained in a 6 MHz bandwidth. CPB futher claims that the relationship between signal-to-noise ratio and carrier-to-noise ratio is:

$$S/N = C/N + 3\ dB$$

Comments of the Corporation for Public Broadcasting, General Docket No. 80–112, Appendix one, 62–63, 67–68, 72–76 (September 26, 1980). John F. X. Browne on the other hand claims that the relationship is:

$$S/N = C/N - 6\ dB$$

Browne Comments, *supra*.note 17, at 3. There are also variations in the definitions of signal-to-noise ratio. *See,* Strus, T.M. "*The Relationship between the NCTA, EIA, and CCIR Definitions of Signal-to-Noise Ratio,* 20 IEEE Transactions on Broadcasting 36 (September, 1974).

[57] *See* e.g, CTN Comments, *supra* note 53, at 6–7.

[58] *See* Dean, *supra* note 14, at 1037.

[59] Microband Comment, *supra,* note 30, at 44.

Microband claims that fades are seasonal in nature and that many months have no fades. For this reason, it claimed that it would be more meaningful to speak of 99.9% availability as meaning outages of 9 hours per year. We do not agree with Microband's characterization of our statement; however, there is no doubt that it is difficult to predict the temporal distribution of the fades.

75. The fades will neither occur in a single 9 hour stretch once a year nor in regular monthly stretches of 45 minutes. Their fundamental nature is statistical and they will occur in a non-uniformly random manner throughout the year. The important point is that they do occur and they must be considered in determining where and for what duration a minimally acceptable signal is available.

76. Of course, it could be argued, as Microband does, that 99.9% availability is too high for a service such as MDS. Microband believes that 99.5% is enough. We recognize that our choice of 99.9% availability was somewhat arbitrary, but since we choose a relatively low quality picture as the minimally acceptable standard we believe our availability choice is justified. The calculated results would not be significantly different if we choose 99.5% availability figure and a TASO Grade 2 picture standard. We believe that our choice of a 99.9% availability standard and a TASO Grade 4 picture most closely approximates what is an acceptable system performance. We do not believe that it would be any more reasonable to use a TASO Grade 3 with a 99.5% availability as Microband suggests.

77. NTIA questioned whether the propagation model we used was appropriate for the signal propagation conditions encountered in the MDS.[60] NTIA based its view on the fact that the model used was developed for use in modeling long path point-to-point microwave links rather than for use in modeling the relatively short path MDS transmissions. We agree that the method is more suitable for longer paths and note that these are exactly the paths for which we used the model in the *Notice*. We do not expect fading to be a problem close to the transmitter; however, it could be a serious problem near the edge of the service area. For this reason, we did not make any calculations for locations closer to the transmitter than 14 miles. We also agree with NTIA's contention that for non-line of sight paths effects other than fading will dominate. For this reason, we specifically stated that we were only considering those receiver locations that had an unobstructed propagation path to the transmitter. There may be other models that could more accurately predict propagation phenomena; however, we do not believe the use of such models would substantially alter the results. Further, no results using other models were submitted for comparison.

78. Finally, we have become aware during the pendency of this proceeding that certain meteorological conditions can cause unusual propagation phenomena, such as superrefraction and ducting, that can lead to much stronger radio signals beyond the radio horizon than would normally be expected.[61] These phenomena occur for small percentages of time over most of the U.S. and for very significant percentages of time over some areas usually associated with large bodies of water and are especially prevalent in the Southern California coastal area and around the Gulf Coast. Recent long-term measurements by the Office of Science and Technology on VHF/UHF paths in Southern California showed free space fields well beyond the radio horizon for significant periods of time during some seasons of the year. These phenomena are more prevalent at microwave frequencies than at VHF and UHF and can be expected to result in interfering signal levels in the 2100–2600 MHz band under certain circumstances. Sufficient data are not available at this time to permit reliable predictions of enhanced field strengths for most of the country. However, as a precautionary step we have added a requirement to section 21.902(c) of the rules intended to identify those situations where significant interference due to this phenomenon is most likely to occur.

c. *Equipment Considerations.* 79. In making the calculation to determine how far from the transmitter a minimally acceptable picture was available, it was necessary to make certain assumptions about the amount of signal being transmitted and the equipment being used to receive the signal.

80. In the *Notice*, we assumed a 10 watt transmitter and a 13 dB gain transmitting antenna. This combination gives an effective isotropic radiated power (EIRP)[62] of 23 dBW or 200 watts. We assumed a lossless transmission line between the transmitter and the transmitting antenna. In practice, there will always be some loss between the transmitter and the antenna. The exact loss will depend upon the type and length of the transmission line used. A review of the MDS station files indicates that this loss can be as large as 7 or 8 dB.

81. the two most important characteristics of reception equipment in determining what power flux density will produce a minimally acceptable picture are the receiver antenna gain and the noise figure of the reception equipment.

82. We assumed that a typical receiver installation is equipped with the standard two-foot parabolic receiving antenna discussed above and downconversion equipment with a 10 dB noise figure. Noise figure is a measure of the amount of noise the reception equipment generates in the bandwidth of interest. An ideal receiver would generate no noise and would have a noise figure of 0 dB. A larger noise figure indicates an increase in the amount of noise generated and therefore less desirable reception equipment.

83. We did not receive much comment on our equipment assumptions. Microband did claim that most of the assumptions were overly conservative and not representative of the equipment actually being used in the MDS industry. Microband expressed the view that our calculations should have been based on a 100 watt transmitter rather than the 10 watt transmitter.[63] All members of the MDS community commenting in this proceeding, including Microband, stressed that it is usually impossible to serve many sites located very close to the transmitter with a 10 watt transmitter. We have always recognized that many MDS receiver sites have less than ideal propagation paths to the transmitter. For this reason our Rules provide [64] that although transmitter power generally will be 10 watts, a licensee may be authorized up to 100 watts of transmitter power on showing that reliable service cannot be provided to a reasonable number of locations within the service area of the station using a 10 watt transmitter. What this means is that the service area is defined assuming 10 watt line-of-sight service but if it turns out in practice that the licensee cannot provide reliable service

[60] NTIA Comments, *supra* note 29, at 11–14.

[61] Dougherty & Dutton, *The Role of Elevated Ducting for Radio Service and Interference Fields*, NTIA Report 81–69, March 1981. *See also Effects of Large-Scale Tropospheric Refraction on Radiowave Propagation*, Report 718–1 Recommendations and Reports of the CCIR, 1982, Volume V, Propagation in Non-Ionized Media, 123 (1982).

[62] Effective Isotropic Radiated Power expressed in dBW is the ratio of the power radiated in the direction of maximum gain to the ratio of power that would be radiated by a 1 watt transmitter radiating uniformly in all directions.

[63] Microband Comments, *supra* note 30, at 45.

[64] 47 CFR 21.904(b).

within the service area, we will authorize such licensee to use up to a maximum of 100 watts of power to provide reliable service in that service area. It seems that Microband is arguing on the one hand that 10 watts is not enough power to provide reliable service to many points within the 10 watt line-of-sight service area and on the other hand that we should use 100 watts to determine the location of the service area boundary.

84. In a Further Notice of Proposed Rulemaking in this proceeding, we propose eliminating the 10 watt limitation and authorizing all MDS stations to transmit the functional equivalent of 100 watts of power. Experience with this service has shown that losses caused by partial blockage of receiver sites or by foliage induced attenuation make 10 watts impractical for MDS as used today. We do not believe, however, that we should use 100 watts to calculate the service area boundary when we do not account for these phenomena in our calculations. We believe the better course is to calculate the service area boundary using line-of-sight methodology and a 10 watt transmitter. By proceeding in this manner, we are able to make a relatively straightforward calculation unencumbered by difficult model assumptions. We believe that the combination of a 10 watt transmitter and a line-of-sight propagation model is a reasonable way to calculate the power flux density available at reasonable distances from transmitter. Finally, it should be noted that the propagation variations we are referring to here are those which are of a constant nature and not the time-varying fading phenomena that we considered in our calculations.

85. Microband also claimed that our assumption of a downconverter noise figure of 10 dB was overly conservative. They suggested that a 5.5 dB noise figure was more representative of the present "state of the art" in such equipment. Microband further stated that near the edge of the service area equipment with noise figures as low as 2.5 dB might be used.[64] The reason we used the higher noise figure was to compensate for other system losses that we did not include in our calculations. As stated above, we did not include transmission line loss in our calculations, in addition we include other system losses such as connector loss, receiver-transmitter antenna misalignment loss, and receiver equipment loss in our calculation. Furthermore, we assumed that all receiver locations were equipped with the equivalent of 2-foot parabolic antenna. This is frequently not the case. In many instances, the antennas used have much lower gain than the standard antenna. The better method may have been to make an estimate of each of these losses and make the calculation using the total estimated loss. However, we do not believe that the results would have been substantically different. In fact, the sum of the losses described probably exceeds the 4.5 dB increase in system performance that would result from using the lower noise figure downconverter suggested by Microband.

d. *Theoretical Calculations.* 86. In Appendix 2 of the *Notice*, we calculated the power flux density, the power received and associated signal-to-noise ratio as a function of distance from the tramsmitter for each mile from 14 miles to 20 miles. These calculations were made assuming free space propagation conditions and using the EIRP and equipment parameters described in the previous sections. The signal-to-noise ratio calculation was made using an information bandwidth of 4.2 MHz, the video bandwidth of a television receiver. In making the signal-to-noise calculation, we did not include any noise other than that generated in the downconversion equipment. That is, we assumed that the downconverter was being driven by a source with a characteristic impedence equal to the input impedence of the downconverter and that the input reference temperature was 290° K.

87. We then reduced the calculated signal-to-noise ratio by the calculated worst case fading loss for each distance. By this procedure, we arrived at the signal-to-noise ratio that would be available at the output of the downconverter equipment 99.9% of the time.

88. The result of these calculations shows that a signal-to-noise ratio of 23.3 dB will be available 15 miles from the transmitter. This signal-to-noise ratio will produce a television picture that will be judged a TASO Grade 4 or better by 50% of those viewing the picture. It should be stressed again that the picture will be better than this 99.9% of the time. In fact when no fading is occurring, the signal-to-noise ratio will be 44 dB. At this signal level, 55% of those viewing the signal would rate it a TASO Grade 1 and 99% of those viewing it would rate a TASO Grade 2 or better.[66]

89. As a result of these calculations, we proposed to define the protected service area boundary as the −75.6 dBW/m² power flux density contour. This is the power flux density at 15 miles assuming a 10-watt transmitter, 13-dB gain transmitting antenna, and free space propagation conditions.

90. NTIA stated that it supported our adoption of the −76.6 dBW/m² contour as the boundary of the protected service area because it was based "solely on the properties of the receiving system and (was) independent of the propagation mechanism or model assumed."[67] This is incorrect. Our choice of a minimally acceptable picture as that produced by a 23 dB signal-to-noise ratio at the input to the television receiver was independent of any other consideration; however, all other calculation parameters influenced the result. For example, if we had used the same propagation model but changed the values of the climatic and terrain parameters in the model, we would have arrived at a different power flux density. If we had used the terrain roughness factor for rough earth in place of the smooth earth factor and if we had used the average climatic factor in place of the coastal climate climatic factor, the resulting fading loss would have been approximately 14dB lower. This means that the 23 dB signal-to-noise ratio would have been available at 29 miles where the unfaded power flux density is −81.3 dBW/m². At this distance, the unfaded signal-to-noise ratio would be 38 dB which would produce a television picture which would be judged to be TASO Grade 1 or better by 30% of those viewing it and would be judged a TASO Grade 2 or better by 88% of those viewing it. Thus, it is clear that our choice of −75.6 dBW/m² contour as the boundary of the protected service area is dependent not only on our choice of reception equipment but also is dependent on our fading model and the parameters used in the model.

91. It should also be noted that if we increase the EIRP by 10 dB (a 100 watt transmitter) the 23 dB faded signal-to-noise ratio would be available at 23 miles where the power flux density would be −69.3 dBW/m². Thus, the power flux density we choose as the service area boundary was also dependent upon the EIRP we choose to use in making the calculation.

92. We point all this out merely to emphasize the fact that the calculation of a protected service area boundary is a complicated procedure that depends heavily upon the assumptions used in making the calculations. In making these calculations, we made conservative assumptions concerning equipment and propagation mode parameters. We recognize that there are valid arguments

[64] Microband Comments, *supra* note 30, at 42, 43.

[66] TASO Report, *supra* note 14, at 533.

[67] NTIA Comments, *supra* note 29, at 7.

that support less conservative assumptions; however, we believe that the more prudent course in a complex procedure such as this is more conservative. This, of course, results in a smaller protected service area than would have been calculated if we had used the less conservative assumptions. This result is in accord with the public policy considerations outlined above.

e. *Power Flux Density and Fixed Mileage Limitation.*

93. As outlined in the previous section and in the *Notice*, we calculated that a station with a 200 watt EIRP will produce an "unfaded" power flux density of -75.6 dBW/m^2 at a distance of 15 miles from the station and that a minimally acceptable picture will be available at this distance 99.9% of the time using the reception equipment specified. On the basis of these results, we proposed to specify the protected service area boundary to be either the -75.6 dBW/m^2 power flux density contour or the locus of points 15 miles from the transmitter, whichever is closer to the transmitter. Our reasoning for specifying the maximum distance to the service area boundary as 15 miles was based on our calculations that it was impossible to provide reliable service beyond this distance. We are aware, as was detailed in the previous section, that if the assumptions relied upon to arrive at the 15 mile limitation were changed, a significantly different result would have been obtained. We believe that our assumptions, although conservative, were reasonable.

94. The 15 mile limitation on the protected service area boundary elicited a response from nearly all the commenters in this proceeding. Microband concluded, on the basis of what it claimed were more realistic assumptions, that it was possible to provide reliable service to sites located as far as 39 miles from the transmitter. On the basis of this conclusion, it suggested that boundary of the service area should be determined by calculating the distance at which the faded signal-to-noise ratio, S/N(F), is 23 dB using the actual station EIRP, and the actual terrain and climatic factors for the area involved.[68] Cox Cable Communications Inc. (CCCI) called the 15 mile limit "unduly restrictive";[69] and noted that only in those situations where it is possible to locate the transmitter at the center of the area to be served is it conceivable that a 15 mile radius service area would be adequate. CCCI suggested that a 30 mile radius protected service area is required to provide adequate service. South Florida Communications Inc. claimed that the proposed 15 mile limitation would drastically curtail its ability to provide an acceptable signal throughout its useful service area. It claims that the boundary of the protected service area should be the -75.6 dBW/m^2 power flux density contour regardless of the distance of the contour from the transmitter. South Florida claims the imposition of the 15 mile limitation would be inequitable and discriminatory to licensees such as itself that constructed stations to serve more than one service area with a single transmitter. It cites the fact that it was authorized a 100 watt transmitter to enable it to serve two population centers located equi-distant from its transmitter and that limiting the protected service area boundary location to 15 miles from the transmitter would remove protection from many of the receiver sites it is now serving. South Florida further suggests that if we should adopt the 15 mile limitation that we "grandfather" protection for all receiver locations presently being served regardless of their distance from the transmitter.[70]

95. Contrasted with the above assertions are comments of R. L. Vega, an engineer who claims to have designed and constructed fourteen MDS stations and supervised the installation of over 15,000 MDS receivers. Mr. Vega agrees with the 15 mile limitation and expressed the view that the claims of large service areas were illusory and not deserving of Commission protection. He also stressed the need for any new rules adopted to be clear and concise.[71] South Jersey Radio also supported the 15 mile limitation but expressed the view that strict enforcement of the service area "inviability" may not be in the public interest. It believes that by allowing minimal interference in the protected services area more service can be provided to the public.[72]

96. The National Telecommunications and Information Administration (NTIA) favored the use of the power flux density contour to determine the protected service area boundary but expressed serious reservations about the fixed mileage limitation. Its major concern was that it encouraged the use of omnidirectional antennas and circular service areas. NTIA suggested that a more appropriate alternative would be to permit an applicant to define an area to be served and to use the best possible combination of antenna location, antenna height, and antenna pattern to serve the area.[73]

97. All of the commenters from the ITFS community that addressed our 15 mile proposal expressed the view that such a limitation was inappropriate for the ITFS. This claim was based on the fact that many ITFS systems serve receiver locations that are much more than 15 miles from the transmitter. Stanford University cited the fact that it serves one receiver 45 miles from its transmitter by using a high gain transmitting antenna on a portion of its transmitter output.[74] Several other ITFS licensees cited similar instances of service to distant receiver locations. Since we are not adopting protected service area rules for the ITFS operators, there is no need to discuss the applicability of the 15 mile rule to such ITFS operations.

98. The only empirical data on the variation of received signal as a function of distance from the transmitter was submitted by Microband. The data was from field measurements made in St. Louis, Missouri; Columbus, Ohio; and Palo Alto, California. The receiver locations were characterized by Microband as being "not obviously blocked by a nearby building, trees or other obstruction." Microband further stated that "where rolling terrain was present, readings taken as close to the top of hill as possible, as opposed to locations in valleys."[75] At the time the data was taken, the Palo Alto and Columbus stations were equipped with 10 watt transmitters and the St. Louis station had a 100 watt transmitter. Most of the data taken in Palo Alto and Columbus were taken at sites located within 15 miles of the transmitter. Almost half of the sites in St. Louis were located between 15 and 20 miles from the transmitter.

99. The most noteworthy feature of the data presented by Microband was the wide variation from the predicted value of received power. Most of the measured signal level data were lower than the theoretically predicted level; however, there were a significant number of sites at which the measured signal level exceeded the calculated level. Microband did not offer an explanation for this result. The Corporation for Public Broadcasting

[68] Microband Comment, *supra* note 30, at 46, 53.

[69] CCCI Comments, *supra* note 4, at 1.

[70] Comments of South Florida Communications, Inc., General Docket No. 80-113, 1-8 (September 2, 1980).

[71] Vega Comments, *supra* note 22, at 2.

[72] Comments of South Jersey Radio, General Docket No. 80-113, at 1, 2 (September 25, 1980).

[73] NTIA Comments, *supra* note 29, at 8.

[74] Stanford Comments, *supra* note 23, Attachment at 4.

[75] Microband Comments, *supra* note 30, Appendix 1.

(CPB) offered the following comment on the Microband data: [76]

> Although there are numerous physical reasons why field measurements would fall *below* maximum free space predicted values (obstructions, atmospheric conditions, etc.); measurements which are *above* the maximum free space values should not occur. The only possible reason for a large number of measurements exceeding the maximum theoretical value is some systematic error in the measurement procedure. (emphasis in original)

This conclusion differs from the conclusion the Corporation for Public Broadcasting reached in its comments in General Docket No. 80–112 where it stated that "the expected received signal strength can actually increase and reach a maximum of 6 dB above the predicted free-space value, . . ." [77]

100. The Commission conducted an analysis of the data to quantify these variations. The absolute value of difference between the measured received power and the predicted received power was calculated for all the data submitted by Microband. The mean value and the standard deviation of these differences were calculated for each of the cities. The results of these calculations are as follows:

City	Mean value of difference (dB)	Standard deviation
St. Louis	10	6.7
Columbus	8.7	7.76
Palo Alto	11.27	9.89

The results clearly indicate that it is very difficult to make accurate predictions at these frequencies. The variations from the predicted received power levels were not correlated with distance. Variations from the predicted value occurred at all distances from the transmitter. Because these measurements were taken at locations that Microband claimed had an unobstructed path to the transmitter, it can be assumed that if locations were chosen at random so that obstructed or partially obstructed sites were used even wider variations would have been measured. We do not believe it is useful or possible to try to find theoretical explanation for these results. Rather, we believe that we should recognize that wide variations from theoretical predictions will occur and make reasonable rules that reflect the lack of precision in theoretical predictions. We also wish to stress again that the theoretical predictions themselves are the subject of considerable controversy as was shown by the comments we received in this proceeding.

101. Because we have concluded that both the calculated and measured power flux density contours are subject to wide variations, we do not believe that it is reasonable to rely solely on either method to define the boundary of the protected service area. We do believe, however, that there is a need to establish a protected service area boundary that is easy to use and understand so that the spectrum use rights of licensees are clear. Unlike calculated and measured contours, a fixed mileage boundary is easy to use and understand. It also can be generally related to both measured and calculated power flux density contours. For these reasons, we have concluded that the best way to define the boundary of the protected service area is in terms of a fixed distance from the transmitter.

102. Having decided to use fixed mileage to determine the maximum distance to the protected service area boundary, we are faced with the question of what distance to use. As indicated above and in the *Notice*, we calculated that the maximum distance at which a reasonable signal would be available was 15 miles. On the other hand, Microband calculated that under ideal conditions reasonable service can be obtained at 39 miles. Contrasted with these theoretical predictions are the results obtained by those with actual field experience in the MDS industry. In an appendix filed with its reply comments Microband's customer in the Washington, D.C. area, Marquee Television Network, Inc., states that even with 100 watts of transmitter power, it can serve 60.8% of the sites within 7 miles of the transmitter but that it can only serve 29.12% of the sites located between 7 and 30 miles from the transmitter. [78] Because the number of locations that can be served decreases with distance, it is fair to assume that the percentage of locations between 15 and 30 miles that could be served would be considerably less than 29%. These results are typical of the information we have received from MDS licensees requesting 100 watt transmitter power authorization. Although no comprehensive analysis has been made of all the data submitted in support of the 100 watt transmitter power requests, it is fair to say that all applicants have informed us that they are unable to provide service to many sites located much closer to the transmitter than 15 miles using 10 watts of transmitter power.

103. We have not been given any data either in this proceeding or elsewhere that indicate that a 100 watt omnidirectional transmitting station can serve a significant number of receiver sites located more than 15 miles from the transmitter. In commenting on Microband's Petition for Rulemaking requesting that the MDS power limitation be expressed in terms of effective radiated power and that the ERP limit be set at 1,000 watts, Telecommunications System Inc. (TSI) stated that [79]:

> It has been the experience of TSI that a minimum of 100 watts of transmitter output power is required to serve an area of average terrain with an adequate signal level within a 10 mile radius from the transmission facility; * * *

This is typical of the type of information we have been furnished by MDS licensees concerning actual service area limitations. On the basis of this information, we have concluded that the maximum distance between the transmitter and the protected service area boundary should be 15 miles, for all stations using omnidirectional transmitting antenna.

104. We acknowledge that the 15 mile limitation on the protected service area is somewhat arbitrary in nature and that arguments can be made that some distance other than 15 miles would be equally reasonable. But the record in this proceeding demonstrates there is a lack of certainty in both theoretical calculations and field test data as means of establishing the service area boundary and we have a responsibility to adopt rules that are easy to understand and apply. We believe that the 15 mile rule we are adopting today can be justified using either theoretical calculations or field test data; however, we are not resting the adoption of the Rule solely on either of these methods. Rather, we have concluded that the 15 mile limitation is not unreasonable, is easy to understand and use, and is representative of the areas actually being served by existing MDS stations using either 10 watt or 100 watt transmitters and omnidirectional transmitting antennas.

105. As noted above (paragraph 95), NTIA suggested that the fixed 15 mile radius protected service area reduced the flexibility afforded MDS operators in locating their facilities and selecting

[76] Reply Comments of the Corporation for Public Broadcasting, General Docket No. 80–113, Engineering Statement at 4, October 1, 1980.

[77] Comments of the Corporation for Public Broadcasting, General Docket No. 80–112, Appendix 1, at 84 September 26, 1980).

[78] Reply Comment of Microband Corporation of America, General Docket No. 80–113, Appendix A at 5 (October 14, 1980).

[79] Comments of Telecommunications System, Inc., RM–3221, 1 (November 20, 1978).

their transmitting antennas. NTIA suggest that, in many cases, it may be more practical to locate the MDS transmitter somewhere other than in the center of the potential service area. It cited the example of an operator attempting to serve a 30 mile diameter, circular service who found it more convenient to serve the area from the edge of the service than from the center. NTIA suggested we accommodate such varying circumstances by limiting the area of the protected service rather than the radius of the area. It further suggested that 700 square miles would be an appropriate standard. [80]

106. We agree that a uniform fixed mileage service area boundary makes most sense where a station radiates its power in an omnidirectional manner in the horizontal plane; however, when the horizontal plane radiation pattern is not omnidirectional some adjustment must be made. For example, when a station uses a single cardioidal pattern antenna the gain in the direction of maximum radiated power is 16 dB.[81] In the opposite direction, the gain is approximately 0 dB. It would not be reasonable to locate the protected service area boundary the same distance from the transmitter in the direction of 0 dB gain and in the direction of 16 dB gain.

107. In this situation, the power radiated in the direction of 16 dB gain is 3dB higher than the power radiated by 13 dB omnidirectional antenna assuming equal transmitter powers. If the service area boundary were extended out to that point at which the power flux density were equal to the power flux density at the boundary of the 13 dB omnidirectional antenna, the maximum distance to boundary would be approximately 21.2 miles from the transmitter. If we assume such a service area can be approximated by 21.2 mile radius semi-circle, we can estimate the area of the protected service to be approximately 706 square miles. The area of 15 mile radius circle is approximately 707 square miles. We agree that it is more reasonable to limit the protected service area of non-omnidirectional radiation patterns by area rather that by a fixed radius. So that disputes are easily resolved we must also adopt a clear and easy to understand method by which the boundary of such service areas can be determined. We believe the best method to accomplish this is to make the service area have the same shape as horizontal plane radiation pattern of the transmitting antenna and limit the total area served to 710 square miles. To accomplish this result the protected service area boundary will be defined by the following formula:

$$D_b = \frac{D_{bmax}}{\text{antilog}\left(\frac{G_{max} - G}{20}\right)}$$

In which the parameters are defined as follows:

D_b = the distance to the boundary in direction of interest,

G = the antenna gain in the direction of interest,

G_{max} = the maximum gain of the transmitting antenna,

D_{bmax} = the distance to boundary, in the direction of maximum gain that will make the total area of the protected service area equal to or less than 710 square miles, the antilog is to be computed using the base 10; all distances are in miles and all gains are in dB.

We stress that all distance must be adjusted so that the total area contained within the protected service area boundary does not exceed 710 square miles. We expect each applicant that does not intend to use an omnidirectional transmitting antenna to include a complete description of the proposed service area with its application. The description must include the number of square miles contained in the proposed service area and also contain sufficient detail to allow the easy determination of the distance from the proposed transmitter site to the boundary in all directions.

108. We recognize that an applicant could use such a narrow beamwidth transmitting antenna that the protected service area boundary determined using this formula would be beyond the area that could be served by the transmitter. We have considered both limiting D_{bmax} and specifying a minimum antenna beamwidth to deal with this problem. However, we have decided this is not necessary. We believe that limiting the protected service area boundary to the radio horizon will adequately deal with this problem. Furthermore, there may be a case where it is necessary to use such an antenna to serve the desired service area.

f. *Radio Horizon and Antenna Height.*

109. In the *Notice*, we also proposed that if the radio horizon were closer to the transmitting site than the boundary determined either by the fixed mileage limit or the power flux density contour then radio horizon would be the boundary. We made this proposal because there is little energy propagated beyond the radio horizon at MDS frequencies and consequently there would be no service available beyond the radio horizon. We proposed that for purposes of determining the service area boundary, we would consider the radio horizon to be the horizon determined by natural terrain features or significant man made structures. We further proposed not to consider the effect of receiver antenna height in determining the radio horizon.

110. Most of the commenters favored our proposal to fix the service area boundary at the radio horizon in those cases where it was closer than the power flux density contour or the fixed mileage distance. However, there were concerns expressed about how the radio horizon is determined and whether it would be feasible to limit the radio horizon by restricting transmitter antenna height.

111. For a particular transmitter site, the major factor that determines whether a natural terrain feature or a man made obstacle will become the radio horizon is the transmitting antenna height. NTIA suggested that the height of all MDS transmitters be limited so that the resulting radio horizon was located at the protected service area boundary determined by either a fixed mileage or a power flux density contour. NTIA suggested a formula that could be used to determine transmitting antenna height.[81a] The formula was derived assuming a 4/3 earth radius propagation condition and a 100 foot high receiving antenna. In its reply comments, NTIA suggested a modified formula that was derived assuming a 30 foot high receiving antenna.[82] When evaluated for 15 miles, this formula yields a transmitting antenna height of 25.5 feet. In its reply comments Microband noted the antenna height implied by the NTIA suggestion and stated that radiation from such a height would not clear most obstacles in most areas.[83]

112. In its comments Microband submitted an analysis in which it attempted to derive an analytical expression to predict the percentage of an area that would have an unobstructed propagation path to the transmitting antenna. The variables in the analysis were the transmitting antenna height, the receiver height, the obstacle height, the distance to the

[80] NTIA Comments, *supra* note 29, at 8.

[81] The horizontal plane gain of either an omnidirectional or directional antenna varies with the vertical beamwidth of the antenna. Here we are assuming that the cardioidal antenna has the same vertical characteristics as the 13 dB gain omnidirectional antenna we used to calculate the -75.6 dBw/m^2 power flux density contour.

[81a] NTIA Comments, *supra* note 29, at 5.

[82] Reply Comments of the National Telecommunications and Information Administration, General Docket No. 80-113, 3 (October 2, 1980).

[83] Reply Comments of Microband Corporation of America, General Docket No. 80-113, 6 (October 14, 1980).

obstacle, and the distance to the desired receiver.[84] Although the Microband analysis is flawed in some respects, we agree with the basic result of the analysis; [85] that is, it is necessary to have a transmitting antenna height considerably higher than the obstacles located in a service area if there is to be reliable service to a significant portion of the area. In addition to its analytical model, Microband also submitted maps showing the variation of an obstructed area as function of antenna height for Birmingham, Alabama. These maps show that raising the transmitting antenna from 300 feet above ground level to 737 feet above ground level significantly reduces the area within 10 miles of the antenna that is blocked by natural terrain obstructions. We believe the maps and analysis submitted by Microband clearly demonstrate that it would be unwise to restrict transmitting antenna heights as suggested by NTIA. There is little doubt that if a restriction were applied, it would be impossible to serve any significant percentage of any service area. Thus, we reject NTIA's suggestion that we limit transmitting antenna heights.

113. We recognize that by declining to place a limit on transmitting antenna height, we could be encouraging MDS operators to place antennas higher than needed to serve their service area. However, we also recognize that it could be expensive to construct higher antennas; and if the additional height did not add significantly to the area that could be served, it would be unlikely that an MDS operator would spend the necessary money without realizing any return. In addition, our rules require all MDS operators to construct their facilities so as to not block cochannel use in adjacent areas. Thus if an operator did construct an unnecessarily high antenna, we have the regulatory tools to deal with such an occurrence. Finally, in regard to transmitting antenna height, we do not believe there is anything wrong with an MDS operator raising its antenna as Microband did in Birmingham if the purpose is to get its signal over obstructions within its service area.

[84] Microband Comments, *supra* note 30, at 32–41.

[85] The analysis is flawed in two respects. First, it does not consider the effect of the width of the obstacle; and second, it masks the effect of the distance between the transmitting antenna and the obstacle. The first is important because a wide obstacle such as a natural terrain obstruction will shadow a much larger area than a narrow obstacle such as a building. The second is important because the amount of area shadowed by an obstacle varies with the distance between the obstacle and the transmitter. An obstacle close to the transmitter will shadow less area than an obstacle located further from the transmitter.

114. We also have decided that in making the determination of whether an obstacle constitutes the radio horizon a reasonable receiving antenna height should be assumed. In many cases, a relatively modest receiving antenna height will overcome the blocking effect of an obstacle. NTIA in its reply comment suggested that 30 feet was the typical height of receiving antennas. [86] Microband also used this height in its analysis. [87] We agree that 30 feet is representative of the actual heights at which antennas generally will be mounted on private residences. For these reasons, we have decided to use a 30 foot receiving antenna to determine the location of the radio horizon. We also expect all protected service area calculation to be made assuming a 30 foot receiving antenna height.

115. In summary, the protected service boundary will be the radio horizon in those situations in which the radio horizon is closer to the transmitting antenna than the protected service area boundary determined as above. The location of the radio horizon is to be determined using the actual transmitter height and a 30 foot receiving antenna height.

g. *Limitations Imposed by Preexisting Cochannel Station.* 116. In the *Notice*, we observed that there were a number of existing MDS operations in which interference already existed within the proposed protected service area boundary. That is, there are situations in which the ratio of the desired signal to an undesired cochannel signal is less than 45 dB within the protected service area of the desired station. Because of our belief that it would not be useful to disturb existing situations where the operators had adapted to the interference, we proposed to "grandfather" all such situations. To accomplish this, we proposed to limit the service area of such stations to the boundary at which the ratio of the desired signal to the undesired signal is 45 dB.

117. We received little comment on this proposal. Microband basically supported the concept but stressed that once a contour was established for a station, it should be permanent unless voluntarily changed by the applicant.[88]

118. We agree with Microband. With regard to the permanence of the protected service area, we stress that we proposed the interference contour boundary only in those cases where the stations were already operating and had reached an accommodation. We expect there to be very few such situations. In most cases, the protected service area boundary will be described above and will be permanent. All applicants must show that they will not cause harmful interference within the protected service area of any existing or previously applied for station with an expired cutoff date located within 50 miles of the proposed station or that have an unobstructed propagation path to the protected service area of any such station. An application that does not contain such a showing will not be accepted for filing. The protected service areas of existing stations or previously proposed stations with expired cutoff dates will not be changed to accommodate additional more closely spaced stations.

119. There is one situation involving the reduction of the protection service area boundary by "grandfathered interference" that requires clarification. The reason we proposed to limit the protected service boundary to the interference contour produced by an existing or previously proposed station was that we did not want to allow the new rules to be used to generate controversies where the licensees and applicants had accommodated themselves to the situation. The question then is should a subsequent applicant be required to show noninterference in the protected service area boundary determined by the fixed mileage boundary (or the radio horizon if applicable) or should it only be required to show noninterference within the area bounded by the interference contour? On the one hand, it could be argued that because the protected service area was reduced only to avoid a conflict between stations that were operating prior to the adoption of these rules or had agreed for their own reasons to accept interference from each other, it would not be fair to let a new applicant benefit from such accommodations. This argument is especially persuasive in those situations where the licensee with the reduced service area is providing service in the unprotected area that lies within 15 miles by the use of good engineering techniques. A new entrant could cause a level of interference that could negate the results of good engineering solutions. For example, if a licensee had oriented its receiving station antennas in the unprotected area so that there was a small decrease in gain in the direction of the desired station but a much larger reduction in gain in the direction of the undesired station that caused the service area reduction, it could be providing an interference free picture. A

[86] NTIA Rely Comment, *supra* note 81, at 3.

[87] Microband Comments, *supra* note 30, at 37, 54.

[88] *Id.*, at 54.

new station could be so located that it would cause a much higher level of interference and thus negate the engineering solution the licensee had implemented.

120. On the other hand, it could be argued that since those persons living in the unprotected area may not be able to get an interference free signal from the existing station using standard techniques, there is no reason to protect its signal in that area.

121. After considering these arguments, we have concluded that it would better serve the public interest if we granted the existing station a protected service area determined by the above rules relative to new applicants and use the reduced protected service area only in cases involving the station that caused the reduction. This result has two benefits. First, it encourages the station with the reduced service area to develop engineering solutions to protect against the interfering station. Second, it makes it more likely that locations in unprotected areas will get service because it limits the interference within the unprotected area to that caused by one station.

h. *Adjacent Channel Considerations.*

122. In the *Notice,* we expressed the view that adjacent channel operation was feasible if the transmitting antennas were colocated and cross-polarized and the EIRP of both stations was the same. In particular, we concluded that if the receiving antennas could provide 15 dB of cross-polarization discrimination between the desired signal and an undesired adjacent channel signal, then, because the signal from the colocated transmitters would be the same at all receiving sites, the 15 dB protection ratio we had concluded was necessary for adjacent channel operation would be achieved. Because we have concluded here that the required protection ratio is only 0 dB, we believe more strongly that such operation is feasible. During the pendency of this proceeding, colocated adjacent channel stations have been successsfully operated in Phoenix. Other colocated adjacent channel operations are expected to begin soon.

123. The operation of noncolocated adjacent channel stations presents more difficult issues. In Appendix 3 of the *Notice,* we developed an analytical model to predict the effect noncolocated adjacent channel stations would have on each other. We developed the model assuming that the transmitting stations used copolarized antennas,[89] had the same EIRP, and that all receive sites were equipped with the standard antenna oriented to receive the maximum desired signal. We also assumed that the ratio of the desired signal to the undesired adjacent channel signal had to be at least 15 dB for satisfactory operation. Using this model, we showed that if the stations were located less than ½ mile apart and the transmitting antennas were cross-polarized each station would lose less than 0.3% of its 15 mile protected service area. That is, we showed the area that could not be served because of adjacent channel interference was less than 2 square miles. When the transmitter separation was increased to 2 miles, the model showed that less than 4% of the service area was lost.

124. On the basis of this analysis, we concluded that because the 0.3% loss of service area was "diminutive" and would have little effect on the operation of either station, we could exclude from the protected service area of each station that area in which adjacent channel interference occurred so long as the area excluded did not exceed 0.3%. This proposal was contained in proposed new Section 21.902(d)(4).

125. We received very little comment on the technical analysis we presented. Dr. William Kincheloe of Stanford University did suggest that our reliance on cross-polarization to achieve adjacent channel operation was misplaced because there is likely to be significant signal depolarization when the propagation path exceeds 7 miles.[90] We agree that the likelihood of achieving significant cross-polarization discrimination (15–20 dB) decreases as the propagation path length increases. However, because adjacent channel interference is greater near the undesired station and because the desired and undesired transmitters are to be located near each other, significant depolarization is not likely to occur between the transmitters and the receiving sites where cross-polarization discrimination is most needed; that is near the undesired transmitter. At receiver sites located near the edge of the protected service area, the propagation path length to each transmitter will be approximately the same and thus the signal levels at the receiver will be approximately the same. If 15 dB of protection were required as assumed in the *Notice* and all, or most, of the polarization discrimination were lost, significant adjacent channel interference might occur. However, as was discussed above, it is reasonable to expect television receivers to operate successfully even when the undesired signal *exceeds* the desired signal by as much as 5 dB. Thus, we do not believe there will be harmful adjacent channel interference at those sites located more than 7 miles from the transmitters where significant depolarization of the signal is more likely to occur. Furthermore, the amount of adjacent channel interference that will occur is less than predicted in the *Notice* because of the very conservative adjacent channel protection ratio (15 dB) used to make the calculations.

126. Microband criticized our proposal to authorize noncolocated adjacent channel operations that would reduce the service areas of existing stations. Microband argued that, although the area lost might constitute only 0.3% of the total service area, it could include a much larger percentage of the sites actually being served. Microband suggested that the better method would be to require adjacent channel applicants to show the effect of the proposed operation on existing operations and let the Commission make a case-by-case determination of whether the amount of area lost is significant.[91] Contrasted with Microband's views were those of Richard L. Vega who strongly opposed any rule that would require an adjacent channel applicant to show how it would avoid causing harmful adjacent channel interference. Mr. Vega states that "[e]ither the Commission believes that adjacent channel transmissions are possible or they doubt it!"[92]

127. As we stated in the *Notice,* we believe that two conclusions are irrefutable. First, it is possible to achieve successful adjacent channel operation using MDS channels 1 and 2 if the transmitting antennas are cross-polarized, colocated, and have the same EIRPs. Second, if the transmitters are not colocated, there will always exist an area surrounding the undesired transmitter where it will be virtually impossible to receive an interference-free picture. The size of the area can be reduced by careful engineering but there will always be some area in which harmful adjacent channel interference will occur. Thus, the policy choice is between requiring colocation and insuring interference-free operation and allowing some flexibility in adjacent channel transmitter location. In the

[89] We made the calculation using copolarized transmitting antennas and then determined contours of additional protection required to provide the 15 dB of adjacent channel protection. It was assumed that most of the protection would come from cross-polarizing the transmitters.

[90] Stanford Comments, *supra* note 23, Attachment at 7.

[91] Microband Comment, *supra* note 30, at 61–62.

[92] Vega Comments, *supra* note 30, at 61–62.

Notice, we proposed to allow adjacent channel transmitters to be located as much as ½ mile apart and to reduce the protected service areas of each station by not including the area near the adjacent channel station where harmful interference will occur.

128. While this may be the best policy to follow when both stations are proposed at approximately the same time, we do not believe it is the best policy when the second station is applied for after the first station has either begun operation or has made substantial progress toward beginning operation. In the case of an operating station, a new adjacent channel station located within ½ mile would cause interference in that portion of the existing station's protected service area where the best signal generally is available—that is within a few miles of the transmitter. Thus, it is likely, as Microband suggests, that a noncolocated adjacent channel station could disrupt the service of a substantial number of the existing station's customers. For this reason, we believe that the better course to follow is to require the adjacent channel applicant to show the effect its proposed operation will have on existing and previously proposed operations. Thus, we will require all applicants proposing noncolocated adjacent channel operations to show first, why they are unwilling or unable to colocate their proposed facilities with existing or previously proposed operations and second, to show how much harmful interference will be caused by the proposed noncolocated operation. We will then make a decision, on a case-by-case basis, of whether to accept the application. We believe that variations from case-by-case are so wide that it is not feasible to adopt a single rule that would apply to all situations. Furthermore, we remind all existing licensees and permittees of their obligation to "make exceptional efforts . . . to avoid blocking potential adjacent channel use in the same city. . . ." 47 CFR 21.902(a).

129. The operation of adjacent channel stations also can be affected by the radiation of out-of-band emissions by station transmitters. For example, if a channel 1 transmitter emits a significant amount of energy within the band assigned to MDS channel 2, a channel 2 receiver could experience harmful *cochannel* interference. Section 21.908 of the rules, 47 CFR 21.908, contains the technical requirements for MDS transmitters. This section requires that a transmitter rated at 10 or more watts (this includes virtually all MDS transmitters) must attenuate all emissions that are more then 3 MHz above or below the edges of the assigned band at least 40 dB relative to the peak visual output power. Emission standards for the bands between the authorized band edges and 3 MHz above and below the band edges are contained in § 73.687(a)(3) of the Rules, 47 CFR § 73.687(a)(3), that applies to broadcast television stations. This section requires that all emissions in these bands be attenuated at least 20 dB below a reference level described in § 73.687(a)(4) except that, for color television transmission, the emission at 2.32945 MHz below the lower band edge must be attenuated at least 42 dB below the reference level. The nature of the reference level specified in § 73.687(a)(4) is such that the attenuation required in these 3 MHz bands is approximately 38 dB relative to the peak visual signal.[93] Thus, the MDS rules only require that transmitter out-of-band emissions to be attenuated 40 dB below the peak visual signal. This means that one colocated adjacent channel transmitter can emit signals that are only 40 dB below the peak visual power of a colocated transmitter and are within the authorized band of that transmitter. Because these out of band emissions are within the band of the second channel, they will appear as cochannel interference that is only 40 dB below the desired signal and thus will not meet the 45 dB cochannel interference standard. Of course, if the adjacent channel transmitters are cross-polarized, there could be as much as 20 dB of additional attenuation of the out-of-band emission by the receiving antenna thereby reducing the level of the undesired signal to 60 dB below the desired signal. A cochannel signal at this level would not cause preceptible interference.

130. During the pendency of this proceeding, we authorized Channel View, Incorporated to conduct an experiment in Salt Lake City to test the feasibility of adjacent channel operation.[94] The experiment was conducted by Channel View, the licensee of MDS channel 1 in Salt Lake City, with the assistance of American Home Theaters, Channel View's customer in Salt Lake City. The experiment was conducted using the four E group channels and the four F-group channels that were than allocated to the ITFS. These eight channels are assigned the following bands:

E_1 2596–2602 MHz	F_1 2602–2608 MHz
E_2 2608–2614 MHz	F_2 2614–2620 MHz
E_3 2620–2626 MHz	F_3 2626–2632 MHz
E_4 2632–2638 MHz	F_4 2638–2644 MHz.

Thus all the channels except E_1 and F_4 were operated in the presence of both an upper adjacent channel and a lower adjacent channel. E_1 operated in the presence of only an upper adjacent channel and F_4 operated in the presence of only a lower adjacent channel. The experiment was conducted with the transmitting antenna for the channels in one group cross-polarized relative to the transmitting antennas of the other group. Because the experiment was being conducted to show the feasibility of 8-channel operation, the receiving antennas were oriented with their polarization plane at 45° to the horizontal plane, that is halfway between vertical and horizontal polarization.[95] This allowed the receivers to receive the same level of signal from both the E group and F group transmitters. A horizontally polarized signal received with the receiving antenna oriented at this angle is only 3 dB lower than the signal that would be received if the receiving antenna were oriented horizontally. A vertically polarized signal received by the same antenna is also only 3 dB lower than the signal that would be received if the antenna were vertically polarized. Thus, the received signals were of equal amplitude and only 3 dB lower than the signals that would have been received in either the vertical or horizontal orientation. Of course, if the antenna were either horizontally or vertically polarized the received signal on the cross-polarized channel would be approximately 20 dB lower than the signal received on the copolarized channel. During the experiment, it was determined the out-of-band emissions from the adjacent channel transmitter had to be kept at least 51 dB below the peak video power to avoid perceptible interference. That is a transmitter that only met the current MDS out-of-band emission requirements would have caused adjacent channel interference when operated in this manner. The transmission systems in the experiment were adjusted so that the out-of-band

[93] Erickson, D. E., *Measuring TV Sidebands & Spurious Emissions*, Broadcast Engineering, May 1982, at 70.

[94] Experimental Station KM2XBN, Salt Lake City, Utah; File No. 8666-ED-PL-81. *See also*, Mackey R. J., *MMDS—Where Does It Stand Six Months After FCC Approval?* 3 Private Cable at 16 (January, 1984) (This article contains a discussion of some of the relevant technical aspects of the Salt Lake City experiment.).

[95] There is nothing in the rules we are adopting today or in any existing rules that preclude licensees from operating adjacent channels with the same polarization. We believe this would be desirable in some situations because the additional 3 dB of signal that would be obtained could improve the level of service provided.

emissions were 60 dB below the peak visual signal and successful 8-channel operation was achieved.

131. These experimental results validate the conclusion that if cross-polarized, colocated, adjacent channel transmitters are used and if receiving antennas can provide 20 dB of cross-polarization discrimination, successful adjacent channel operation using multiple channels can be achieved. However, because we believe, as many of the commenters in this proceeding suggested, that in some cases it may be difficult to achieve this level of cross-polarization discrimination, we strongly recommend that all new licensees use transmitters that achieve more than the required out-of-band emissions suppression. In this regard, it should be noted that Section 21.908(b) requires that greater attenuation of out-of-band emissions be achieved if harmful interference occurs. In the Further Notice of Proposed Rulemaking we are adopting today, we are proposing to change the required out-of-band emission attenuation from 40 dB to 60 dB.

132. If the adjacent channel transmitters are not colocated, the probability of the out-of-band emissions causing harmful interference is much greater. For any achievable level of out-of-band emission suppression, there will always be an area in the vicinity of a non-colocated adjacent channel station in which the out-of-band emission will cause harmful interference. Reducing these emissions, as suggested above, will reduce the size of this area but it cannot be eliminated. We have not attempted to develop an analytical model to determine the size of this area but we believe the results would be qualitatively similar to those in Appendix 3 of the *Notice*. It should be stressed in this regard that this problem cannot be solved or mitigated by improved receiver design. The signals of concern here are in the same band as the desired signal and therefore will always be a potential source of harmful interference. For these reasons, we strongly urge all new MDS permittees to make exceptional efforts to colocate adjacent channel facilities. In those cases in which this cannot be done, we will proceed as described above. That is, in those cases where the applications were filed at the same time, we will not protect a station against harmful interference that is caused by the non-colocated adjacent facility. In the case of a subsequently filed application, we will require that the applicant submit an analysis of the harmful interference that will occur within the protected service areas of existing or previously proposed adjacent channel facilities as a result of out-of-band emissions from the proposed new facility. We will make a case-by-case determination of whether to accept such applications.

133. Finally, we wish to address the issue of out-of-band emissions from ITFS transmitters. Section 74.936(b) of the Rules, 47 CFR 74.936(b), requires that all ITSF transmitters rated at 10 watts or more attenuate all emissions more than 3 MHz above or below the assigned channel edges at least 40 dB relative to the peak visual output power. This requirement is the same as the MDS transmitter requirement. However, Section 74.938(b), 47 CFR 74.938(b), exempts ITFS operators from complying with Section 73.687(a)(3) that applies to lower sideband emissions except in those cases in which "interference to reception of another station results. . . ." There are several questions raised by these sections. First, what level of protection from existing adjacent channel ITFS stations will new MDS stations using the E or F group channels be entitled to? The existing ITFS stations that could cause such interference include both grandfathered ITFS users of the E and F group channel and the operators of D_4 and G_1, the channels that "bookend" the reallocated E group and F group channels.

134. In reallocating the spectrum from the ITFS to the MDS, one of our primary objectives was to cause as little disruption as possible to existing ITFS operations. To accomplish this goal, we "grandfathered" all ITFS licensees, permittees, and applicants of the reallocated channels. What this means in the present context is that such grandfathered operators that have already constructed will not be required to modify or replace existing equipment. If an adjacent channel MDS operator believes that its operation would be improved if the ITFS facilities were improved, it is free to furnish new equipment for the ITFS operator. We expect that ITFS operators will cooperate by accepting reasonable offers to furnish new equipment made by adjacent channel MDS operators. Of course, the same result will apply to both existing E and F group transmitters and existing channel G_4 and channel G_1 transmitters. Thus when there are pre-existing adjacent channel ITFS operators, we will not protect the MDS station from harmful interference that occurs as a result of the operation of the ITFS station.

135. Prior to the adoption of the *Multichannel Order* a number of E-group and F-group ITFS applications were filed. Since that time many of these applications have been granted; however, many of the recipients of these grants will not have constructed their facilities by the date of this order. The question raised by this situation is what kind of adjacent channel protection should such licensees be required to give to an adjacent channel multichannel MDS station. For example, assume that a grandfathered E-group ITFS applicant has not yet constructed facilities in an area where we have received a number of F-group MDS applications. The best way to proceed would be to colocate the two facilities and cross-polarize the transmitting antennas. In addition, if the effects of out-of-band emission are to be mitigated, the ITFS transmitter should at least meet the existing MDS transmitter out-of-band emission requirement. As stated above, it would be even better in both transmitters had out-of-band emissions that were 60 dB below the peak visual power. Many of the commenters in this proceeding made the point that in many cases because of legal restrictions, it will be impossible for ITFS and MDS facilities to be colocated. Specifically, it was suggested that many ITFS transmitters are located on public property that is not available for private use.[96] We believe that in such situations the ITFS operator should use a transmitter that emits the lowest possible level of out-of-band emissions. Specifically, such transmitters shall comply with Section 73.687(b)(3) as is required by 74.938(b) when interference occurs, as it most likely would if this standard were not met. In addition, although Section 74.936(b) only requires that the emissions beyond 3 MHz from the band edges be attenuated only 40 dB below the peak visual power (for transmitter rated at 10 watts or more), 60 dB of attenuation as specified in Section 73.687(i) should be achieved if at all possible.

136. We will, therefore, not protect a multichannel MDS station from harmful interference that is caused by a colocated or non-colocated E or F group ITFS facility constructed after the date of this order if that ITFS station transmitter complies with §§ 73.687(b)(3) and 74.936(b) of the Rules. If such an ITFS station uses a transmitter that does not comply with these sections, it will not be allowed to continue operation.

137. We will treat D_4 and G_1 ITFS stations constructed after the date of this order in a similar manner. That, is

[96] Comments of the Corporation for Public Broadcasting, General Docket No. 80-113, 14 (September 2, 1980).

we will not protect a MDS station from harmful interference that occurs when the transmitter of a D_4 or G_1 station is in compliance with Sections 73.687(b)(3) and 74.938(b).

3. Summary of Protected Service Parameters.

138. An MDS station will be protected from harmful cochannel and adjacent channel interference as defined herein within an area described as follows:

i. For a station using a transmitting antenna with an omnidirectional horizontal plane radiation pattern the boundary of the protected service area will be 15 miles;

ii. For a station using a transmitting antenna with an nonomnidirectional horizontal plane radiation the boundary of the protected service area will be the locus of all points located at distances from the transmitter as determined by the following equation;

$$D_b = \frac{D_{bmax}}{\text{antilog}\left(\frac{Gmax - G}{20}\right)}$$

in which the parameters are defined as follows:

D_b = the distance to the boundary in direction of interest.

G = the transmitter antenna gain in the direction of interest.

G_{max} = the maximum antenna gain.

D_{bmax} = the distance to boundary in the direction of maximum antenna gain that will make the total area within the boundary less than or equal to 710 square miles.

All the distances are in miles; the gains are in decibels and are relative to an isotropic antenna; and the antilog is taken to the base 10.

C. Service of a Single Metropolitan Area

139. In the *Notice*, we proposed to require that each MDS station be engineered so that it would serve only one metropolitan area with a population that exceeded 50,000. The proposal was contained in proposed Section 21.902(b)(6). This proposal did not elicit much comment. Microband stated that it opposed the Rule and also suggested that it would be difficult to administer because of a lack of a definition of what constitutes a metropolitan area.

140. Upon further consideration, we have concluded that the Rule is not necessary. Existing Section 21.902(a) already requires that stations be engineered to avoid blocking cochannel use in adjacent cities. We also agree with Microband's contention that the rule would be difficult to administer.

III. Notice of Inquiry Issues

141. In the *Notice*, we asked a number of questions concerning several issues that we believe could be a source of future problems if we were to authorize more than two adjacent channels. We did not receive very many substantive comments in response to our questions. For this reason, we will only discuss each of these issues on which we received substantive comments.

A. Coordination

142. In the *Notice*, we expressed the belief that any applicant in the 2500–2690 MHz band regardless of the service should submit a technical analysis of the affect its operation would have on existing or previously applied for stations on the same or adjacent channels. The proposed rules in the *Notice* contained an extensive revision of Section 21.902 that is now used in the MDS to avoid interference problems. We asked what if any changes would be appropriate if these procedures were made applicable to the 2500–2690 MHz band. We also asked for comment on the advisibility of using coordination procedures similar to those in section 21.100(d) in this band.

143. We receive little comment on this issue. John F.X. Browne did indicate that the coordination between ITFS and MDS applicants would be desirable. He also pointed out that a procedure similar to that set out in Section 21.100(d) would not be appropriate because that procedure is adapted to point-to-point microwave use whereas any procedure to be used in the 2500–2690 MHz band would have to deal with point-to-multipoint interference problems.[97] We believe that the rules we are adopting today adequately deal with the required coordination between MDS and ITFS users of the 2500–2690 MHz band. It is not clear, however, that we have adequate procedures to deal with interference problems that might occur between and among ITFS applicants, permittees and licensees. Because of the increased ITFS filing activity that has resulted from our decision to allow ITFS applicants to lease the excess capacity that is available on their system, there are many more cases that require that we decide whether ITFS applications are mutually-exclusive. We believe that a procedure similar to that used in the MDS could be used in the ITFS. We did not propose to adopt such a procedure in the *Notice* nor are we prepared to do so now. We believe that we should wait until we have more experience with the ITFS leasing activity before proposing a procedure.

144. We also have pending before us a Petition for Rulemaking submitted by Microband Corporation (RM–3232)[98] which requests, *inter alia*, that we make Section 21.100(d) with certain changes applicable to the MDS. For the reason stated above, we do not believe that such a prior coordination procedure is suitable for the MDS. Furthermore, we believe that the service area definitions and associated rules we are adopting today deal more effectively with the other issues raised by Microband in its petition, and hence we shall deny the petition.

B. Other Notice of Inquiry Issues

145. In the *Notice*, we asked also for comment on spuriously generated interference, receive equipment considerations, channel plans, power and service area limitations, and transmitter stability. As noted above, we did not receive extensive comments on these questions. In the *Multichannel Order*, we considered the various channel plans suggested in the proceeding and in this proceeding. We do not believe that this issue requires further comment. However, we do believe that all of the other issues listed are vital to the successful operation of both MDS channel 1 and channel 2 stations and to all multichannel MDS stations that might be authorized in the future. We believe that if we propose specific rule changes, we will receive more and more focused comments on these important issues. For this reason, we are today adopting a Further Notice of Proposed Rulemaking in which we propose specific rule changes addressing these issues.

IV. Other Matters

146. In the *Notice*, we stated our intention to deal with two Pending Rulemaking Petitions in this proceeding. One of these, RM–3540, filed by Microband requested that we investigate the feasibility of exchanging the existing MDS channel 2 band for a 6 MHz band allocated to another service. We resolved the issues raised by Microband's Petition in the *Multichannel Order* and thus do not need to consider it in this proceeding.[99]

147. The other Petition, RM–3537, filed by Telecommunications Services, Inc. (TSI) requested that we amend Section 21.902(c) to establish minimum criteria for the acceptance of MDS applications.[100] In particular, TSI

[97] Browne Comments, *supra* note 17, at 7.

[98] Petition for Rulemaking RM–3232, In the Matter of Amendment of Part 21 of the Commission's rules to make the prior coordination requirement of Subsection 21.100(d) applicable to Multipoint Distribution Service; Microband Corporation of America (Oct. 27, 1978).

[99] *Multichannel Order*, *supra* note 6, at 33,899.

[100] Petition for Rulemaking RM–3537, In re: Amendment of Part 21 of the Commission's Rules to

Continued

suggested an amendment to Section 21.902(c) that it claimed would provide for the acceptance of all applications that proposed locating a new station more than 30 miles from an existing or previously proposed station and were also cross-polarized with all existing or previously proposed stations located within 40 miles of the proposed station. On the basis of the adjacent channel and cochannel interference analysis contained in this order, we have concluded that the rule changes proposed by TSI would not adequately protect existing stations from harmful cochannel and adjacent channel interference. We also believe that the rules we are adopting in the Order provide adequate protection for existing stations and also give new applicants clear guidelines for locating new cochannel and adjacent channel stations. For these reasons, we have concluded that it would not be in the public interest to consider further the suggestions made by TSI and we are therefore denying its petition.

V. Regulatory Flexibility Act

148. The Regulatory Flexibility Act of 1980 does not apply to rules adopted after January 1, 1981 when the underlying notice of proposed rulemaking was adopted before that date. The underlying *Notice of Inquiry of Proposed Rulemaking* in this proceeding was adopted March 19, 1980. Accordingly, there is no need for certification under the Regulatory Flexibility Act. See 5 U.S.C. 601.

VI. Conclusion

149. We believe that we have in this *Report and Order* adopted standards for the regulation of the Multipoint Distribution Service that are reasonable, easy to understand and apply, and are in the public interest. We believe that the rules and policies set out herein should insure that MDS licensees are guaranteed protection from harmful cochannel and adjacent channel interference in the area in which they can provide reliable service while at the same time allowing for the licensing of new stations as close to existing stations as is technically feasible.

150. Accordingly, it is ordered, pursuant to sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. 154(i), 303(r), that Title 47 of the Code of Federal Regulations is amended as described in Appendix B. These amendments shall become effective thirty days after publication of this Order in the **Federal Register.**

151. It is further ordered that the Microband Petition for Rulemaking RM-3232 is denied and that proceeding is terminated.

152. It is further ordered that the Telecommunications Systems, Inc. Petition for Rulemaking RM-3537 is denied and that proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

List of Comments

Formal and informal comments were filed in this proceeding by the following:

Advanced Micro Devices, Inc.
American Association for Community and Junior Colleges
Task Force on the Uses of Mass Media for Learning
Bakersfield City School District (California)
Board of Education, City of Chicago
Birmingham Board of Education
Catholic Television Network
Center for Excellence, Inc.
Colorado State University
Contemporary Communications, Inc.
Commonwealth Edison (Chicago)
Corporation for Public Broadcasting
Cox Cable Communications, Inc.
Department of Communications, United States Catholic Conference
Department of Education, San Diego County
Eastfield College (Texas)
Bert Edwards
Educational Television Association of Metropolitan Cleveland
El Centro College (Texas)
Entertainment Network, Inc.
Ford Aerospace and Communications Corporation
General Dynamics—Fort Worth Division
Hewlett-Packard Company
Indiana Higher Education Telecommunications System
Intel Corporation
Norman Jackson
Jet Propulsion Laboratory of the California Institute of Technology
John F. X. Browne & Associates, Inc.
Joint Council for Educational Telecommunications
Kirkwood Community College
Lawrence Livermore Laboratory of the University of California
Leland Standford Junior University
Long Beach Unified School District
Magic Lantern Television Microband Corporation
National Association of Public Television States
National Public Radio, Inc.
National Telecommunications Council, Inc.
National Telecommunications and Information Admininstration
Northeastern University
Public Interest Satellite Association
Public Service Satellite Consortium
Richard L. Vega & Associates
Richardson Independent School District (Texas)
The School Board of Marion County (Florida)
South Florida Communications
South Jersey Radio Inc.
Standard Oil of California
Systems Control Incorporated
University of Maryland
University of Minnesota
University of Southern California
Watkins-Johnson Company
Marabeth F. Webb

Reply comments were filed by the following:

Archdiocese of San Francisco *
Catholic Television Network
Center for Excellence *
Corporation for Public Broadcasting
Illinois Institute of Technology *
Joint Council on Educational Telecommunications
Leland Stanford Junior University *
Microband Corporation
National Association for Public Television Stations
National Aeronautics and Space Administration
National Instructional Telecommunications Council, Inc.
National Telecommunications and Information Agency
South Florida Communication Incorporated.

Those organizations listed with an asterisk did not actually file reply comments, but rather incorporated by reference the comments they had filed in the related proceeding in General Docket 80-112.

Responses to Microband's "Urbanet" Proposal

Reverend Jesse L. Jackson, Operation Push, Inc.
The Archdiocese of Los Angeles
Ad Hoc Committee for Wireless Cable
American Home Theater, Inc.
Bogner Broadcast Equipment Corporation
Omega Communications, Inc.
Test, Inc.
Vista Unified School District
National School District, National City, CA
San Dequito Union School District, CA

define Interference Studies Required by Subsection 21.902(c) and to Establish Minimum Criteria for the Acceptance of Newly Filed Applications. Proposing Construction of New MDS Stations or the Amendment of Existing MDS Authorizations, Telecommunications Systems, Inc. (Dec. 7, 1979).

Chula Vista City School District, CA
Cajon Valley Union School District, CA
San Diego Unified School District
Palomar College
California Media and Library Educators Association
National Cable Television Association, Inc.
Microband Corporation of America
Pay Television of Greater New York, Inc.
American Cable
Showbiz
Santa Ana Unified School District
Alfred E. Anscombe
Regional Educational Television Advisory Council of Los Angeles County
Telicare, Diocese of Rockville Centre
Ultravision Communications
State of Connecticut, Board of Education
California State University, Sacramento
The California State University System
University of Maryland—College of Engineering
Public Broadcasting Service
Turner Broadcasting System
Indiana Higher Education Telecommunication System
Mary Sue Manley
TRI-State Regional Planning Commission
Northeastern University
Multipoint Distribution Systems
Superintendent, Fresno County Schools
California State College, Stanislaus
Legislative Commission on Science and Technology, State of N.Y.
CBS, Inc.
The Association of Hospital Television Networks
Microband Corporation of America
Long Beach Unified School District
Metropolitan Education and Cultural Communications Association
Northeastern University
Simmons College
Suffolk University
WGBH Educational Foundation
University of Massachusetts
Boston Catholic Television Center
Harris Corporation-Farinon Electric Operations
Aiken Cablevision, Inc.
Colony Communications Corporation
Comcast Corporation
Connersville Cable TV, Inc.
Cox Cable Communications, Inc.
Multimedia Cablevision, Inc.
Palmer Communications Incorporated
Televents, Inc.
U.S. Cable Corporation
The Association for Higher Education of North Texas
Catholic Television Network
Center for Excellence, Inc.
Illinois Institute of Technology
National Instructional Telecommunications Council, Inc.
The Leland Stanford Junior University
San Francisco Archdiocese
Movie Systems, Inc.
Walter B. Hewlett and Michel Guite
Robert A. Bednarek
The Corporation for Public Broadcasting
Department of Education, San Diego County
Richard L. Vega & Associates
First National Home Theaters, Inc.
Microwave Communications Associations Inc.
South Carolina Educational Television Commission
Michael Benages
Sunday School Board of the Southern Baptist Convention
Rev. George Byrne Diocese of San Diego
University of California, Berkeley
Contemporary Communications Corporation
Indiana University
National Black Media Coalition
Sterling Recreation Association
National Association of MDS Service Companies
Oklahoma State Regents for Higher Education
Department of Communications, United States Catholic Conference
Sterling Recreation Organization Company
State of New York, Legislative Commission on Science & Technology
David S. Saxon, President University of California
University of California, Systemwide Administration
California Community Colleges ITFS Advisory Committee
Superintendent of Public Instruction, State of California
University of California, San Francisco
San Diego and Imperial Counties, Community Colleges Association
Tekkom, Inc.
KLVX Channel 10, Las Vegas, Nevada
Standard Communication
Goradon & Healy
Warner Amex Cable Communications, Inc.
Emerson College
National Association of Public Television Stations
Central Committee on Telecommunications of the American Petroleum Institute
Department of Education, State of Florida
Los Rios Community College District
TV 5 The Movie Channel
Grambling State University
Georgia Institute of Technology
Bay Area Community College Television Consortium
University of South Carolina
Telecommunications Systems, Inc.
Viking Communications
Lance Industries
Grossmont Community College District
Imperial Valley College
University of South Carolina
Marshall University
San Diego State University
Ninth District PTA (CA)
Mendocino County Superintendent of Schools
University of California, San Diego
Muzak Dynamic Sound
TDS Engineering Co.
Conifer Corporation
Lipper-LaRue
Twin Cities Public Television Inc.
Troy State University
Miami-Dade Community College
Townsend Associates
Southwestern College
Electronics, Missiles & Communications, Inc.
Archdiocese of New York
The School Board of Broward County, Florida
Channel Master
Coronado Unified School District
University of California, Davis
University of California, Irvine
University of California, Riverside
University of California, San Diego
San Diego Miramar College
John W. Hunt
California State Steering Committee for Curriculum Development & Publications
Woodrow Wilson Junior High School, CA
Lawrence Livermore National Laboratory
The School Board of Marion County, FL
Taft Broadcasting Corporation
Southern California Instructional TV Fixed Service Advisory Committee
Superintendent of Public Instruction, State of California
Ms. Anne G. Wall
Don Ferkovich
David D. Pascoe
W. D. Stainback
Ms. Helen L. Patterson
Rosemarie Nelson
Temple University
Grossmount Union High School, CA
Catholic Television Network of Chicago
Ms. Mary M. Long, Meridian School
Ms. Linda A. Brown
Ms. Carol R. Esmay
Mr. Peter J. Saccone
Bernadine Hollers
Ms. Sabina R. Meyers
School Board of Palm Beach County, FL
Ms. Janice E. Peters
Miramar Ranch School
Lakeside Union School District
Ms. Deanna Oakes
Ballantyne Elementary School
Mr. Paul Dekock
Diocese of San Diego
Santee School District

Marquee Television Network, Inc.
Nevada Pay Television, Inc.
Educational TV Association of Metropolitan, Cleveland
American Association of State Colleges & Universities
Sandia National Laboratories at Livermore, CA
NASA
Edmund G. Brown, Jr.
California Postsecondary Education Commission
American Council on Education
American Association of Community and Junior Colleges
National University Continuing Education Association
Fresno County Department of Education
California Community Colleges
Assemblyman, Denes J. Butler, New York State
CBS, Inc.
Eastfield College
Dr. Henry McCorty

Appendix B

PART 21—[AMENDED]

Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section(s) 21.901 (c) and (e) are revised to read as follows:

§ 21.901 Frequencies.

* * * * *

(c) Channel 2 will be assigned only where there is evidence that no harmful interference will occur to any authorized point-to-point facility in the 2160–2162 MHz band. Channel 2 may be assigned only if the transmitting antenna of the station is to be located within ten (10) miles of the coordinates of the following metropolitan areas:

Principal City	Coordinates

* * * * *

(e) Where adjacent channel operation is proposed in any area, the preferred location of the proposed station's transmitting antenna is at the site of the adjacent channel transmitting antenna. If this is not practicable, the adjacent channel transmitting antennas should be located as close as reasonably possible.

2. Section 21.902 is amended by revising paragraphs (b)(1)–(4) and (c)(1)–(5); revising existing paragraph (d) and redesignating it as (i); adding new paragraphs (d), (e), (f), (g), and (h) to read as follows:

§ 21.902 Frequency interference.

* * * * *

(b) * * *

(1) Not enter into any lease or contract or otherwise take any action that would unreasonably prohibit location of another station's transmitting antenna at any given site.

(2) Cooperate fully and in good faith to resolve interference and transmission security problems.

(3) Engineer the system to provide at least 45 dB of cochannel interference protection within the protected service areas of all other authorized or previously proposed stations that transmit, or may transmit, signals for standard television reception.

(4) Engineer the station for adjacent channel operation and, if transmissions are to be provided for standard television reception, insure that, whenever possible, the ratio of the signal transmitted to the signal of any authorized, or previously proposed, adjacent channel station is less than 0 dB when measured at the output of a standard antenna located anywhere within the protected service area of the adjacent channel station and oriented to receive the maximum possible adjacent channel signal.

(c) * * *

(1) An analysis of the potential for harmful co-channel interference with any authorized or previously proposed station(s), if: (i) The proposed transmitting antenna has an unobstructed electrical path to any part of the protected service area of any other station(s) that utilize(s), or would utilize, the same frequency; or (ii) if the proposed transmitter is within 50 miles of the coordinates of any such station; or (iii) if the great circle path between the proposed transmitter and the protected service area of any such station is 150 miles or less and 90 percent or more of the path is over water or within 10 miles of the coast or shoreline of the Atlantic Ocean, the Pacific Ocean, the Gulf of Mexico, any of the Great Lakes, or any bay associated with any of the above. (See § 21.701(a), 21.901(a) and 74.902 of this chapter);

(2) An analysis of the potential for harmful interference with any authorized or previously proposed station(s), if the proposed transmitting antenna has an unobstructed electrical path to any part of the protected service area of any other station(s) that utilizes, or would utilize, an adjacent channel frequency (see §§ 21.701(a), 21.901(a) and 74.902 of this chapter);

(3) In the case of a proposal to operate a non-colocated station within the protected service area of an authorized, or previously proposed, adjacent channel station, an analysis that identifies the areas within the protected service areas of both the authorized or previously proposed adjacent channel station and the proposed station that cannot be protected as specified in § 21.902(b)(4) and an explanation of why the proposed station cannot be colocated with the existing or previously proposed station.

(4) In the case of a proposal for use of channel 2, an analysis of the potential for harmful interference with any authorized point-to-point station located within fifty (50) miles which utilizes the 2160—2162 MHz band; and

(5) An analysis concerning possible adverse impact upon Mexican and Canadian communications if the station's transmitting antenna is to be located within 35 miles of the border.

(d) Subject to the limitations contained in (e) of this section each MDS licensee shall be protected from harmful electrical interference as determined by the theoretical calculations within an area described as follows:

(1) For a station using a transmitting antenna with an omnidirectional horizonal plane radiation pattern the boundary of the protected service area will be 15 miles from the transmitter site.

(2) For a station using a transmitting antenna with a non-omnidirectional horizonal plane radiation pattern the boundary of the protected service area will be the locus of all points located at distances from the transmitter as determined by the following equation:

$$D_b = \frac{D_{bmax}}{\text{antilog}\left(\frac{Gmax - G}{20}\right)}$$

in which the parameters are defined as follows:

D_b = the distance from the transmitter site to the boundary in direction of interest;
G = the transmitter antenna gain in the direction of interest;
G_{max} = the maximum antenna gain
D_{bmax} = the distance to boundary, in the direction of maximum gain that will make the total area of the protected service area equal to or less than 710 square miles; all distances are in miles, the gains are in dB relative to an isotropic antenna, and the antilog is taken to the base 10;

(3) Except that when the electrical horizon determined using the transmitting antenna height, a 30 foot receiving antenna height, and assuming 4/3 earth radius propagation conditions, is closer to the transmitter than boundary described in paragraph (d) (1) or (2) of this section, the electrical horizon shall be the boundary of the protected service area.

(e) No MDS licensee will be protected from harmful interference caused by:

(1) Any station with an earlier filing date.

(2) Any station that was authorized before July 1984.

(3) Any multichannel MDS station whose application was pending on September 9, 1983.

(f) In addressing potential harmful interference in this service the following definitions shall be used:

(1) Co-channel interference is defined as the ratio of the desired signal to the undesired signal present in the desired channel, at the output of a reference receiving antenna oriented to receive the maximum desired signal. Harmful interference will be considered present when a free space calculation determines that this ratio is less than 45 dB.

(2) Adjacent interference is defined as the ratio of the desired signal to undesired signal present in an adjacent channel, at the output of a reference receiving antenna oriented to receive the maximum desired signal level. Harmful interference will be considered present when a free space calculation determines that this ratio is less than 0 dB except that in cases between MDS stations and Instructional Television Fixed Service stations constructed before May 26, 1983 the ratio shall be less than 10 dB.

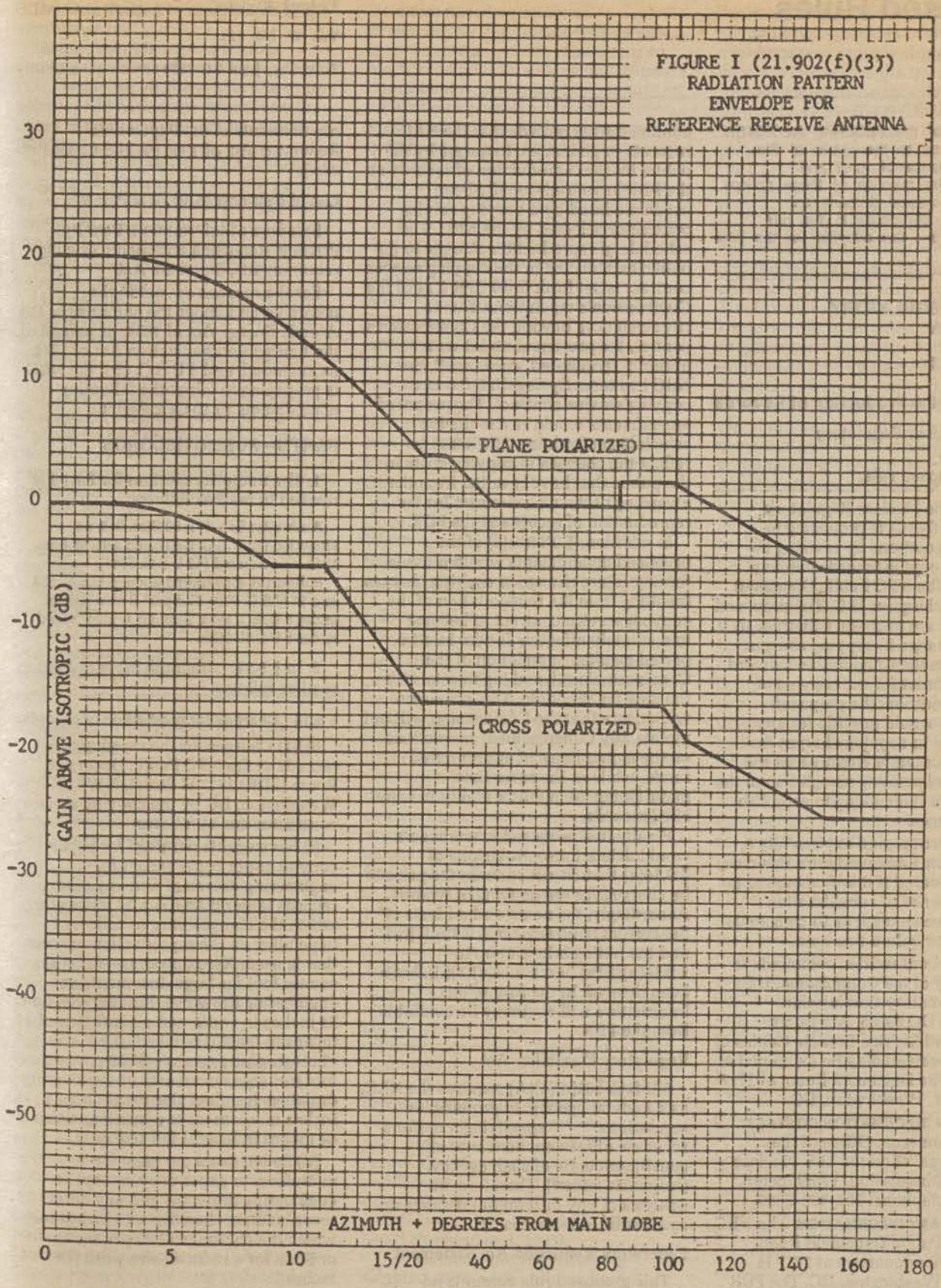
(3) For purposes of this section all interference calculations involving receive antenna performance shall use the reference antenna characteristics shown in figure 1.

(g) All interference studies submitted pursuant to paragraph (c) of this section shall be served on all licensees and permittees of, and applicants for the stations considered in such studies. This service shall occur on or before the date of submission and a list of all parties so served shall be submitted with the study.

(h) For purposes of § 21.31(a) an MDS application for a facility that would cause harmful electrical interference within the protected service area of any authorized or previously proposed station will be presumed to be mutually exclusive with the application for such authorized or previously proposed station.

(i) All applicants for frequencies in 2596–2644 MHz band must, prior to receiving a construction permit and at such time as the Commission requests, file with the Commission an analysis demonstrating that the facility to be constructed will not cause harmful interference to existing cochannel or adjacent channel Instructional Television Fixed Service receiver locations within 50 miles of the transmitter, or, in the alternative, submit a statement from the ITFS licensee that the interference is acceptable.

BILLING CODE 6712-01-M
[FR Doc. 84-16431 Filed 6-20-84; 8:45 am]



BILLING CODE 6712-01-C

Proposed Rules

Federal Register
Vol. 49, No. 121
Thursday, June 21, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Charges for the Production of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by revising the charges for copying records publicly available at the NRC Public Document Room in Washington, D.C. The proposed amendments are necessary in order to reflect the change in copying charges resulting from the Commission's award of a new contract for the copying of records. In addition, the proposed amendments would provide for any future change in copying charges to become immediately effective for the interim period pending completion of the Commission's rulemaking to establish the new charges.

DATE: Comment period expires July 6, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room at 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–8689.

SUPPLEMENTARY INFORMATION: The NRC maintains a Public Document Room (PDR) at its headquarters at 1717 H Street, NW, Washington, DC. The PDR contains an extensive collection of publicly available technical and administrative records that the NRC receives or generates. Requests by the public for the reproduction of records at the PDR have traditionally been accommodated by a copying service contractor selected by the NRC. The schedule of reproduction charges to the public established in the copying service contract is set forth in 10 CFR 9.14 of the Commission's regulations. Due to circumstances beyond the Commission's control, the present contract was abruptly terminated. As a result, the NRC has recently negotiated a new copying service contract. The proposed amendments would revise the fee schedule set forth in 10 CFR 9.14 to reflect the changes in copying costs to the public that have resulted from the awarding of the new contract for the reproduction of records at the PDR.

In addition, § 9.14(a)(5) of the proposed amendments would provide for any future change in copying charges resulting from the renegotiation of the copying service contract to become immediately effective for the interim period pending completion of the Commission's rulemaking to establish the new fee schedule. This provision will ensure that the Commission will not violate any Congressional restrictions on the expenditure of appropriated funds, while at the same time maintaining the public's ability to copy NRC records.

Finally, the proposed amendments would delete those provisions of § 9.14(a) that do not concern the price to be charged for the copying of records. Accordingly, the name and address of the current contractor in § 9.4(a)(3)(ii) and the billing information in § 9.14(a)(1)(v) and § 9.14(a)(3)(ii), have been deleted. In the future, this information will routinely be available from the PDR.

Regulatory Flexibility Act

5 U.S.C. 552(a)(4)(A) requires the NRC, as a Federal agency, to promulgate regulations "* * * specifying a *uniform* schedule of fees applicable to all constituent units of such agency." (emphasis added). Therefore, no analysis of any differential impacts on small entities is necessary.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

List of Subjects in 10 CFR Part 9

Freedom of Information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 9.

PART 9—PUBLIC RECORDS

1. The authority citation for Part 9 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552, and 31 U.S.C. 9701. Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

2. In § 9.14, paragraph (a) is revised to read as follows:

§ 9.14 Charges for production of records.

(a)(1) Charges for the copying of records at the NRC Public Document Room (PDR) 1717 H Street, NW, Washington, DC by the copying service contractor are as follows:

(i) Seven cents per page for paper copy to paper copy, except for engineering drawings and any other records larger than 8½ x 14 inches for which the charges vary as follows depending on the reproduction process that is used: Xerox process—$1.50 per square foot for large documents or engineering drawings (random size up to 24 inches in width and a maximum of 44 inches in length) reduced or full size; Photographic process—$7.80 per square foot for large documents or engineering drawings (random size exceeding 24 inches in width up to a maximum size of 44 inches in length) full size only.

(ii) Seven cents per page for microform to paper copy, except for engineering drawings and any other records larger than 8½ x 14 inches for which the charge is $2.20 per square foot or $2.60 for a reduced size print (18 x 24 inches).

(iii) One dollar per microfiche to microfiche.

(iv) One dollar per aperture card to aperture card.

(2) Self-service, coin operated, copying machines are available at the PDR for the use of the public. Paper to paper is $0.10 per page. Microform to paper is $0.10 per page on the reader printers.

(3) Mail order requests for contractor copying of NRC records may be made by writing to the PDR. The charges for mail order reproduction of records are the same as those set out in paragraph (a)(1) of this section, plus mailing or shipping charges.

(4) Accounts can be opened with the copying service contractor. The name and address and billing policy of the contractor can be obtained from the PDR.

(5) Any change in the above costs resulting from renegotiation of the copying service contract will become immediately effective for the interim period pending completion of the Commission's rulemaking to establish the new charges.

* * * * *

Dated at Bethesda, MD, this 14th day of June 1984.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 16621 Filed 6-20-84; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Proposed Expansion of Commodity Option Pilot Program

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend the regulations governing its pilot program for the trading of commodity options on domestic boards of trade. The Commission's regulations currently permit domestic boards of trade to be designated as contract markets for two options on futures contracts, two options on physical commodities, or one option on a futrues contract and one option on a physical commodity for all commodities other than those domestic agricultural commodities specifically enumerated in Section 2(a)(1)(A) of the Commodity Exchange Act ("Act"). The Commission's regulations separately allow each exchange to be designated for two options on futures contracts in the enumerated agricultural commodities. The Commission is now proposing to amend its regulations to modify the pilot program's numerical limitations with respect to options which do not involve domestic agricultural commodities to permit qulaifying boards of trade to be designated for up to five such option contracts, of which no more than two contracts could involve an option on a physical commodity. Options on futures contracts involving domestic agricultural commodities would remain subject to existing restrictions.

DATE: Comments must be received no later than July 23, 1984.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

When the Commission first adopted regulations establishing a three-year pilot program for the trading of options on futures contracts, each domestic board of trade was permitted to apply for designation as a contract market to trade options on one contract for future delivery if that exchange was already designated as a contract market in the commodity and that commodity was not among the domestic agricultural commodities enumerated in Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2). As the Commission explained at that time, its decision to so limit the pilot program resulted from its concern that a more expansive approach might not provide adquate safeguards against a recurrence of the type of abusive practices which had previously characterized the sale of certain types of off-exchange option transactions. The Commission nonetheless indicated that it would consider expanding the pilot program prior to its scheduled expiration "if the participants in the pilot program adequately fulfill their responsibilities under the Commission's regulations * * * and the program otherwise progresses satisfactorily * * * ." 46 FR 54500, 54501 (November 3, 1981).

The Commission subsequently adopted rules which allowed any domestic board of trade to apply for designation as a contract market for the trading of one option on a physical commodity, regardless of whether that exchange was already designated as a contract market for the trading of futures contracts or options on those contracts. 47 FR 56996 (December 22, 1982). Prior to expanding the pilot program to include options on physicals, the Commission specifically requested comments as to whether it should allow the exchanges to trade any two option contracts (regardless of whether those option contracts would involved options on futures contracts, options on physicals, or one of each type of option). The Commission decided at that time, however, not to broaden the pilot program more than was necessary to allow each qualifying exchange to be designated for one option on a physical commodity, thereby permitting a test of direct options on underlying commodities. The Commission nonetheless reiterated its intention to monitor closely all facets of option trading under the pilot program to determine if further expansion—both as to the number and type of commodities traded—was warranted. *Id.* at 56997-98.

Accordingly, after more than a year of trading in the pilot program had elapsed without serious problems, the Commission acted to permit the exchanges to select the two option contracts—whether options on futures contracts, options on physicals, or one of each type—which best reflected the exchanges' judgment as to which option contracts would be most useful economically. 48 FR 41575 (September 16, 1983). In taking that action, the Commission noted that "the rationale for limiting the pilot program to no more than one option on [a] futures [contract] and no more than one option on a physical no longer exists." *Id.* at 41577. In particular, the Commission noted that the absence of any apparent problems to date with either options trading practices or options sales practices had significantly diminished the Commission's previously-articulated concerns. Of equal importance, the Commission also noted that although it had already designated seven exchanges to trade options on futures contracts, only two exchanges had thus far applied to trade an option on a physical commodity, "an indication that the exchanges may prefer options on futures and, more importantly, may believe that options on futures contracts are the more commercially viable contracts * * *" *Id.*[1] Finally, the

[1] One of those exchanges, the Chicago Mercantile Exchange ("CME"), has since withdrawn its

Continued

Commission noted that its decision to provide the exchanges with this additional degree of flexibility was intended to provide the Commission with important data about the viability of certain instruments which may be helpful in the Commission's ultimate evaluation of the pilot program.

More recently, the Commission adopted regulations which will permit the trading of options on futures contracts in the domestic agricultural commodities specifically enumerated in Section 2(a)(1)(A) of the Act. 49 FR 2752 (January 23, 1984). These regulations were adopted in response to amendments contained in the Futures Trading Act of 1982 which removed a longstanding proscription on the trading of options involving the domestic agricultural commodities[2] and superimpose a new, three-year pilot program upon the structure already established by the Commission for non-agricultural options. Under this second pilot program, domestic exchanges will be permitted to apply for contract market designation for two options on futures contracts in domestic agricultural commodities, in addition to any option contract designations in non-domestic agricultural options on futures contracts or options on physicals which an exchange may obtain under Commission rules already in effect. Thus, at present, Commission regulation 33.4(a)(6) limits domestic exchanges to two options on futures contracts in the domestic agricultural commodities and to two option contracts of either type on all other commodities. 49 FR at 2757.

II. Expansion of the Pilot Program

In a petition filed with the Commission on February 9, 1984, the Chicago Mercantile Exchange has requested that the Commission either delete regulation 33.4(a)(6) entirely or in the alternative, amend that rule to exempt options on foreign currencies and currency futures contracts from the limitations established therein. In support of its petition, the CME explained that although it is designated to trade futures contracts on the British pound, Japanese yen, Canadian dollar, Swiss franc, French franc, Dutch guilder, Mexican peso, and Italian lira, Commission regulation 33.4(a)(6) effectively precludes the Exchange from offering options on those futures contracts.[3] Indeed, because the CME earlier elected to apply for designation to trade an option on the Standard & Poor's 500 Stock Index futures contract, its remaining choice, an option on the Deutschemark futures contract, has exhausted CME's permitted allotment under the terms of the Commission's original pilot program. Thus, the CME presently cannot offer any additional option contracts other than those involving the domestic agricultural commodities specified in Section 2(a)(1)(A) of the Act.

The CME noted in its petition, that, by comparison, the Philadelphia Stock Exchange has already been authorized by the Securities and Exchange Commission to trade options on five of the foreign currencies for which futures contracts are traded on the CME.[4] The CME maintains that while it pioneered the exchange trading of foreign currencies and has expended substantial resources to foster the development of those markets, it is artificially and unnecessarily impeded from competing with the Philadelphia Stock Exchange for reasons that are no longer necessary to the continued success of the pilot program, to the protection of option customers under that program, or to the Commission's ability to successfully regulate that program with respect to options on futures contracts. Citing the volume and open interest in the Deutschemark options traded on the two Exchanges, the CME contends that the public, including commercial hedgers, would apparently prefer to trade currency options on the CME but that the constraints imposed by regulation 33.4(a)(6) "compels" these potential users of the market to trade on the Philadelphia Exchange, to find some other substitute (*e.g.*, the interbank market), or to absorb the exchange-rate risk. The CME maintains that as a result of these limitations, options on futures contracts may not be getting a true test of their economic usefulness during the term of the pilot program.

The CME further asserts that the reasons originally advanced by the Commission for limiting the scope of the pilot program have been satisfied or otherwise resolved since option trading commenced on October 1, 1982. For example, while the Commission initially limited the pilot program to one option for each qualifying exchange in order to allow the Commission to monitor carefully the exercise by the self-regulatory organizations of the additional responsibilities associated with the pilot program and to afford the Commission time to review adequately each exchange's structure for monitoring option trading, the Commission has recently noted that the exchanges have thus far adequately fulfilled these responsibilities. 48 FR at 41577. Moreover, the National Futures Association ("NFA") is providing significant contributions to the oversight of option market participants.

The Commission believes that the arguments advanced the CME are not without merit. Although the Commission has repeatedly indicted that it intended to proceed cautiously in any expansion of the pilot program,[5] the Commission's Experience to date has largely mitigated its earlier concerns. Thus, the Commission recently transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation, which consisted primarily of a description of the Commission's experience with its already-exciting pilot program, of its projected ability to regulate successfully the pilot program in options on the domestic agricultural commodities.[6] The Commission, therefore, has no reason to believe that an enlargement of the scope of the pilot program, as now being proposed by the Commission, would result in a diminution of the special protections afforded option customers by the Commission's pilot program regulations. To the extent that the Commission might have any reservations about the abilities of any particular self-regulatory organization to continue to provide these protections under the somewhat broader pilot program contemplated by

application to trade an option on a physical commodity and is now designated as a contract market for options on two futures contracts.

[2] Futures Trading Act of 1982, Pub. L. No. 97-444, section 206, 96 Stat. 2294 (1983).

[3] The Italian lira contract has not been listed for trading by the CME. In addition, the Dutch guilder contract has been delisted by the Exchange.

[4] Section 4c(f) of the Act [7 U.S.C. 6c(f)] provides that the provisons of the Commodity Exchange Act shall not be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange. Subsequent to the filing of the CME petition, the Securities and Exchange Commission further authorized the Philadelphia Stock Exchange to trade options on the French franc.

[5] *See, e.g.*, 49 FR 2752, 2755-56 (January 23, 1984); 47 FR 56996, 56997 (December 22, 1982); 47 FR 28401, 28404 (June 30, 1982); 46 FR 54500, 54501-02 (November 3, 1981); 46 FR 33293, 33294, 33295 (June 29, 1981).

[6] For example, the exchanges and the Commission's Complaints Section have yet to receive a customer complaint relating to option sales practices. In addition, the Commission's staff has conducted oversight audits of the sales practice audit programs of the four exchanges which, in the aggregate, account for approximately 95% of the volume in exchange-traded commodity options and of NFA's sales practice program. These audits have not disclosed any serious deficiencies in the sales practice programs which have been adopted by each of the exchanges that has been designated as a contract market for options trading and by NFA in accordance with the requirements of Commission regulation 33.4(c).

the Commission's proposal, the Commission believes that those concerns may be best addressed in the context of specific contract market designation proceedings rather than through continuing the present restrictions on the activities of all exchanges. Nevertheless, the Commission is requesting comment on the propriety and timing of its proposed expansion of the pilot program.

Furthermore, the Commission anticipates that continuing to provide the exchanges with greater flexibility in the selection of option contracts will foster the further development of the pilot program and, correspondingly, will provide the Commission with data essential to the Commission's continuing evalution of that program. *See* 48 FR at 41577. For example, the Commission expects that such an expansion should permit a fuller test of commercial interest in the use of options on futures contracts and a more extensive test of the exchanges' abilities to conduct effective surveillance of active option markets. These types of data and information would, of course, be beneficial to the Commission's ultimate decision of whether to continue the pilot program in effect after its scheduled expiration on October 1, 1985[7] and, if so, what modifications to that program might be appropriate.[8]

The Commission is, therefore, proposing to amend regulation 33.4(a)(6) to modify the existing limits on the number of options on non-agricultural futures contracts for which a qualifying exchange may be designated as a contract market. Specifically, the Commission's proposal would allow qualifying exchanges to be designated for up to five options on commodities not specifically enumerated in Section 2(a)(1)(A) of the Act, of which no more than two contracts could involve an option on the actual, physical commodity.

The Commission anticipates that retaining the existing limitation on the number of options on physicals which may be traded on any exchange will not adversely affect the exchanges or impair the Commission's evaluation of the pilot program. Only two exchanges have applied for contract market designation to trade options on physical commodities and one of those applications has since been withdrawn. If fact, during the nine-month period during which an exchange wishing to trade a second option contract was effectively compelled to choose an option on a physical, six of the seven exchanges which has already been designated as contract markets for options declined to apply for an option on a physical. It is, therefore, apparent that the exchanges are not likely to be hampered unduly by continuing this restriction with respect to options on physicals. Furthermore, in light of what the Commission has previously characterized as "the unique attributes" of options on physicals,[9] the Commission believes that the more prudent course would be to continue to limit the number of options on physicals which may be traded on any single board of trade, at least until the Commission can obtain greater experience with the trading of those contracts and the effects, if any, of such trading upon the futures markets. The Commission is nonetheless requesting comments on this proposed continuation of the limitation on options on physicals.

The action now being proposed by the Commission also would not affect the newly-established pilot program for the trading of options on futures contracts in agricultural commodities. As the Commission has recently explained, the implementation of a limited pilot program for the trading of options on domestic agricultural futures contracts, as contemplated by Section 4c(c) of the Act, is essential to permit adequate consideration by the Commission of the issues particular to such contracts. Thus, for example, any increase in the size and scope of that pilot program could disrupt the orderly testing of the markets which will be created by options on agricultural commodities. The Commission has therefore made clear that it will proceed cautiously with this newly-established program. Accordingly, the Commission is not now proposing to expand its pilot program for options on the domestic agricultural commodities inasmuch as no experience has been obtained in the trading of such options. In particular, the Commission believes that it is important to consider the effects, if any, of such trading upon the existing futures markets and on the relevant cash markets and to report on such matters to Congress before taking futher action to expand trading in agricultural options. *See* 47 FR 2752, 2754–55 (January 23, 1983).[10] The Commission is nonetheless requesting comments on this aspect of its proposal.

Regulatory Flexibility Act

The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 605) and that the requirements of that Act do not, therefore, apply to contract markets. 47 FR 18618 (April 30, 1982). Furthermore, the Chairman of the Commission has previously certified on behalf of the Commission that comparable rule proposals would not, if adopted, have a significant economic impact on a substantial number of small entities. *See, e.g.*, 48 FR 32835, 32836 (July 19, 1983).

For the reasons set forth above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the following amendment to Commission regulation 33.4(a)(6) will not, if adopted, have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 33

Commodity options, Commodity exchange designation procedures, Commodity futures.

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[7] *See* 47 FR 56996, 56998 n.14 (December 22, 1982). In a separate Federal Register notice being published today, the Commission has delegated to its staff the authority to approve the listing of options which will expire after October 1, 1985 upon application by the affected contract markets.

[8] The Commission contemplates, however, a final rule would not be likely to be adopted until the latter part of 1984 and that the Commission would not accept applications for contract market designation pursuant to such an amended rule until after the Congressional review period specified in section 4c(c) of the Act had expired.

[9] 47 FR 56996, 56997 (December 22, 1982). For example, the Commission's regulations relating to options on physical commodities permit cash settlement. By comparison, its regulations governing options on futures contacts specify that the exercise of such options must result in the establishment of a position in the underlying futures contract. *Id.* at 56998–99. In addition, whereas an exchange applying for contract market designation in options on futures contracts must be designated as a contract market in the underlying future, any domestic board of trade may apply for designation in option on physicals, regardless of whether it is currently designated as a contract market for any commodity. *Id.* at 56996–98; *see* Commission regulations 33.4(a) (3), (4).

[10] By letter dated March 1, 1984, the Chicago Board of Trade ("CBT") separately petitioned the Commission to repeal regulation 33.4(a)(6) in its entirety or, in the alternative, to increase uniformly the number of option contracts permitted under the Commission's pilot programs. If the Commission were to adopt this latter approch, each board of trade designated for option trading would be authorized to trade a predetermined number of option contracts, which number would be uniform for all exchanges and for all three types of option contracts permitted under the Act and the Commission's regulations (*i.e.*, options on futures contracts involving the domestic agricultural commodities, and options on "non-agricultural" futures and physicals). The CME filed a second petition, this time in support of the position advanced by the CBT, on May 2, 1984. For the reasons set forth above, the Commission intends, subject to review of the comments received on its proposal and its further deliberations on this matter, to deny the petitions filed by the CBT and the CME to the extent that the petitions would be inconsistent with the relief herein proposed by the Commission.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4c, 8a and 15 thereof, 7 U.S.C. 6c, 12a, 19, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. Section 33.4 is proposed to be amended by revising paragraph (a)(6) to read as follows (the introductory text has not been changed but is included for the convenience of the reader):

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery on any commodity regulated under the Act, or for options on physicals in any commodity regulated under the Act other than those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) Such board of trade—

* * * * *

(6)(i) For commodities specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated as a contract market for more than one other commodity option; and

(ii) For commodities not specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated for more than four other commodity options: *Provided, however,* that with respect to options on physicals, no such board of trade may be designated as a contract market for more then two commodity options.

* * * * *

Issued in Washington, D.C., on June 15, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-16531 Filed 6-20-84; 8:45 am]

BILLING CODE 6351-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[General Docket No. 80-113, RM-3221, RM-3819; FCC 84-176]

Proposed Amendment of the Commission's Rules With Regard to the Multipoint Distribution Service; and Petitions for Rulemaking Regarding the Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking and notice of inquiry.

SUMMARY: The Commission is proposing to amend its rules to specify the power of Multipoint Distribution Service (MDS) stations in terms of equivalent isotropically radiated power (e.i.r.p.) rather than transmitter power and to require the use of transmitters with higher frequency stability and lower out of band emissions. The Commission is also instituting and inquiring into the use of booster in the MDS. This action is being taken to equalize the power radiated by MDS station and to facilitate the operation for adjacent channel DMS stations.

DATE: Comments are due on or before August 6, 1984. Reply Comments are due on or before September 5, 1984.

FOR FURTHER INFORMATION CONTACT: Kevin Kelley, Domestic Facilities Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 634-1860.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 21

Communications common carriers, Point-to-multipoint microwave.

Proposed Rulemaking and Notice of Inquiry

In the matter of amendment of Parts 21, 74 and 94 of the Commission Rules and Regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service (OFS) (General Docket No. 80-113), amendment of Part 21 of the Commission's Rules to measure authorized power in terms of effective radiated power and to increase such authorized power to 1,000 watts (RM-3221) and authorizing repeater operation in the Multipoint Distribution Service (RM-3819).

Adopted: April 26, 1984.

Released: June 14, 1984.

By the Commission.

1. Notice is hereby given that the Commission is proposing to amend Part 21 of its rules that pertains to the Multipoint Distribution Service (MDS) to specify the power of MDS stations in terms of equivalent isotropically radiated power, to increase the required stability of MDS transmitters and to decrease the allowed level of out-of-band emissions from MDS transmitters. Inquiry is also made into the feasibility of allowing MDS licensees to use boosters (repeaters).

Proposed Rulemaking

I. Background

2. On March 19, 1980, the Commission adopted a Notice of Inquiry and Propsed Rulemaking initiating this proceeding.[1] The rules proposed therein concerned the establishment of a protected service area for MDS stations, a definition of what constitutes cochannel and adjacent channel interference and the adoption of receiving antenna standards to be used to determine the existence of interference. We are, in a separate action today, adopting final rules concerning these matters.[2]

3. In the *Notice,* we also initiated inquiries concerning other matters that relate to the operation of MDS transmitters. This included spuriously generated interference, transmitter power and its relationship to service area limitations, and transmitter stability. As we noted in the *1st Report,* we did not receive many substantive comments in response to these specific questions.[3] However, we did receive many comments concerning the more general matter of the minimum power required for the successful operation of an MDS station.[4] We also have pending before us the above captioned Petitions filed by Microband Corporation of America (RM-3221) and Multipoint Communications Corporation (RM-3819) that bear on transmitter operations. The Petitions request that we amend our rules to allow the use of MDS repeater stations (RM-3819), to express the power of MDS stations in terms of equivalent isotropically radiated power (RM-3221) and to set the authorized equivalent isotropically radiated power at 1,000 watts (RM-3221).

4. we are making the proposals contained herein concerning these related matters in response to the petitions and the comments filed in response to the rulemaking petitions and the comments filed in response to the *Notice.* We seek comment on our

[1] Notice of Inquiry and Proposed Rulemaking, General Docket No. 80-113, FCC 80-137, 45 FR 29,350 (1980) (hereinafter cited as *Notice*).

[2] First Report and Order, General Docket No. 80-113, — F.C.C.2d —, FCC — (hereinafter cited as *1st Report*).

[3] *Id.* at para. 144.

[4] *Id.* at para. 62.

analysis, and invite specific alternative language to address the problems we have described.

II. Discussion

A. *Equivalent Isotropically Radiated Power (EIRP)*[5]. 5. At present, the maximum power output of MDS stations is specified in terms of the transmitter power output. Section 21.904(a) of the rules, 47 CFR 21.904(a), limits the maximum power to 10 watts. Subsection (b) of the same section provides for the authorization of up to 100 watts if it can be shown that the additional power is requred "* * * to provide adequate, reliable service to a reasonable service area * * *" The ability of a station to serve a particular receiver site with fixed receiver characteristics is determined in large measure by the amount of power the station radiates in the direction of the receive site. This quantity, which is called the effective radiated power (ERP), or EIRP[6] of the station, is determined by the station transmitter power, the gain of the transmitting antenna in the relevant direction and the amount of loss between the transmitter output and the antenna input (line loss). Since the gain of the antenna is a funcition of direction, the EIRP will also be a function of direction. Generally when reference is made to the EIRP of a station, the reference is to the maximum EIRP or the EIRP in the direction of maximum antenna gain.

6. Because our present rule addresses only one element of three that relate to a station's ability to serve a particular receive site, it is not an accurate measure of the ability of a particular station to serve points within the service area. For example, we have observed large variations in the amount of line loss reported by MDS applicants. This may result from either variations in the transmitter-antenna separation, from variations in the type of transmission line being used or both. The two types of transmission line used to connect transmitters to antennas in these frequency bands are, coaxial cable and elliptical waveguide. Typically the loss in coaxial cable is 4 dB per 100 feet of ½ inch diameter foam coaxial cable and 1.1 dB per 100 feet of 1⅝ diameter air filled coaxial cable; while the loss per 100 feet of elliptical waveguide is 0.34 dB.[7] The waveguide has the disadvantages that it is more expensive, heavier, and produces greater windloading (wind resistance, because it is larger) than coaxial cable. Whatever the cause, the result is that stations with identical transmitters frequently have very different EIRPs. This means the operator of a station in which the transmitter must be located some distance from the antenna must either purchase the more expensive waveguide transmission line or operate withe less EIRP. In some localities the antenna support structure cannot support the additional weight and windloading of the waveguide thus eliminating the waveguide option. In other locations, the distance is so great that even using waveguide would not result in a line loss which is as low as that available to other operators.

7. For these reasons, we solicited comments on specifying the power limitations on MDS stations in terms of EIRP rather than transmitter power. we did not receive much comment in response. The National Telecommunication and Information Administration (NTIA) gave strong support to the idea and suggested we adopt an EIRP standard for services in which high gain transmitting antennas are used.[8]

8. In Petition RM–3221, Microband requested that we express the power output of MDS stations in terms of effective radiated power.[9] In its Petition, Microband noted that the Commission had considered using this method when the MDS rules were originally adopted but had rejected it because it believed using transmitter power was "more practical." *Multipoint Distribution Service*, 45 F.C.C.2d 616, 623 n. 13 (1974). The practical difficulties referred to were highlighted in the Reply Comment filed by Visions Ltd. in response to the Microband Petition. Visions analyzed four cases to support its contention that using an EIRP standard was not practical.[10] The first case was that submitted by Microband in support of its Petition. It showed that the EIRP of a typical MDS station was 1,000 watts. The next case was that of Visions' common carrier, MDS System, Inc. It has an EIRP of 2238.7 watts. The other two cases were hypothetical stations. One had an EIRP of 3630.8 watts and the other had an EIRP of 501.2 watts. The variations resulted from a combination of differences in line losses and antenna gains. As noted above, the reason we proposed to use EIRP in place of transmitter power was to compensate for the differences in line losses among MDS stations.

9. The variations in antenna gains present more complex problems. Many MDS stations use transmitting antennas with similar characteristics. These antennas usually give omnidirectional coverage in the horizontal plane and have a 4° beamwidth in the vertical plane. Such antennas usually have a gain of approximately 13 dB (above isotropic). In some instances, cardioid antennas are used that have vertical profiles similar to the omnidirectional antenna but that cover only 180° of the horizontal plane. Two of these antennas are sometimes used in a "back-to-back" configuration to give the desired 360° coverage. The gain of each antenna is 16 dB but since the power must be split between the two antennas the resulting EIRP is the same. Some stations such as MDS Systems, Inc. use only a single

[5] In the Notice and elsewhere we have used the term effective isotropically radiated power. In the Second Report and Order in General Docket 80–739 [49 FR 2358 (January 19, 1984)] the Commission amended section 2.1 of the rules to make the definitions contained therein consistent with international definitions approved at the 1979 World Administrative Radio Conference (1979 WARC). Section 2.1. (1) now reads as follows: Where a term or definition appears in this Part of the Commission's Rules, it shall be the definitive term or definition and shall prevail throughout the Commission's Rules. Section 2.1(c) contains the following definition: Equivalent Isotropically Radiated Power (e.i.r.p.): The product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna. (RR) To be consistent with this definition we shall use the term *equivalent* isotropically radiated power.

[6] The term effective radiated power is defined in § 21.2 of the rules, 47 CFR 21.2 as follows: The product of the antenna power input and the antenna power gain. This product should be expressed in watts. (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only.)

Antenna power gain is defined in the same section as follows: The square of the ratio of the root-mean-square free space field intensity produced at one mile in the horizontal plane, in millivolts per meter for one kilowatt antenna input power to 137.6 mV/m. This ratio should be expressed in decibels (dB). (If specified for a particular direction, antenna power gain is based on the field strength in that direction only.)

The latter definition is the antenna gain relative to a half-wave dipole antenna. That is if 1 kilowatt of power were radiated by a half-wave dipole, the field strength at 1 mile would be 137 mV/m. If the same power were radiated uniformly in all directions (isotropically), the field strength at 1 mile would be 107.6 mV/m. Thus, the half-wave dipole antenna has 2.13 dB of gain relative to an isotropic radiator. ($10\log (137.6/107.6)^2 = 2.13$ dB). *See* S. Ramo, J. Whinnery, and T. Van Duzer, Fields and Waves in Communications Electronics, 642–650 (1965). We used EIRP in the *Notice* because most MDS antenna gains are specified relative to an isotropic radiator. As shown above, a gain specified in this manner would be 2.13 dB higher than the gain specified relative to half-wave dipole. Thus for the same antenna input power, the ERP and the EIRP differ by the same 2.13 dB.

[7] Petition for Rulemaking, RM–3221, Microband Corporation of America, Engineering Attachment, at 1 (hereinafter cited as Microband Petition).

[8] Comments of the National Telecommunications and Information Administration, General Docket No. 80–113, 14.

[9] Microband used the term effective radiated power but it actually used the equivalent isotropically radiated power in making its calculations.

[10] Reply Comments of Visions Ltd., RM–3221, Attachment.

cardioid antenna. If such a station were subject to the same EIRP limitation as a station using an omnidirectional antenna and if each station had the same line loss, the station using the single cardioid would have to reduce its transmitter power by 3 dB to meet the EIRP limitation.

10. This problem can be eliminated by allowing a station that uses a non-omnidirectional transmitting antenna to increase its EIRP in the direction of maximum gain in accordance with the following formula:

$EIRP_{max} = EIRP_{omni} + 10 \log (360/BW)$

in which

$EIRP_{max}$ = EIRP in the direction of maximum gain in dBW

$EIRP_{omni}$ = the EIRP of a station that uses an omnidirectional transmitting antenna in dBW

BW = the total horizontal plane beamwidth of the station's transmitting antenna system measured at the one half-power points.

Proceeding in this manner allows stations using non-omnidirectional transmitters to use the same transmitter power as stations using omnidirectional antennas and still allows compensation for variations in line loss. We stress that stations using more than one antenna in their non-omnidirectional antenna system must use the total beamwidth of all antennas in calculating the allowed EIRP.

11. The amount of transmitter power and hence the EIRP required to provide adequate signal levels in the MDS has been a matter of some controversy. In formulating the adjacent and cochannel interference rules proposed in the *Notice*, we assumed the EIRP was 23 dBW (200 watts). This EIRP was based on the combination of a 10 watt transmitter (10 dBW) and a 13 dBW gain antenna. We assumed no line loss between the transmitter and the antenna. In using this EIRP, we noted that the existing MDS rules allow authorizations of up to 100 watts of power in those cases where it can be shown that the requested authorization is the minimum needed to supply reliable service to a reasonable service area. We also suggested that since the rules did not contain a definition of terms "reliable signal" or "reasonable service area", it may have been possible that we granted more 100 watt authorizations than would be allowed under the service area definitions proposed in the *Notice*.[11]

12. There are approximately 130 MDS stations that have customers for their service; of these approximately 95 have been authorized to use a 100 watt transmitter. Thus, it can be seen that what is nominally a 10 watt service is in reality a 100 watt service. The combination of a 100 watt (20 dBW) transmitter and a 13 dB gain antenna results in an EIRP of 33 dBW or 2000 watts.

13. Although we did not solicit comments on transmitter power, virtually every member of the MDS community filing comments in response to the *Notice* claimed that 100 watts was the minimum required to provide service within 15 miles of the transmitter. One licensee, Contemporary Communications, suggested that what was really required was 1,000 or even 10,000 watts.[12] The Corporation for Public Broadcasting (CPB) in its reply comments contested the claims made by the MDS industry and contended that most of the signal losses reported by MDS licensees were the result of obstructions and that "signal losses caused by . . . obstructions cannot usually be overcome by any realistic increase in EIRP." CPB further claimed that a single "knife edge" obstruction between a transmitter and a receiver at these frequencies would cause 25 dB of additional signal attenuation between the transmitter and receiver.[13] This is clearly more than would be compensated for by a 10 dB increase in transmitter power from 10 watts to 100 watts. We agree with CPB. On the other hand, we note, as they also pointed out, that many obstructions are not the "knife edge" variety. As Microband noted in its Petition:[14]

> Frequency inversions, storms, natural and man made obstacles, even the leaves on trees, have all too often acted to severely attenuate the MDS signal to the point that we have been unable to provide the type of service demanded despite our best technical and engineering efforts.

The amount of attenuation caused by foliage is generally claimed to be around 10 dB.[15]

14. There is no doubt that any 10 dB increase in transmitter power—whether from 10 watts to 100 watts or from 100 watts to 1,000 watts—will increase the number of receiver sites at which an acceptable signal level is available. The difficulty is that any increase in transmitter power also increases the possibility that harmful cochannel interference will be experienced by other licensees in adjacent service areas. Thus, the task is to balance the requirement for an adequate level of power to serve a station's service area with the requirement to keep adjacent service areas as free of cochannel interference as possible. A 10 dB increase in transmitter power will increase the distance at which a potentially interfering signal will exist by a factor of 3.16. That is, if a potentially interfering signal existed 20 miles from the transmitter, increasing the transmitter power by 10 dB would make this same signal available at 63.2 miles from the transmitter. This assumes, of course, that the latter location was still within the line of sight of the transmitter.

15. It is much more difficult to determine the marginal increase in the percentage of receiver sites that will have an adequate signal level available for each 10 dB increase in transmitter power. In the *Notice*, we claimed that a 10 watt transmitter with a 13 dB gain antenna will supply an adequate signal to cover a 15 mile radius service area. As was pointed out above, all of the MDS operators who commented on this issue claimed that 100 watts was the minimum power needed to provide such service. This discrepancy is most likely explained by the fact that our calculation was based on the assumption that there was a clear line-of-sight path between the receiver and the transmitter. Any variations from this condition will, of course, require more transmitter power to get the same performance. For example, one major problem for MDS operators is the approximately 10 dB of signal attentuation produced by foliage. We have routinely authorized a 10 dB increase to 100 watts needed to overcome this and other forms of signal loss.

16. The only data presented in this proceeding concerning the effect of increasing the authorized power from 100 watts to 1,000 watts were submitted by Microband and were based on information collected by its customer in Washington, D.C., Marquee Television Network.[16] The data presented were the number of attempted service installations and the number of successful service installations as a function of distance from the transmitter. Marquee also estimated the number of unsuccessful installations that would have been successful if the transmitter power were increased by 10 dB. The data were presented for each

[11] *Notice, supra* note 1, note 7.

[12] Comments of Contemporary Communication Corporation, General Docket No. 80-113, 2 (September 8, 1980).

[13] Reply Comments of the Corporation for Public Broadcasting, General Docket No. 80-113, Engineering Statement at 6.

[14] Microband Petition, *supra* note 6, at 4.

[15] Reply Comments of Microband Corporation of America, General Docket No. 80-113, Exhibit A, at 4.

[16] *Id.*, at 5.

mile out to 7 miles. All of the data for locations more than 7 miles from the transmitter were presented together. The data presented are as follows:

Distance in miles	Attempts	Successes	Percent successes	Successes added by 10 dB increase	Successes rate with 10 dB increase (percent)
0 to 1	126	114	90.5	6	95.2
1 to 2	186	125	67.2	26	81.2
2 to 3	166	84	50.6	27	66.9
3 to 4	137	86	62.8	25	81.0
4 to 5	193	128	66.3	33	83.4
5 to 6	175	104	59.4	40	82.3
6 to 7	230	96	41.7	48	62.6
7 [1]	381	111	29.1	113	58.3

[1] This data was treated as though the area involved was between 7 and 30 miles.

Microband claims that these results show that an increase in authorized power to 1,000 watts would allow Marquee to serve an additional 269,100 homes.[17] The estimate of 269,100 was made by multiplying the increase in the success rates by the estimated number of homes in each area.

17. There are two reasons why we do not believe the data presented support this conclusion. First, the installations were apparently only attempted in areas where there was a chance that a successful installation would occur. This means that in areas where natural obstructions block most locations, no installations were attempted. We believe that homes located in such areas should not be included in the total number of possible homes. More important is the fact that the same percentage was applied to the whole area between 7 and 30 miles. This is the area in which most of the additional homes claimed by Microband are located (232,000 of 269,100 were located beyond 7 miles). The estimate was made assuming the same percentage increase would occur between 29 and 30 miles as would occur between 7 and 8 miles. We do not believe this is a reasonable assumption. Of course, because of the manner in which the data is presented, we have no way of knowing where the 111 original successes and 113 additional successes were located within the 7–30 mile area. But it is not unreasonable to assume that the number of successes in the 7–8 mile area would not differ greatly from the number in 6–7 mile area. Because there were 96 successes in the 6–7 mile area, it is reasonable to assume that many of the 111 successes listed for greater than 7 miles were in the 7–8 mile area. Indeed, it is most likely that most of the 113 additional successes listed for the greater than 7 mile area were also located within the 7 to 8, 8 to 9, and 9 to 10 mile areas rather than in the 29 to 30 mile area. We recognize that it may be possible to serve a structure such as a high rise apartment building located 30 miles from the transmitter if there is an unobstructed line-of-sight path between the roof of the building and the transmitter and if a high gain receiving antenna is used. However, we do not believe it is reasonable to assume, as Microband did in arriving at its conclusion, that 58.8% of the homes located between 29 and 30 miles from the transmitter could be served if the transmitter power were increased to 1,000 watts. In fact, Microband did not submit any evidence that showed that any homes located between 29 and 30 miles away can be served by its 100 watt transmitter.

18. We believe that the data presented show that increasing the power beyond 100 watts will, as expected, provide a small increase in the percentage of homes that can be served near the transmitter where a large percentage of the homes already receive a good signal, and a larger increase in the number of homes that could be served at 8, 9, and 10 miles from the transmitter where many more homes receive a marginal or poorer signal. On the other hand, while not in agreement with the numbers, we do agree with the conclusion reached by Microband when it stated: [18]

* * * while an MDS station may or may not be able to provide service out to 40 miles, several stations located within 50, 60 or even 80 miles of existing transmitters have, in fact, caused disruptive interference to areas well within 25 miles of a licensed MDS station. In short, the distance from a transmitter which can experience interference is not the same thing as the distance which can be served.

19. We are convinced that an increase in EIRP to 2,000 watts is justified by the need to provide reliable service to a reasonable percentage of the protected service area on a year round basis. We base this conclusion on the filings made in the proceeding and in our experience in processing applications for 100 watt service. We are not convinced, however, that any increase in EIRP beyond 2,000 watts is justified. We believe that any marginal increase in the number of sites which could be served would not justify the large increase in potential interference that would result.

20. For these reasons, we are proposing to change the rules to specify the power limit on MDS stations in terms of EIRP and to specify the EIRP limit as 2,000 watts or 33 dBW for stations using omnidirectional antennas. This is based on a station having a 100 watt transmitter, a 13 dB gain antenna and no line loss. We believe that this is representative of the manner in which the most successful MDS stations are now operated. We do not believe any increase in EIRP beyond this level is justified for omnidirectional stations so we are proposing to eliminate that provision of the rules which provides for exception to the power limitation. This will eliminate the administration delays and paperwork burdens that result from the existing 100 watt authorization procedure.

21. For stations using non-omnidirectional antennas, we are proposing to limit the EIRP in accordance with the formula described in paragraph 10. We stress that the EIRPs we are proposing today are maximums. All applicants are still expected to comply with Section 21.107 of the Rules, 47 CFR 21.107, which provides that transmitter power may be ordered to be reduced if harmful interference is being caused.

22. We ask those commenting on this proposed rule change to address the following issues: (1) What will be the effect of increasing the EIRP of existing stations? In particular, we are concerned about the situation where existing stations already radiating this power are located near cochannel 10 watt stations. If an existing 10 watt station were to raise its power level by 10 dB, there would be an increased possibility of cochannel interference. (2) What will be the effect of this rule change on adjacent channel stations that are operating at the lower power level in the same area? (3) Finally, we ask it the same result as is reached by the proposed rule change could not be better reached by merely specifying the power of MDS stations at the input to the transmitting antenna and limiting such power to 100 watts?

23. The proposed new section 21.904 is contained in the Appendix.

B. *Frequency Tolerance.* 24. Sections 21.908(c) and 21.101(a) require that MDS stations maintains the frequency of their visual carriers within 0.001% of its nominal value. 47 CFR 21.908(c), 21.101(a). This means that an MDS station operating on channel 1, channel 2 or channel 2A must maintain its carrier frequency within ±21.5 kHz of its nominal value. Broadcast television stations are required to maintain their visual carriers within ±1 kHz of their

[17] Reply Comment of Microband, *supra* note 13, at 4.

[18] *Id.*, at 12.

nominal frequency. 47 CFR 73.687(c)(1). Both MDS and broadcast television stations are required to keep the frequency of the aural carrier 4.5 MHz ± 1 kHz above the visual carrier. 47 CFR 21.908(c) and 73.687(c)(1).

25. In the *Notice*, we suggested that it might be desirable to tighten the frequency tolerance to allow for the use of frequency offsets to reduce cochannel interference.[19] Frequency stability similar to that used by broadcast television transmitters is necessary to make frequency offset techniques effective. Because the required stability is ± 1 kHz, and increase of more than an order of magnitude in the stability of MDS transmitters would be required. Frequency offset is now being used in Los Angeles by Microband; thus, we know that attaining such stabilities is technically feasible. The frequecy stability of the oscillators used by stations KFF79 and KFI79 is 1×10^{-5}.[20] This is three orders of magnitude better than the existing MDS requirement (.001% corresponds to 1×10^{-5}). The cost of implementing this change to the transmitters was approximately $2,000 per transmitter.[21] Because we believe that the use of frequency offset techniques will eliminate many cases of cochannel interference, we are proposing to require that all new MDS stations install transmitters that are capable of maintaining the visual carriers within ± 1 kHz of the assigned frequency.

26. We are aware that there may be manuacturers with transmitters in their inventories that do not meet this specification. For this reason, we are requesting that equipment manufactures and other interested partes advise when the proposed rule should become effective if it is adopted. We also request comment on the applicability of the proposed rule to transmitters already in service. We are expecially interested in the cost and complexity of modifying existing equipment to bring it into compliance with the proposed rule.

C. *Out-of-Band Emissions. 27. In the 1st Report*, we concluded that adjacent channel operation of MDS stations would be easier if we required all emissions from MDS transmitters appearing more than 3 MHz above or below the band edges to be attenuated at least 60 dB below the peak visual output power of the transmitter.[22] Existing § 21.908(b), 47 CFR 21.908(b), requires that such emission be attenuated at least 30 dB for transmitters rated at less than 10 watts and 40 dB for all other transmitters.

28. Because the successful operation of the multichannel MDS service we recently authorized requires this performance, we are proposing to amend section 21.908(b) to require all MDS transmitters to meet the 60 dB attenuation requirement. Here, as with frequency tolerance, we ask equipment manufacturers to advise us when they believe we should make the change effective if we do adopt it. We also request comment on the applicability of the proposed rule to existing equipment. Again we are especially interested in the cost and complexity of bringing existing into compliance with the proposed rule.

Notice of Inquiry

I. Background

29. On November 5, 1980, Multipoint Communications Corporation (Multipoint) filed a Petition for Rulemaking in which it petitioned "the Commission to amend its rules, to the extent such an amendment may be required, to permit operation of low power repeater stations in the Multipoint Distribution Service (MDS)."[23] Multipoint suggested that the repeaters be authorized subject to the following conditions:[24]

(1) Repeaters would only be authorized to the licensees of primary MDS stations and only for use in the authorized service areas of those primary stations;

(2) Output power of the MDS repeaters would be limited to a maximum of .5 watts;

(3) The repeaters would have to be so directed and situated that their interference contour would extend no further than the contour of the primary MDS station;

(4) As few or as many repeater stations as would be technically feasible could be employed in each primary service area;

(5) Reapeater stations would not need prior Commission approval to commence operation. Proposed operators would be required to notify the Commission of the specifics of their proposed operation in a manner similar to that applicable to cable television registration. The concept of non-licensed, subsidiary authorization is not new to the Commission. The Commission has, for example, recently terminated the individual licensing of mobile radios of the DPLMRS. These radio stations actively radiate energy, but, because they operate in conjunction with and under the umbrella of a licensed base station, the Commission has determined that separate individual licenses are not required. A similar approach might work here. Alternatively, licensing of repeater stations could be handled in a manner similar to that proposed for MDS return channels in Docket 80-112.

(6) The repeaters would operate in an unattended mode, subject to the ability of local maintenance crews to quickly be apprised of and to correct any malfunction. In many respects, MDS repeater service can be compared to TV broadcast booster stations. (See § 74.733 of the Commission's rules).

(7) The repeaters are envisioned as not extending the service area of primary MDS stations but, rather, filing in the holes of their existing service areas. However, it is certainly conceivable that in some instances, particularly in rural areas, extension of primary MDS service in order to reach isolated service points lying on the fringe of the service area may be desirable. In such instances, repeater operation could be authorized subject to the proviso that such operation would have to be terminated upon the commencement of operation of the potentially interfering primary MDS station.

(Footnotes omitted.)

30. Comments in support of Multipoint's Petition were filed by Microband Corporation of America and the National Association of MDS Service Companies (NAMSCO). Comments opposing the Petition were filed by the National Association of Public Television Stations (NAPTS). The American Telephone and Telegraph Company (AT&T) also filed comments. Multipoint filed a reply to the NAPTS opposition and NAPTS subsequently withdrew its opposition.

31. NAPTS originally objected to the Petition because of its belief that Multipoint was proposing a translating repeater. That is, a repeater that receives a signal on one frequency and retransmits it on a different frequency. In its Reply, Multipoint stated that what it was proposing was the use of non-translating repeater. That is, an active device that receives the signal, amplifies it and retransmits it on the same frequency. On learning of the true nature of Multipoint's proposal NAPTS withdrew its opposition.

32. AT&T was concerned with the possible interference the proposed

[19] *Notice, supra* note 1, para. 54.

[20] Letter from Microband to Demestic Facilities Division, Federal Communications Commission, May 10, 1982, Station File KFF79.

[21] *Id.*

[22] *1st Report, supra* note 2, at paras. 128–130.

[23] Petition for Rulemaking RM–3819, Multipoint Communications Corporation, 1 (November 5, 1980).

[24] *Id.* at 2–5.

repeaters might cause to licensees in the Point-to-Point Microwave Radio Service that share the 2160–2162 MHz with MDS channel 2. AT&T suggested that the best way to avoid such problem was to have the Commission issue a Public Notice of any proposed MDS operation and give interested parties 30 days to review the proposal.

33. Both Microband and NAMSCO expressed support for the repeater concept. Microband expressed some doubt concerning adequacy of the record in support of Multipoint's 1/2 watt recommendation. Microband also was concerned about the possibility that cochannel or adjacent channel interference might be caused by repeaters.

II. Discussion

34. At the outset, we believe that some clarification in terminology is necessary. As discussed above, NAPTS filed its opposition because it believed Multipoint was proposing the use of frequency translating repeaters. In a recent action, we defined an active repeater as a device that amplified, redirected and transmitted on a *different* frequency the signal received. We used the term booster to described a device that used the same frequency for both reception and retransmission and simply amplified the received signal.[25] Thus, we believe that the term that should be applied to the device Multipoint proposed is booster rather than repeater. The term booster may also be applied to a passive device. That is a device that merely redirects the signal it receives but does not amplify it.

35. After reviewing Multipoint's petition and the comments filed in response thereto, we have concluded that the use of boosters in the MDS could serve a very useful function. The problem of obstructed receiver locations has been a continuing source of difficulty for MDS licensees. We have authorized the use of two boosters on a temporary basis in Chicago.[26] These boosters are being used to get the MDS signal over buildings that are obstructing critical receiver locations. They have apparently been operated without causing any interference. We believe that other licensees could make effective use of these devices to overcome the effects of obstructions in their protected service area.

[25] Report and Order, BC Docket No. 82–20, RM–2500, —— F.C.C. 2d ——, FCC 84–40, para. 3 (released February 17, 1984).

[26] *See* s ation files WHE 983 and WFY 953.

36. Although we believe that the use of such devices may be in the public interest, we do not believe that we have an adequate record upon which to base proposed rules. We are, therefore, requesting that interested parties file comments that address the following specific questions.

1. What is the maximum EIRP that a booster should be allowed to radiate?

2. Should we limit the location of the boosters to be no closer to the boundary of the protected service area than 5 miles?

3. What should be the role of boosters in those cases where the protected service area boundary is determined by radio horizon rather than 15 miles?

4. Should we require a separate application for each booster and place each such application on public notice?

5. What will be the effect of boosters on adjacent channel operations in the same city?

6. Should we require that booster equipment be subject to our authorization procedures (type acceptance or notification)? *See* Report and Order, General Docket No. 83–10, —— F.C.C. 2d ——, FCC 84–21, Released January 26, 1984.

We do not suggest that this list is exhaustive but merely representative of some of the major issues we believe should be addressed before we propose specific booster rules. We request that interested parties file comments on any other aspect of booster use by MDS licensees they deem relevant.

Regulatory Flexibility Act Initial Analysis

I. Reason for Action. This action is being taken in response to petitions for rulemaking filed by Microband Corporation of America and Multipoint Communications Corporation and in response to comments filed is response to our inquiry into these matters. On the basis of the record in these proceedings, we have concluded that the rules porposed herein may result in the elimination the unnecessary filing of requests for increased power authorization by MDS licensees, provide a higher quality of service to the public and eliminate potential adjacent channel and cochannel interference problem in this service. In addition, we believe that use of boosters will provide service to areas not now being served.

II. Objective. The objective of this action is to makemore efficient use of the spectrum allotted to this service.

III. Legal Basis. Action is proposed in accordance with section 303(e) and 303(f) of the Communications Act of 1934, as amended, that authorizes the Commission to regulate the apparatus used by radio stations and to make such regulations as may be necessary to prevent interference between stations.

IV. Description, Potential Impact and Number of Small Entities Effected. The proposed rules would affect MDS licensees and equipment manufacturers. The licensees would benefit from the simplified application procedures and by having facilities that were less likely to cause or experience harmful interference. Licensees could also serve a larger segment of the public and hence receive more revenue from the operation their stations. The cost of new MDS transmitters may be increased by the proposed rules. Equipment manufacturers would be required to produce a higher quality transmitter. The action could effect as many as 1,000 MDS licensees and as many as 10 equipment manufacturers.

V. Recording, Record Keeping and Other Compliance Requirements. Manufacturers would be required to have new transmitters type accepted.

VI. Federal Rules which Overlap, Duplicate or Conflict with this Rule. None.

VII. Any Significant Alternative Minimize Impact on Small Entities and Consistant with the Stated Objective. None.

Conclusion

37. Accordingly, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, it is proposed that Part 21 of the Commission's rules be amended as set forth in the attached Appendix.

38. Pursuant to procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before August 6, 1984 and reply comments on or before September 5, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

39. In accordance with the provisions of § 1.419 of the rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each

Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, D.C. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

40. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff that 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 comments for the proceeding must prepare a written summary of that presentation on the day of oral presentation, and serve it on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.231.

41. For further information regarding this proceeding, contact Kevin J. Kelley, Common Carrier Bureau, (202) 634–1860.

(Secs. 4(i) and 303, Communications Act of 1934, as amended)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 21—[AMENDED]

It is proposed that Part 21 of Chapter I of Title 47 of the Code of Federal Regulations be amended as follows:

1. Section 21.2 is amended by adding the following definition.

§ 21.2 Definitions.

* * * * *

Equivalent Isotropically Radiated Power (EIRP). The product of the antenna input power and the antenna power gain relative to an isotropic radiator. This product may be expressed in watts or dB above 1 watt (dBW).

* * * * * *

2. Section 21.107 is amended by revising footnote 2 of paragraph (b) to read as follows:

§ 21.107 Transmitter power.

* * * * *

(b) * * *

[2] In the bands, 5.925–6.425 MHz and 27.500–29.500 MHz the maximum equivalent isotropically radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed +55 dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed satellite service. In the bands 2150–2162 MHz and 2596–2644 MHz the maximum transmitter power shall be no greater than is required to comply with the Equivalent Isotropically Radiated Power limitations contained in § 21.904.

* * * * *

3. Section 21.904 is amended by revising paragraphs (a) and (b) to read as follows:

§ 21.904 Transmitter power.

(a) The equivalent isotropically radiated power of a transmitting station in this service shall not exceed 2,000 watts (33 dBW) except as provided in paragraph (b) of this section.

(b) The maximum equivalent isotropically radiated power in dBW of a station that uses a transmitting antenna with a non-omnidirectional horizontal plane radiation pattern shall be determined by the following formula:

$$EIRP_{max} = 33 + 10 \log 360/BW$$

in which BW is the total horizontal plane beamwidth of the transmitting antenna system in degrees, measured at the half-power points.

* * * * *

4. Section 21.908 is amended by revising paragraphs (a) through (e) to read as follows:

§ 21.908 Television transmitting equipment.

(a) Except as otherwise provided in this section, the requirements of paragraphs (a), (b), (c), (d), and (e) of § 73.687 of this chapter shall apply to stations in this service transmitting standard television signals.

(b) The average power of radio frequency harmonics of the visual and aural carriers, measured at the output terminals of the transmitter, shall be attenuated no less than sixty (60) decibels below the peak visual output power within the assigned channel. All other emissions appearing on frequencies more than fifty (50) percent of the authorized bandwidth above or below the upper and lower edges, respectively, of the assigned channel shall be attenuated no less than sixty (60) decibels. However, should interference occur as the result of emissions outside the assigned channel, greater attenuation may be required.

(c) The requirements of § 73.687(c)(2) will be considered to be satisfied insofar as measurements of operating power are concerned if the transmitter is equipped with instruments for determining the combined visual and aural operating power. However, licensees are expected to maintain the operating powers within the limits specified in § 21.904. Measurements of the separate visual and aural operating powers should be made at sufficiently frequent intervals to insure compliance with the rules and in no event less than once a month.

(d) Television transmitting equipment designed for stations whose authorized bandwidth in 4 MHz or less for the visual and accompanying aural signal is subject to the provisions of § 21.101 with respect to the frequency tolerance of the visual and aural carriers. Such equipment is also subject to paragraphs (a) and (b) of this section, except that the provisions of § 73.687(a), (b), and (c)(1) of this chapter shall not apply.

(e) As a further exception to the other requirements of this section, transmitting equipment characteristics may vary from these requirements to the extent necessary to insure that transmitted information is not likely to be received in intelligible form by unauthorized subscribers or licensees, provided such variations permit recovery of the transmitted information without perceptible degradation as compared to the same information transmitted without such variations.

* * * * *

[FR Doc. 84–16433 Filed 6–20–84; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 121
Thursday, June 21, 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 COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collections of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Annual Survey of Manufactures
Form Number: Agency—MA-1000(MU); MA-1000(SU); MA-1000(S); MA-1000(B); MA-1000(E); OMB-0607-0449
Type of Request: Revision
Burden: 122,000 respondents; 222,600 reporting hours
Needs and Uses: The Annual Survey of Manufactures has been conducted since 1949 to provide key measures on manufacturing during intercensal periods. The annual survey's production and input data are used widely as benchmarks for other Federal statistical programs including the Federal Reserve Board's index of industrial production, the Bureau of Economic Analysis estimates of the gross national product, and the Department of Commerce annual publication, *Industrial Outlook.*
Affected Public: Businesses
Frequency: Annually
Respondents Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Office, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: June 15, 1984.
Edward Michals,
Department Clearance Officer.
[FR Doc. 84-16610 Filed 6-20-84; 8:45 am]
BILLING CODE 3510-(CW)-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Income and Program Participation—Wave 6 Pretest
Form Numbers: Agency—SIPP 4600(x), SIPP 4605(x); OMB—0607-0425
Type of Request: Revision of a currently approved collection
Burden: 260 respondents; 130 reporting hours
Needs and Uses: The Survey of Income and Program Participation (SIPP) collects information on the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. This information is extremely important for the formulation of government domestic policy. This survey will pretest Wave 6 topical module questions on earnings and benefits and property income and taxes. These questions will be added to the SIPP 1984 Panel Wave 6 Questionnaire.
Affected Public: Individuals or Households
Frequency: Other—Pretest
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: June 15, 1984.
Edward Michals,
Department Clearance Officer.
[FR Doc. 84-16609 Filed 6-20-84; 8:45 am]
BILLING CODE 3510-(CW)-M

International Trade Administration

Amoxicillin Trihydrate and its Salts From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

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

SUMMARY: On March 30, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain. The review covers the period January 1, 1982 through December 31, 1982.

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

EFFECTIVE DATE: June 21, 1984.

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

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 12730) the preliminary results of its administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain (44 FR 44154, July 27, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish amoxicillin trihydrate and its salts ("amoxicillin"), an antibiotic which is a semi-synthetic

penicillin. Such merchandise is currently classifiable under item 411.7400 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1982 through December 31, 1982 and four programs: (1) A rebate of indirect taxes upon exportation under the Desgravacion Fiscal a la Exportacion ("the DFE"); (2) an operating capital loans program; (3) a short-term export credit program; and (4) research and development incentives.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 3.17 percent *ad valorem* for the period January 1, 1982 through December 31, 1982.

The Department will instruct the Customs Service to assess countervailing duties of 3.17 percent of the f.o.b. invoice price on all shipments of amoxicillin trihydrate and its salts from Spain exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982 and through the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for in section 751(a)(1) of the Tariff Act, of 1.67 percent of the entered value on any shipment of Spanish amoxicillin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

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

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

Dated: June 16, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-16622 Filed 6-20-84; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before July 11, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00021."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade acivities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-15910 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is

exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Apparatex International Trading Company, 350 Fifth Avenue, Room 4920, New York, New York 10118.

Application No.: 84-00021.

Date Received: June 1, 1984.

Date Deemed Submitted: June 7, 1984.

Members in Addition to Applicant: The William Carter Co., Stanwood Corporation, and Mr. Anthony J. Cascardi.

Summary of the Application

A. Export Trade

Apparatex will export knit, woven and non-woven apparel, including sleepwear, playwear, sportswear, activewear, outerwear, undergarments, jeans, slacks, shirts, and socks for infants, toddlers, children, girls and women, and boys and men, accessories and related textile products (the "goods"). Apparatex also intends to facilitate the export of these items by providing export trade services (consulting, international market research, brokerage, negotiation of contracts, transporation, freight forwarding from point of origin to destination abroad, and international documentation of international traffic) to manufacturers and suppliers. (Apparatex will also provide import services, but it is not seeking to have these activities certified because they are not eligble for certification.)

B. Export Markets

The export markets will be worldwide, but Apparatex will initially concentrate on Europe.

C. Export Trade Activities and Methods of Operation

Apparatex seeks certification:

1. To purchase and take title to goods for export from the members and other manufacturers and suppliers.

2. To enter into non-exclusive agreements with the members or individually with other manufacturers and suppliers, to act as a broker and/or export sales representative.

3. To enter into exclusive and non-exclusive agreements with agents, brokers, representatives and distributors located in the Export Markets and to include in these agreements sales, territorial and price maintenance restrictions.

4. To act as a purchasing agent by obtaining orders from foreign buyers and filling the orders with goods from the members or other manufacturers and suppliers.

5. To broker goods for export by matching buyers and sellers, with or without handling the goods.

6. Organize and broker licensing agreements providing exclusive or non-exclusive rights to manufacture and/or sell in the Export Markets goods currently manufactured in the United States by the members and other suppliers.

7. To acquire and sell to the Export Markets on a speculative basis inventory from the members and other suppliers.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: June 15, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84-16563 Filed 6-20-84; 8:45 am]

BILLING CODE 3510-DR-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for a National Voluntary Laboratory Accreditation Program for Building Seals and Sealants.

SUMMARY: In accordance with section 7c.4 of the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) pertaining to private sector organizations (15 CFR 7c.4), notice is hereby given by the National Bureau of Standards of the receipt of a letter dated March 23, 1984, from the American Society for Testing and Materials (ASTM) Committee C-24 Building Seals and Sealants requesting the development of a laboratory accreditation program (LAP) to accredit laboratories that test building seals and sealants. The ASTM Committee's letter, which is set out at the conclusion of this notice, includes a statement of need and the procedures followed in support of its request.

ASTM Committee C-24 meets the conditions set out in 15 CFR 7c.3(b). A copy of the March 23, 1984, letter from ASTM Committee C-24 has been filed in the Central Reference and Records Inspection Facility (CRRIF), Room 6628, Herbert C. Hoover Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

Any person desiring to comment regarding the need for this LAP is requested to do so, in writing, no later than August 20, 1984. Comments should be sent directly to Saul Spindel, Chairman C-24.82, D/L Laboratories, 116 E. 16th Street, New York, NY 10003.

A copy of such comments should be sent to Mr. John. W. Locke, Manager, Laboratory Accreditation, NBS, TECH B141, Gaithersburg, MD 20899; (301) 921-3431. Additional inquiries related to NVLAP can also be directed to Mr. Locke.

Dated: June 18, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

March 23, 1984.

Dr. Ernest Ambler,

Director, National Bureau of Standards, Washington, D.C.

Dear Dr. Ambler: In accordance with section 7c.4 of Title 15 of the Code of Federal Regulations, the ASTM Committee C-24 of Building Seals and Sealants requests that you establish a laboratory accreditation program (LAP) under the National Voluntary Laboratory Accreditation Program (NVLAP) to accredit laboratories which test building seals and sealants to the requirements of applicable standards.

For the purpose of defining the scope of this proposed LAP, "building seals and sealants" include caulking compounds, putty, elastomeric compounds, glazing compounds, preformed gaskets, and sealing tapes for joint application; and membranes and liquid-applied elastomeric sealing compounds for surface application.

There are numerous applicable standards used in the evaluation of building seals and sealants, many of which are shown in the Appendix. It is requested that the NVLAP provide a method of accreditation for the procedures listed in the LAP.

Number of Laboratories

There are many laboratories, including both independent and commercial, that perform this testing in the U.S.A. and in foreign countries, many of which may be interested and eligible to become accredited under this proposed LAP.

Users of Laboratories

Users of accredited laboratory services would include owners, architects and specifiers responsible for the design, construction maintenance of new and existing commercial and non-commercial structures, including office, residential and public building facilities and municipal and national agencies that specify the use of building seals and sealants as well as manufacturers of these products.

Need for the LAP

National Need: Building seals and sealants are used in the construction of all facilities, including commercial and non-commercial, to provide a water and air tight seal. These sealants are used to join similar and dissimilar materials of construction and, because of the stresses and strains placed upon them as a result of weathering, aging and movement, must possessn sufficient integrity not to fail and thereby allow water or air to infiltrate or exfiltrate the facility. The test procedures to be certified under this LAP are designed to predict the effectiveness of building seals and sealants on a variety of surfaces, and where applicable, on specific surfaces. Sealants which conform to the standards established by ASTM C-24 are expected to provide years of durable, effective performance.

Benefits to Public Interest: The importance of the long term, durable performance of building seals and sealants cannot be overstated. The cost of the erection of the structures that they seal runs into the hundreds of thousands and millions of dollars. The premature failure of seals and sealants can cause significant and costly water damage to both the interior and exterior portions of the structures, resulting in a need for costly repairs. In addition, air infiltration or exfiltration can result in the increased use of energy to heat or air condition the structure, or both. The way to assure that building seals and sealants meet perforance standards is by having them tested properly to established standards by competent, appropriately equipped laboratories.

This is the purpose of these standards and this LAP. The manufacture, development and evaluation of building seals or sealants is not simple. The LAP is required to assure the delivery and installation of seals and sealants which meet established standards.

Existing Valid Testing Methodology—ASTM C-24 has numerous standards that can be used to evaluate the performance of building seals and sealants. Sealant performance properties such as color change, staining, application characteristics, rheology, hardness, tack-free time, volatility, flexibility, slump and adhesion and cohesion are evaluated by ASTM C-24 standards. In addition, there are specifications that can be used to evaluate the performance of chemically curing sealants, oil and resin base caulking glazing compounds and latex sealing compounds as well as recommended guides for their application and use. All of these standards have been in use for many years.

Feasibility and Practicality of Administering a LAP

A LAP for the evaluation of building seals and sealants appears to be as feasible as any other LAP now established by NVLAP. There are many laboratoris that use ASTM standards as well as other recognized specifications to evaluate sealants and persons who are engaged by these laboratories are potential sources of consultation by NBS.

Procedures Used in Formulating This Request

The following was considered by ASTM Committee C-24 in arriving at the request for LAP:

The committee was organized in 1959 to develop standards for building seals and sealants. Presently there are 18 active technical subcommittees:

C-24.12 Oil and Resin Base Sealants
C-24.15 Hot Applied Sealants
C-24.16 Latex Sealants
C-24.18 Solvent Release Sealants
C-24.32 Chemically Curing Sealants
C-24.35 Structural Sealants
C-24.40 Back-up Materials
C-24.50 Tape Sealants
C-24.70 Lock Strip Gaskets
C-24.72 Compression Seal Gaskets
C-24.74 Pipe Gaskets
C-24.76 Pipe Couplings
C-24.80 Waterproofing Systems
C-24.82 Criteria For Evaluation of Sealant Testing Laboratories
C-24.84 Sealants for Insulated Glass
C-24.83 Statistical Analysis
C-24.85 Sealants for Acoustical Applications
C-24.87 International Standards

The development of a standard relatd to accreditation of laboratories which test building seals and sealants is the responsibility of Subcommittee C-24.82. C-24 Subcommittee operate under the rules of ASTM which maintain open access to all interested parties. Membership repesents a wide spectrum of industry interests and to assure this board spectrum of industry participation a recruitment program for new membrs is maintained. Standards established by this committee evolve through several draft versions which are discussed and amended in open committee meetings. Final versions are submitted to three separate ballots; Subcommittee, Main Committee and the entire ASTM Society. In all cases where three are negative votes, these are answered either by clarification (with the dissenting voter agreeing to reverse his vote), by committee adoption of the dissenting opinion is "not persuasive". Records of these procedures are maintained throughout the development of these standards. In addition, this application has been circulated and balloted through the C-24.82 Subcommittee and Executive Committee of ASTM C-24.

Although ASTM C-24 has been the committee which has had primary responsibility for the development of standards for building seals and sealants it has not been alone in its interest. The Federal Government, first through the National Bureau of Standards and presently, through the General Services Administration, has also developed specifications for building seals and sealants.

ASTM C-24.82, using consensus development procedures, prepared a final draft of a Standard Practice for Laboratories Engaged in the Testing of Building Sealants which was approved by the Subcommittee, submitted to the C-24 Main Committee and is presently being balloted thru the ASTM Society. All negative and editorial comments were handled in accordance with the due process procedures as described above.

We assert that the ASTM Committee C-24 qualifies under the due process requirements of the NVLAP Part 7c Procedures for private sector organizations to make this request.

Developments of Technical Details

ASTM C-24 is ready to provide technical support for the development of the details for administering this LAP. In addition, we hope to identify technical experts for your use in assessing applicant laboratories. We hope that members of ASTM Committee C-24 can continue to contribute to the development of technical requirements

for accrediting laboratories to implement this LAP.

Please advise us if you require any other information regarding this request. We look forward to your favorable consideration of this application.

Sincerely,

Thomas J. O'Connor,

Chairman.

Appendix—List of ASTM C–24 Standards

C–510 Test for Staining and Color Change of Single or Multi-component Joint Sealants.
C–570 Specification for Oil and Resin-Base Caulking Compound For Building Construction.
C–603 Test for Extrusion Rate and Application Life of Elastomeric Sealants.
C–639 Test for Rheological (Flow) Properties of Elastomeric Sealants.
C–661 Test for Identation Hardness of Elastomeric Type Sealants by Means of a Durometer.
C–669 Glazing Compounds for Back Bedding and Face Glazing of Metal Sash.
C–679 Test for Tack-Free Time of Elastomeric-Type Joint Sealants.
C–681 Test for Volatility of Oil and Resin-Based, Knife-Grade, Channel Glazing Compounds.
C–711 Test for Low-Temperature Flexibility and Tenacity of One-Part, Elastomeric, Solvent-Release Type Sealants.
C–712 Test for Bubbline of One-Part, Elastomeric Solvent-Release Type Sealants.
C–713 Test for Slump of an Oil-Base Knife-Grade Channel Glazing Compound.
C–717 Definition of Terms Relating to Building Seals.
C–718 Test for UV-Cold Box Exposure of One-Part, Elastomeric, Solvent-Release Type Sealants.
C–719 Test for Adhesion and Cohesion of Elastomeric Joint Sealants Under Cyclic Movement.
C–731 Test for Extrudability, After Package Aging, of Latex Sealing Compounds.
C–732 Test for Aging Effects of Artificial Weathering on Latex Sealing Compounds.
C–733 Test for Volume Shrinkage of Latex Sealing Compounds.
C–734 Test for Low-Temperature Flexibility of Latex Sealing Compounds After Artificial Weathering.
C–736 Test for Extension-Recovery and Adhesion of Latex Sealing Compounds After Artificial Weathering.
C–741 Test for Accelerated Aging of Wood Sash Face Glazing Compound.
C–742 Test for Degree of Set for Wood Sash Glazing Compound.,
C–792 Test for Effects of Heat Aging of Weight Loss, Cracking and Chalking of Elastomeric Sealants.
C–793 Test for Effects of Accelerated Weathering on Elastomeric Joint Sealants.
C–794 Test for Adhesion-in-peel of Elastomeric Joint Sealants.
C–834 Specification for Latex Sealing Compounds.
C–910 Standard Test for Bond and Cohesion of One Part Elastomeric Solvent Release Type Sealants.
C–920 Specification for Elastomeric Joint Sealants.
D–2202 Test for Slump of Caulking Compounds and Sealants.
D–2203 Test for Staining of Caulking Compounds and Sealants.
D–2249 Predicting the Effect of Weathering on Face Glazing and Bedding Compounds on Metal Sash.
D–2376 Test for Slump of Face Glazing and Bedding Compounds on Metal Sash.
D–2377 Test for Tack-Free Time of Caulking Compounds and Sealants.
D–2450 Test for Bond of Oil and Resin-Base Caulking Compounds.
D–2451 Test for Degree of Set for Glazing Compounds on Metal Sash.
D–2452 Test for Extrudability of Oil and Resin-Base Caulking Compounds.
D–2453 Test for Shrinkage and Tenacity of Oil and Resin-Base Caulking Compounds.

[FR Doc. 84–16542 Filed 6–20–84; 8:45 am]
BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Notice of public hearing.

SUMMARY: The North Pacific Fishery Management Council will hold a public hearing to gather comments on permit applications submitted by Poland for directed fishing and joint ventures off Alaska in 1984.

DATE: The hearing will begin at 2:00 p.m., on June 29, 1984.

ADDRESS: The hearing will take place in the Bill Ray Center, Room 203, 1108 "F" Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Counicl, P.O. Box 103136, Anchorage, Alaska 99510, 907–274–4563.

Dated: June 15, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–16533 Filed 6–20–84; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Controlling Imports of Certain Wool Apparel Products Produced or Manufactured in Uruguay

June 18, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 1, 1984. For further information contact William Boyd, International Trade Specialist (202) 377–4212.

Background

The bilateral agreement of January 23, 1984 between the Governments of the United States and Uruguay establishes a specific restraint limit of 5,959 dozen for women's, girls' and infants' wool suits in Category 444, produced or manufactured in Uruguay and exported during the agreement year beginning on July 1, 1984 and extending through June 30, 1985. The letter which follows this notice directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of wool textile products in Category 444, produced or manufactured in Uruguay and exported during the year beginning on July 1, 1984, in excess of 5,959 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 18, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral agreement of January 23, 1984, between the Governments of the United States and Uruguay; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 1, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in category 444, produced or manufactured in Uruguay and exported during the twelve-month period which began on July 1, 1984 and extending through June 30, 1985, in excess of 5,959 dozen.

In carrying out this directive entries of wool textiles products in Category 444, produced or manufactured in Uruguay, which have been exported on and after August 1, 1983 and extending through June 30, 1984, shall, to the extent of any unfilled balances, be charged to the limit established for such goods during that eleven-month period. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the limit set forth in this directive.

This limit is subject to adjustment in the future according to the provisions of the bilateral agreement of January 23, 1984 which provide, in part, that: (1) the specific limit may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 F.R. 55709), as amended on April 7, 1983 (48 F.R. 15175), May 3, 1983 (48 F.R. 19924) and December 14, 1983 (48 F.R. 55607), December 30, 1983 (48 F.R. 57584), and April 4, 1984 (49 F.R. 13397).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken will respect to the Government of Uruguay and with respect to imports of wool textile products from Uruguay has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-16555 Filed 6-20-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia To Review Trade in Categories 339 (Women's, Girls' and Infants' Knit Shirts and Blouses) and 640 (Woven Shirts)

June 18, 1984.

On May 29, 1984, the government of the United States requested consultations with the Government of the Republic of Indonesia with respect to Categories 339 and 640. This request was made on the basis of the agreement, as amended, between the Governments of the United States and the Republic of Indonesia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of October 13 and November 9, 1982.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the United States will establish prorated specific limits for the May 29–June 30, 1984 period and twelve-month specific limits of 182,058 dozen for Category 339 and 182,698 dozen for Category 640 for the subsequent agreement period which begins on July 1, 1984 and extends through June 30, 1985.

The Government of the United States has decided, pending agreement on a mutually satisfactory solution to control imports in these categories exported during the 90-day consultation period (May 29–August 26, 1984) at levels of 49,627 dozen for Category 339 and 49,801 dozen for Category 640. In the event the limits established for the ninety-day period are exceeded, such excess amounts, if allowed to enter, may be charged to the levels established during the subsequent agreement year.

Summary market statements for these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 339 and 640 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Indonesia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Effective Date: June 22, 1984.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Indonesia—Market Statement

Category 640—Men's & Boys' Woven Man-Made Fiber Shirts & Blouses

May 1984.

U.S. imports of Category 640 from Indonesia for the year ending March 1984, at 151,590 dozen, were nearly three and a half times the level of the previous twelve months. Imports during the first three months of 1984 were 54,374 dozen, up 165 percent from January-March 1983. This is a sharp and substantial increase of imports in a sector severely affected by imports.

Domestic production of Category 640 decreased 10 percent in 1982 to 11,521,000 dozen from 12,792,000 dozen in the previous year. The 1982 output level was the lowest in a decade. Imports, however, increased 10 percent to 11,809,000 dozen in 1982. The import to production ratio increased from 83.6 percent in 1981 to 102.5 percent in 1982. Although imports declined in 1983, a 25 percent increase in Category 640 imports during January-March 1984, to 3,381,818 dozen, indicates a 1984 recovery to a level above the record 1981 imports.

Category 339—WGI Cotton Knit Shirts and Blouses

U.S. imports of Category 339 from Indonesia reached 256,823 dozen in the year ending March 1984, 608 percent above the previous twelve months. In the first three months of 1984, these imports reached 201,442 dozen which is nearly 16 times greater than during January-March 1983 and nearly three times greater than total 1983 imports of Category 339 from Indonesia. This is a sharp and substantial increase of imports in a sector already severely affected by imports.

Domestic production in 1982 partially recovered from the recession affected level of 1981; however, at 7,386,000 dozen, the 1982 level was the second lowest of the last decade and compares with 7,610,000 in 1980. Imports in 1983 were 7,409,000 dozen, down from 7,838,000 dozen in 1982 but up from 7,062,000 in 1980. Imports for the year ending March 1984 were 8,582,000 dozen, up 20 percent from a year earlier. Imports were large during the first quarter of 1984, reaching 3,724,000 dozen or 46 percent above a year earlier. The ratio of imports to domestic production was at the record level of 106.1 percent in 1982, up from 102.2 percent in 1981.

These imports from Indonesia are imported at duty-paid values below the U.S. producer prices for similar and comparable garments.

June 18, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended and extended, between the Governments of the United States and Republic of Indonesia; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 22, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 339 and 640, produced or manufactured in Indonesia and exported during the ninety-day period which began on May 29, 1984 and extends through August 26, 1984, in excess of the following levels of restraint:

Category	Ninety day re-straint [1] (dozen)
339	49,627
640	49,801

[1] The levels have not been adjusted to reflect any imports exported after May 28, 1984.

Textile products in Categories 339 and 640 which have been exported to the United States prior to May 29, 1984 shall not be subject to this directive.

Textile products in Categories 339 and 640 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709) as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of man-made fiber textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-16554 Filed 6-20-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 10 and 11 July 1984 at Palisades Institute for Research Services, Inc., 1925 North Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended (5 U.S.C. App. II 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: June 18, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-16522-6 Filed 6-20-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Deletions of and Amendments to Notices for Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 2 and amend 10 system notices for systems of records subject to the Privacy Act of 1974, as amended. Following identification of changes, amended notices are printed below in their entirety.

DATES: Actions shall be effective July 23, 1984.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-S, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325-6163.

SUPPLEMENTARY INFORMATION: The Army's system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83-12048 (48 FR 25502), June 6, 1983
FR Doc 83-18883 (48 FR 32046), July 13, 1983
FR Doc 83-24181 (48 FR 40291), September 6, 1983
FR Doc 83-28792 (48 FR 49086), October 24, 1983
FR Doc 84-1118 (48 FR 2006), January 17, 1984
FR Doc 84-2331 (49 FR 3506), January 27, 1984
FR Doc 84-3683 (49 FR 5170), February 10, 1984
FR Doc 84-6438 (49 FR 8993), March 9, 1984
FR Doc 84-11652 (49 FR 18600), May 1, 1984

FR Doc 84–14035 (49 FR 22122), May 25, 1984
FR Doc 84–15558 (49 FR 24045), June 11, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
June 18, 1984.

Deletions

A1301.07aAMC

System name:

Alphabetical Listing of Scientists (48 FR 25755), June 6, 1983.

Reason:

Records are no longer subject to the Privacy Act.

A1301.07cAMC

System name:

Visiting Scientist Research Associates Reference Files (48 FR 25757), June 6, 1983.

Reason:

Records are no longer required or maintained.

AMENDMENTS

A0102.13DAPC

System name:

Administrative Military Personnel Records

Changes:

After "Authority for maintenance of the system", add:

"Purpose: To provide supervisors a ready source of information for day-to-day operations and administrative determinations pertaining to assigned/attached personnel."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry: substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0722.02DACH

System name:

Baptism, Marriage, and Funeral Files

Changes:

After "Authority for maintenance of the system", add:

"Purpose: To render service to military members, their dependents and authorized civilians."

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

Delete entries: substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Record source categories:

Change entry to read: "From the individual".

A0722.05aDACH

System name:

Chaplin Counseling/Interview Files

Changes:

System Identification: Delete suffix "a".

After "Authority for maintenance of the system", add:

"Purpose: To document privileged counseling/interview sessions between Army Chaplains and individuals."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "None authorized: see Army Regulation 165–20."

A0722.06aDACH

System name:

Religious Census, Education, and Registration Files

Changes:

System Identification:
Delete suffix "a".

Categories of individuals covered by the system:

Change entry to read: "Military, dependent, and civilian personnel who voluntarily participate in religious services and activities."

Categories of records in the system:

Change entry to read: "Individual's name, age, denominational preference, religious education desired/attained, and similar information."

Authority for maintenance of the system:

Delete entry; substitute therefor: "5 U.S.C., section 301".

Add: *"Purpose:* To provide data on religious education/training or needs of faith groups, denominations, or religious sects; to determine and administer educational or training needs in social, spiritual, and humanitarian relationships for the military community served; to record attendance, training accomplished, participation and spiritual growth."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Change entry to read: "Information is retained until individual is no longer active in official chaplain-sponsored services and activities."

Record access procedures:

Change entry to read: "See 'Notification procedure'.

Contesting record procedures:

After "determinations", delete remainder and substitute therefor: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A0912.04DASG

System name:

Medical Staff Credentials File

Changes:

After "Authority for maintenance of the system", add:

"Purpose: To determine and assess capability of practitioner's clincial practice."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "In specific instances, clinical privilege information from this system of records may be provided to civilian and military medical facilities, Federation of State Medical Boards of the United States, State Licensure Authorities and other appropriate professional regulating bodies."

A0914.02aDASG

System name:

Pathology Consultation Record Files

Changes:

System Identification:

Delete suffix "a".

Authority for maintenance of the system:

Delete "Title 44 U.S.C., section 3101".

Add: *"Purpose:* To ensure complete medical data are available to pathologist providing consultative diagnosis to requesting physician in order to improve quality of care to

individuals; to provide a data base for education of medical personnel; to provide a data base for medical research and statistical purposes and when required by law or for official purposes."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "Individual records may be released to referring physician, to physicians treating the individual, to qualified medical researchers and students, and to other Federal agencies and law enforcement personnel when requested for official purposes involving criminal prosecution, civil court action, or regulatory orders."

A0914.04aDASG

System name:

Research and Experimental Case Files

Changes

System Identification:

Delete suffix "a".

After "Authority for maintenance of the system", add:

Purpose: To follow up on individals who voluntarily participated in Army chemical/biological agent research projects for the purpose of assessing risks/hazards to them, and for retrospective medical/scientific evaluation and future scientific and legal significance."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "Information may be disclosed to the Veterans Administration in connection with benefits determinations."

A1301.07bAMC

System name:

Food Taste Test Panel Reference Files.

Changes:

System Identification:

Delete suffix "b".

System name:

Delete "Reference".

System location:

Delete all information except "US Army Natick Research and Development Center, Natick, MA 01760".

After "Authority for maintenance of the system", add:

"*Purpose:* To evaluate food rations under development by the Army; to determine acceptability of food items in consideration of purchase."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Record access procedures:

Delete all entries; substitute therefor: "Individuals who believe information on them is contained in this system of records should write to the Sensory Analysis Branch, Science and Advanced Technology Laboratory, US Army Natick Research and Development Center, Natick, MA 01760, furnishing their full name and current address."

A1306.01DAPE

System name:

Behavioral and Social Sciences Research Project Files

Changes:

After "Authority for maintenance of the system", add:

"*Purpose:* To research human factors inherent in the recruitment, selection, classification, assignment, evaluation, and training of military personnel; to enhance readiness effectiveness of the Army by developing personnel management methods, training devices, and testing of weapons methods and systems aimed at improved group performance. (No decisions affecting an individual's rights or benefits are made using these records.)"

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983".

A1401.07aAMC

System name:

Resumes for Non-Government Technical Personnel

Changes:

System location:

Delete second and third paragraphs.

After "Authority for maintenance of the system", add:

"*Purpose:* To provide a source of personal information/qualifications on qualified scientific and technical personnel able to solve scientific and technical problems of interest to the US Government."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete all information; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

System manager(s) and address:

Delete entry; substitute therefor: "Director, US Army Research Office, P.O. Box 12211, Research Triangle Park, NC 27709."

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained from the Contracting Officer, US Army Research Office, P.O. Box 12211, Research Triangle Park, NC 27709."

Record access procedures:

Delete all information; substitute therefor: "Written requests may be sent to the System Manager; requester must provide his/her full name, current address and telephone number, position title, and current employer."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

The amended systems of records read as follows:

A0102.13DAPC

SYSTEM NAME:

Administrative Military Personnel Records.

SYSTEM LOCATION:

Headquarters, Department of the Army Staff, major commands, field operating agencies, installations and activities performing unit level administration for military personnel, whether active, inactive (reservist, MOBDES), and including the National Guard.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel (and in some instances, their dependents) at the local supervisory level (i.e., company, platoon/squad, or comparable office size) when the individual's MPRJ is maintained elsewhere.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records/documents of a temporary nature which are needed in the day-to-day administration/supervision of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To provide supervisors a ready source of information for day-to-day operations and administrative determinations pertaining to assigned/attached personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" and 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, index cards, microfiche, magnetic tape/disc.

RETRIEVABILITY:

By individual's surname or SSN.

SAFEGUARDS:

Information is stored in locked rooms/buildings with access restricted to individuals whose duties require a need-to-know. Where information exists on word processing disk/diskettes/tapes or in automated media, the administrative, physical, and technical requirements of Army Regulation 380–380 are assured to preclude improper use or inadvertent disclosure.

RETENTION AND DISPOSAL:

Records are destroyed not later than 30 days after individual transfers/separates.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not this system of records contains information on them should inquire of their immediate supervisor.

RECORD ACCESS PROCEDURES:

Requests should be made of the custodian of the record at the location assigned/attached; individual must provide full name, SSN, and particulars which facilitate locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Copy of documents in individual's Official Military Personnel File, Military Personnel Records Jacket, Career Management Information File; his/her supervisor; other Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0722.02DACH

SYSTEM NAME:

Baptism, Marriage, and Funeral Files.

SYSTEM LOCATION:

Records from 1917–1952 are in the National Archives, General Services Administration. Records from 1953 to 1977 are in the Washington National Records Center, Washington, DC 20409, as well as in the Office, Chief of Chaplains, Department of the Army, Washington, DC 20310.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any service member, his/her dependent, authorized civilian personnel, or retired service member for whom an Army chaplain has performed a baptism, marriage, or funeral.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals who apply for marriage, those on whom funeral services are conducted, or baptisms are performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3547.

PURPOSE:

To render service to military members, their dependents and authorized civilians.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm at Office of the Chief of Chaplains; paper records at the Washington National Records Center for period 1917–1952.

RETRIEVABILITY:

Marriage records are filed by groom's surname; funeral records by surname of deceased person; baptismal records by the individual's surname.

SAFEGUARDS:

Records are retained in buildings which employ security guards.

RETENTION AND DISPOSAL:

Records from 1953 to 1977 are retained for 50 years; this system was discontinued October 1, 1977 after which no information was collected or is retained.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief of Chaplains, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: DACH–AMW, Room 1E–417, The Pentagon, Washington, DC 20310.

RECORD ACCESS PROCEDURES:

Individuals may write to the System Manager, providing the following information:

a. For baptismal records: Full name of person baptized, approximate date, names of parents, name of chaplain, and place of baptism.

b. For marriage records: Full name of groom and maiden name of bride, approximate date, installation at which married, and name of chaplain.

c. For funeral records: Name of deceased person, year of death, and name of next-of-kin.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0722.05DACH

SYSTEM NAME:

Chaplain Counseling/Interview Files.

SYSTEM LOCATION:

Army installations; official addresses are contained in the directory following the Army inventory of system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army members, their dependents, and other individuals who have received pastoral counseling from Army chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda and/or documents resulting from counseling or interview sessions between a chaplain and an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To document privileged counseling/interview sessions between Army chaplains and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None authorized; see Army Regulation 165–20.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked file cabinets.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is stored in locked cabinets or desks, and is accessible only to the chaplain maintaining the record.

RETENTION AND DISPOSAL:

Retained for 2 years after the individual case is closed; then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief of Chaplains, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information on them exists in this system of records should inquire of either the System Manager or the Chaplain at the Army installation where counseling or interview occurred.

RECORD ACCESS PROCEDURES:

Individuals may write to the System Manager or the Chaplain at the Army installation where record is believed to exist; individuals must provide their full name, present address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0722.06DACH

SYSTEM NAME:

Religious Census, Education, and Registration Files.

SYSTEM LOCATION:

Army installations; official addresses are contained in the directory following the Army inventory of system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, dependent, and civilian personnel who voluntarily participate in religious services and/or activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, age, denominational preference, religious education desired/attained, and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To provide data on religious education/training or needs of faith groups, denominations, or religious sects; to determine and administer educational or training needs in social, spiritual, and humanitarian relationships for the military community served; to record attendance, training accomplished, participation, and spiritual growth.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and/or card files.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is accessed only by individuals determined to have need therefor in the performance of official business.

RETENTION AND DISPOSAL:

Information is retained until individual is no longer active in official chaplain-sponsored services and activities.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief of Chaplains, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals may inquire of the Chaplain at the Army installation where he/she participated in religious education/training.

RECORD ACCESS PROCEDURE:

See "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0912.04DASG

SYSTEM NAME:

Medical Staff Credentials File.

SYSTEM LOCATION:

Medical treatment facilities at Army commands, installations and activities. Official mailing addresses are contained in the appendix to the Army's inventory of system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals performing clinical practice in medical treatment facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reflecting delineation of clinical privileges and clinical performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301; 10 U.S.C., section 1071.

PURPOSE:

To determine and assess capability of practitioner's clinical practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In specific instances, clinical privileged information from this system of records may be provided to civilian and military medical facilities, Federation of State Medical Boards of the United States, State Licensure Authorities and other appropriate professional regulating bodies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

RETENTION AND DISPOSAL:

Records are retained in medical treatment facility of individual's last assignment. Upon separation, retirement, or termination, records are destroyed not later than 5 years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be requested from the commander of the medical treatment facility where practitioner provided clinical service.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information from this system should contact the commander of the medical treatment facility where clinical service was provided, furnishing full name, SSN, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Interviewer, individual's application, medical audit results, other administrative or investigative records obtained from civilian or military sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0914.02DASG

SYSTEM NAME:

Pahtology Consultation Record Files.

SYSTEM LOCATION:

Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals treated in military or civilian medical facilities whose were reviewed on a consultative basis by members of the staff of the Armed Forces Institute of Pathology.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents, tissue blocks, microscopic slides, X-rays and photographs reflecting outpatient or inpatient treatment or observation of all individuals on whose cases consultation has been requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSES:

To ensure complete medical data are available to pathologist providing consultative diagnosis to requesting physician in order to improve quality of care to individuals; to provide a data base for education of medical personnel; to provide a data base for medical research and statistical purposes and when required by law or for official purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individual records may be released to referring physician, to physicians treating the individual, to qualified medical researchers and students, and to other Federal agencies and law enforcement personnel when requested for official purposes involving criminal prosecution, civil court action, or regulatory orders.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, X-rays, photographs in paper file folders, microfiche, magnetic tape, printout; tissue blocks in appropriate storage containers; and microscopic slides in cardboard file folders.

RETRIEVABILITY:

By last name or terminal digit (SSN) or accession number assigned when case is received for consultation.

SAFEGUARDS:

Access to the Armed Forces Institute of Pathology is controlled. Records are maintained in areas accessible only to authorized personnel who are properly screened and trained.

RETENTION AND DISPOSAL:

Retained as long as case material has value for medical research or education. Individual cases are reviewed periodically and materials no longer of value to the Institute are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtrained from the Chief, Patient Records and Tissue Repository Division, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306. Requesting individual must submit full name, SSN or service number of military sponsor and branch of military service, if applicable, or accession number assigned by the Armed Forces Institute of Pathology, if known. For requests made in person, identification such as military ID card or valid driver's license is required.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the Chief, Patient Records and Tissue Repository Division, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCES CATEGORIES:

Interview, diagnostic test, other available administrative or medical records obtained from civilian or military sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0914.04DASG

SYSTEM NAME:

Research and Experimental Case Files.

SYSTEM LOCATION:

US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010.

Individual research/test/medical documents (paper records) are contained in individual's health record which, for reserve and retired military members, is at the US Army Reserve Components Personnel and Administration Center, St Louis, MO; for other separated military members, is at the National Personnel Records Center, St Louis MO; for military members on

active duty, is at the servicing medical facility/center; for civilians (both Federal employees and prisoners) is in a special file at the National Personnel Records Center.

As paper records are converted to microfiche, the original (silver halide) and 1 copy of the microfiche will be located at the Washington National Records Center; 1 copy will be located at The Surgeon General's Office (DASG–PSA), Headquarters, Department of the Army, Washington, DC 20310; 1 copy will reside with the Army contractor—the National Academy of Sciences; and 1 copy retained at the US Army Medical Research Institute of Chemical Defense.

Historical 16mm film and audio visual tapes are at Norton Air Force Base, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteers (military members, Federal civilian employees, state prisoners) who participated in Army tests of potential chemical agents and/or antidotes from the early 1950's until the program ended in 1975.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pre-test physical examination records and test records of performance and biomedical parameters measured during and after test exposure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 3012e and 4503.

PURPOSE:

To follow up on individuals who voluntarily participated in Army chemical/biological agent research projects for the purpose of assessing risks/hazards to them, and for retrospective medical/scientific evaluation and future scientific and legal significance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to the Veterans Administration in connection with benefits determinations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in individual's medical file folders, see "system location" above for storage of microfiche, computer magnetic tapes and paper printouts, video tapes and 16mm film.

RETRIEVABILITY:

Paper records in individual's health record are retrieved by surname and/or service number/SSN. Microfiche are retrieved by individual's surname. Film/video tape is accessed by case number and/or volunteer's number. Automated records are accessed by volunteer's number or case number.

SAFEGUARDS:

Paper records and microfiche are kept in locked rooms/compartments with access limited to authorized personnel. Access to computerized data is by use of a valid site ID number assigned to the individual terminal and by a valid user ID and password code assigned to authorized user, changed periodically to avoid compromise. Data entry is on-line using a dial-up terminal. Computer files are controlled by keys known only to US Army Medical Research Institute of Chemical Defense personnel assigned to work on the data base. Data base output is available only to designated computer operators at the Institute. Computer facility has double barrier physical protection. The remote terminal is in a room which is locked when vacated and the building is secured when unoccupied. The contractor (National Academy of Sciences) employes equal safeguards which meet Army standards for Privacy Act data.)

RETENTION AND DISPOSAL:

Records stored in the computer and on microfiche are retained indefinitely at the sites identified under "system location". Paper medical records in an individual's health record are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Commander, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010. Written requests should include the full name, SSN, current address and telephone number of the requester. For personal visits, the individual should provide acceptable identification such as valid driver's license, employer or other individually identifying number, building pass, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access should follow the procedures in "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual through test/questionnaire forms completed at test location: from medical authorities/sources by evaluation of data collected previous to, during, and following tests while individual was participating in this research program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1301.07AMC

SYSTEM NAME:

Food Taste Test Panel Files.

SYSTEM LOCATION:

US Army Natick Research and development Center, Natick, MA 01760.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel who volunteer to participate in sensory taste tests of food items.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaire and locator documents completed by participants containing name, date, organization, business telephone number, sex, age, marital status, rank/grade, present/prior military service, highest educational level attained, section of country lived in the longest, willingness to test irradiated foods, food aversion/preference data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

PURPOSE:

To evaluate food rations under development by the Army; to determine acceptability of food items in consideration of purchase.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, cards, magnetic tapes and paper records in file folders.

RETRIEVABILITY:

By participant's surname or assigned unique number.

SAFEGUARDS:

Records are stored in metal file cabinets which are locked when not under the control of authorized personnel. Buildings housing the records employ security guards.

RETENTION AND DISPOSAL:

Records are destroyed when participant is no longer active in the program.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Natick Research and Development Center, Natick, MA 01760.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, ATTN: Science and Advanced Technology Laboratory.

RECORD ACCESS PROCEDURE:

Individuals who believe information on them is contained in this system of records should write to the Sensory Analysis Branch, Science and Advanced Technology Laboratory, US Army Natick Research and Development Center, Natick, MA 01760, furnishing their full name and current address.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1306.01DAPE

SYSTEM NAME:

Behavioral and Social Sciences Research Project Files.

SYSTEM LOCATION:

Army Research Institute for the Behavioral and Social Sciences, 5001 Eisenhower Avenue, Alexandria, VA 22333 and field offices located at Ft Sill, OK; Ft Benjamin Harrison, IN; Ft Benning, GA; Ft Bliss, TX; Ft Hood, TX; Ft Knox, KY; Ft Leavenworth, KS; Ft Rucker, AL; Ft Monroe, VA; Ft McPherson, GA; Presidio of San Francisco, CA; and HQ US Army Europe, APO NY 09403.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer, warrant officer, and enlisted military personnel, including Army Reserves and National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name and SSN; questionnaire type data relating to service member's pre-service education, work experience and social environment/culture, learning ability, physical performance, combat readiness, discipline, motivation, attitude about Army life, and measures of individual and organizational adjustments; test results from Armed Service Vocational Aptitude Battery and Skill Qualification Tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. section 4503.

PURPOSE:

To research human factors inherent in the recruitment, selection, classification, assignment, evaluation, and training of military personnel; to enhance readiness effectiveness of the Army by developing personnel management methods, training devices, and testing of weapons methods and systems aimed at improved group performance. (No decisions affecting an individual's rights or benefits are made using these research records.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; punch cards; magnetic tape.

RETRIEVABILITY:

By individual's name and/or SSN.

SAFEGUARDS:

Access to records is restricted to authorized personnel having official need therefor; automated data are further protected by controlled system procedures and code numbers governing access.

RETENTION AND DISPOSAL:

Information is retained until completion of appropriate study or report, after which it is destroyed by shredding erasing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether or not this system of records contains information about them should write to the System Manager and provide their full name, SSN, current address, and subject area and year of testing.

RECORD ACCESS PROCEDURE:

For access to information about them in this system of records, individuals should follow information in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her peers, or, in the case of ratings and evaluations, from supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1401.07aANC

SYSTEM NAME:

Resumés for Non-Government Technical Personnel.

SYSTEM LOCATION:

US Army Research Office, P.O. Box 12211, Research Triangle Park, NC 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Resumés of candidates to provide scientific services to Federal agencies in the fields of mathematics and the physical, engineering, life, and geosciences.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, personal history resumé, affiliations, area of expertise, SSN, record of remuneration for services provided, and performance evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To provide a source of personal information/qualifications on qualified scientific and technical personnel able to solve scientific and technical problems of interest to the US Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in metal containers; magnetic disc, tape.

RETRIEVABILITY:

By candidate's surname; automated records are retrieved by key word.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized, properly trained personnel who have official need therefor.

RETENTION AND DISPOSAL:

Retained for life of the contract; destroyed by shredding when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, US Army Research Office, P.O. Box 12211, Research Triangle Park, NC 27709.

NOTIFICATION PROCEDURE:

Information may be obtained from the Contracting Officer, US Army Research Office, P.O. Box 12211, Research Triangle Park, NC 27709.

RECORD ACCESS PROCEDURES:

Written requests may be sent to the System Manager; requester must provide his/her full name, current address and telephone number, position title, and current employer.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual candidate.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–16520 Filed 6–20–84; 8:45 am]
BILLING CODE 3710–08–M

Department of the Navy

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amended systems of records.

SUMMARY: The Department of the Navy proposes to amend six systems of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed actions will be effective without further notice in thirty (30) days, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 697–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 83–109 (48 FR 26029) June 6, 1983
FR Doc. 84–2616 (49 FR 3901) January 31, 1984
FR Doc. 84–2828 (49 FR 4124) February 2, 1984
FR Doc. 84–4908 (49 FR 6967) February 24, 1984
FR Doc. 84–8893 (49 FR 13350) April 4, 1984
FR Doc. 84–8901 (49 FR 13399) April 4, 1984
FR Doc. 84–10509 (49 FR 15601) April 19, 1984
FR Doc. 84–10681 (49 FR 16777) April 20, 1984
FR Doc. 84–14818 (49 FR 23107) June 4, 1984

The proposed amendments are not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of altered systems reports.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1984.

N01070–7

System name:

Resale System Military Management Information System (48 FR 26040) June 6, 1983

Changes:

System location:

In lines two and three, delete "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Purpose(s):

Add the following entry: "Officials and employees of the Navy Resale and Services Support Office in the performance of their official duties related to the management, supervision and administration of its personnel."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

Delete the entire entry and substitute with the following: Records are permanent. Records are maintained for five years and then retired to the Federal Records Center, St. Louis, Missouri.

System manager(s) and address:

Delete the entire entry and substitute with the following: *"Policy Official:* Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305." Records Holder: Director, Office of MIlitary Personnel (OMP), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Notification procedure:

In line four, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232 * * *" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

N04066–1

System name:

Bad Checks and Indebtedness Lists (48 FR 26075) June 6, 1983.

Changes:

System location:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Purpose(s):

Add the following entry: "Officials and employees of the Department of the Navy in the performance of their official duties related to recording receipt of bad checks from patrons; monitoring and avoiding undue losses because of continued passing of bad checks and correspondence issued in an effort to recover losses; and recording credit sales and the payment of these accounts."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to cashiers, exchange and commissary officers for a bad check list."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

Delete the entire entry and substitute with the following: "Records are kept for four years and then destroyed."

System manager(s) and address:

Delete the entire entry and substitute with the following: *"Policy Official:* Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305. *Record Holder:* Director, Treasury Division (TD), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305."

Notification procedure:

In lines four and five, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with "Fort Wadsworth, Staten Island, New York 10305."

N04066–2

System name:

Commercial Fidelity Bond Insurance Claims (48 FR 26076) June 6, 1983

Changes:

System location:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232 * * *" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Purpose(s):

Add the following entry: "Officials and employees of the Department of the Navy in the performance of their official duties related to processing insurance claims."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to the insurance carrier (Fidelity Bond Underwriter) to ensure appropriate coverage."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

Add the following phrase at the end of the entry: "* * * Federal Records Center, St. Louis, Missouri."

System manager(s) and address:

Delete the entire entry and substitute with the following: "Commander, Navy Resale and Service Support Office, Fort Wadsworth, Staten Island, New York 10305.

Notification procedure:

In lines four and five, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with: "Fort Wadsworth, Staten Island, New York 10305."

N04066–3

System name:

Layaway Sales Records (48 FR 26077) June 6, 1983

Changes:

System location:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232 * * *" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Purpose(s):

Add the following entry: "Officials and employees of the Department of the Navy in the performance of their official duties related to recording the selection of layaway merchandise, recording payments, verifying merchandise pick-up and performing sales audits."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

System manager(s) and address:

Delete the entire entry and substitute with the following: *"Policy Official:* Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305. *Record Holder:* Director, Controller Non-appropriated Fund Division (CNAFD), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Individual record holders within the central system may be contacted through the central system record holder."

Notification procedure:

In lines four and five, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with: "Fort Wadsworth, Staten Island, New York 10305."

N04066–4

System name:

Navy Lodge Records (48 FR 26077) June 6, 1983

Changes:

System location:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232 * * *" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305 (for all Navy Exchanges)."

Purpose(s):

Add the following entry: "Officials and employees of the Department of the Navy in the performance of their official duties related to the recording of reservations to insure orderly room assignments and avoiding improper bookings; recording registration and payment of accounts; verifying proper usage by eligible patrons; controlling cash; gathering of occupancy data; determining occupancy breakdown; and accountability of rentals and furnishings."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

Delete the entire entry and substitute with the following: "Navy Lodge records are kept for two years and then destroyed."

System manager(s) and address:

Delete the entire entry and substitute with the following:

"Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York

10305. *Record Holder:* Manager, Personalized Services (SODI), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Individual record holders within the central system may be contacted through the central system record holder."

Notification procedure:

In lines four and five, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with: "Fort Wadsworth, Staten Island, New York 10305."

N12950-3

System name:

Payroll and Employee Benefits Records (48 FR 26158) June 6, 1983

Changes:

System location:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232 * * *" and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Purpose(s):

Add the following entry: "Officials and employees of the Department of the Nary in the performance of their official duties related to calculating pay; preparing checks and deduction registers; leave records; submitting federal and state tax reports; recording contributions to benefit plans; processing insurance claims; and calculating retirement benefits upon request of employee."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to the insurance carriers and the U.S. Department of Labor, Bureau of Employees Compensation."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

Delete the entire entry and substitute with the following: Permanent records maintained for five years and then retired to the Federal Records Center, St. Louis, Missouri.

System manager(s) and address:

In lines two and three, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with: "* * * Fort Wadsworth, Staten Island, New York 10305."

Notification procedure:

In lines four and five, delete: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232" and substitute with: "Fort Wadsworth, Staten Island, New York 10305."

The amended systems of records read as follows:

N01070-7

SYSTEM NAME:

Resale System Military Management Information System.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

* * * * *

PURPOSE(S):

Officials and employees of the Navy Resale and Services Support Office in the performance of their official duties related to the management, supervision and administration of its personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records are permanent. Records are maintained for five years and then retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Suport Office, Fort Wadsworth, Staten Island, New York 10305. *Record Holder:* Director, Office of Military Personnel (OMP), Navy Resale and Services Support Ofice, Fort Wadsworth, Staten Island, New York 10305.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

* * * * *

N04066-1

SYSTEM NAME:

Bad Checks and Indebtedness Lists.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305 (for all Navy Exchanges) Commissary Store operations as listed in the directory of Department of the Navy mailing addresses.

* * * * *

PURPOSES(S):

Officials and employees of the Department of the Navy in the performance of their official duties related to recording receipt of bad checks from patrons; monitoring and avoiding undue losses because of continued passing of bad checks and correspondence issued in an effort to recover losses; and recording credit sales and the payment of these accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to cashiers, exchange and commissary officers for a bad check list."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records are kept for four years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Record Holder: Director, Treasury Division (TD), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

In the initial inquiry the requester must provide full name, social security number, activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office

listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

* * * * *

NO4066-2

SYSTEM NAME:

Commercial Fidelity Bond Insurance Claims.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

* * * * *

PURPOSE(S):

Officials and employees of the Department of the Navy in the performance of their official duties related to processing insurance claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to the insurance carrier (Fidelity Bond Underwriter) to ensure appropriate coverage."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records are kept for four years and then retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

In the initial inquiry the requester must provide full name, payroll number or military service number and activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

* * * * *

N04066-3

SYSTEM NAME:

Layaway Sales Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305 (for all Navy exchanges).

* * * * *

PURPOSE(S):

Officials and employees of the Department of the Navy in the performance of their official duties related to recording the selection of layaway merchandise, recording payments, verifying merchandise pick-up and performing sales audits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Record holder: Director, Controller Non-appropriated Fund Division (CNAFD), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Service Support Office, Fort Wadsworth, Staten Island, New York 10305.

In the initial inquiry the requester must provide full name, social security number, activity where layaway sales were transacted. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

* * * * *

N04066-4

SYSTEM NAME:

Navy Lodge Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305 (for all Navy exchanges).

* * * * *

PURPOSE(S):

Officials and employees of the Department of the Navy in the performance of their official duties related to the recording of reservations to insure orderly room assignments and avoiding improper bookings; recording registration and payment of accounts; verifying proper usage of eligible patrons; controlling cash; gathering of occupany data; determining occupany breakdown; and accountability of rentals and furnishing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records are kept for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Record Holder: Manager, Personalized Services (SODI), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

In the initial inquiry the requester must provide full name, service number and location of the last Navy Lodge where they had dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide

proof of identity containing the requester's signature.

* * * * *

N12950-3

SYSTEM NAME:

Payroll and Employee Benefits Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

* * * * *

PURPOSE(S):

Officials and employees of the Department of the Navy in the peformance of their official duties related to calculating pay; preparing checks and deduction registers; leave records; submitting federal and state tax reports; recording contributions to benefit plans; processing insurance claims; and calculating retirement benefits upon request of employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

In addition, to the insurance carriers and the U.S. Department of Labor, Bureau of Employees Compensation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Permanent records-maintained for five years and then retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Record Holder: Risk Manager, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

In the initial inquiry the requester must provide full name, social security number, activity where last employed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

* * * * *

[FR Doc. 84-16521 Filed 6-20-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Status of Environmental Documents Relating to the Y-12 Plant Site, Oak Ridge, Tennessee

The Department of Energy announces the status of several documents which are or will be available to the public containing environmental information relative to the Y-12 Plant in Oak Ridge, Tennessee. Copies of any of these documents may be requested from: Paul W. Kaspar, Assistant Manager for Safety and Environment, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37831, (615) 576-7749.

The first of these reports is the "Environmental Program Management Plan for the Oak Ridge Complex." This report was prepared for submission to the Congress in response to a recommendation of the Houses Subcommittee on Energy Research and Production and the Subcommittee on Investigations and Oversight, following their hearing in Oak Ridge on July 11, 1983. The plan identifies those facilities and activities which are needed to assure that operations at the DOE Oak Ridge complex comply with applicable environmental regulations. In addition to the Y-12 Plant, two other major DOE facilities in Oak Ridge are included in this report: the Oak Ridge National Laboratory and the Oak Ridge Gaseous Diffusion Plant. While each of these three facilities is discussed independently, some of the proposed environmental facilities will be shared, and many of the environmental research and develpment activities identified will be broadly applicable. This report was issued in March 1984.

The second report is the annual "Environmental Monitoring Report, DOE Oak Ridge Facilities." This report, which has been routinely issued for about 25 years, documents the levels of environmental contaminants in the Oak Ridge area and compares these levels with natural background and, where available, applicable standards and guidelines. In order to better address public environmental concerns, the report this year will be expanded to include onsite as well as offsite data; it will include more offsite date than previously reported; and it will incorporate qualitative evaluations of the significance of the reported data. This report is scheduled for release in May 1984.

The third report will be issued at the completion of a study now being conducted by the interagency Oak Ridge Task Force. This Task Force, which consists of representatives of DOE, the U.S. Environmental Protection Agency, the Tennessee Department of Health and Environment, the Tennessee Valley Authority, the U.S. Geological Survey, and the City of Oak Ridge, is conducing an approximately two-year study of the potential public health impacts of past Y-12 Plant waste management practices in Oak Ridge. The results of this study will be used to assist DOE, the State, TVA, and the City in determining what remedial measures, if any, are warranted to assure that the long-term risk to public health from residual environmental contamination is acceptable.

In addition to the above reports, the Department intends to prepare and distribute appropriate National Environmental Policys Act (NEPA) documentation on future proposed actions at the Y-12 Plant and other Oak Ridge facilities. For example, an environmental impact statement (EIS) is being prepared on the proposed Central Low-Level Radioactive Waste Disposal Facility for the Oak Ridge Reservation (48 FR 51952, November 15, 1983). A draft EIS is expected to be available for public review by the fall of 1984.

In a related matter, DOE issued an environmental assessment (EA) in December 1982 on the continued operation of the Y-12 Plant, even though DOE believes that preparation of an EA is not required under NEPA for continuing operation of an existing facility. Based on subsequent review, DOE has concluded that the EA did not accurately represent certain environmental problems existing at the time of EA publication, including those related to mercury contamination and waste disposal practices. Because of these factors, DOE will not use this EA for environmentals planning or decisionmaking. Furthermore, in light of the reports discussed above which provide descriptions of current environmental conditions at the Y-12 Plant and identify current and proposed projects designed to assure compliance with applicable environmental

regulations, DOE has no current plans to revise the EA.

Any questions regarding these environmental documents may be directed to Mr. Kaspar at the above address.

Dated at Washington, D.C. this 31st day of May, 1984, for the United States Department of Energy.

Jan W. Mares,

Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 84-16593 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-EU-806, for 148.4 grams of natural uranium, for use as standard reference material by Agip S.p.A., Laboratori Di Medicina, Italy.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 15, 1984.

John R. Brodman,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-16560 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Poland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-IA-132, to the Institute of Chemistry and Nuclear Techniques, Warsaw, Poland, 0.75 grams of plutonium, 7.0 grams of uranium, enriched to an average of 38.6% in U-235, 0.005 grams of uranium-233, and 21.2 grams of natural uranium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 15, 1984.

John R. Brodman,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-16561 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Conservation & Renewable Energy

National Energy Extension Service Advisory Board; Renewal

Notice is hereby given that the National Energy Extension Service Advisory Board, which was established in accordance with Pub. L. 95-39, Title V, the National Energy Extension Service Act, has been renewed for a 2-year period ending June 14, 1986.

The Board will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the National Energy Extension Service Act (Pub. L. 95-39), the GSA Interim Rule on Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee may be obtained from Gloria Decker (202/252-8990).

Issued at Washington, D.C., on June 14, 1984.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 84-16596 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-84-009; OFP Case No. 61049-9246-20-24]

Order Granting to Bayou Cogeneration Plant Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Bayou Cogeneration Plant (Bayou or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a proposed 302.12 net megawatt (MW) cogeneration facility designed to produce electricity and process steam at the petitioner's plant in Pasadena, Harris County, Texas. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: The order shall take effect on August 20, 1984.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony C. Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073C, Washington, D.C. 20585, Phone (202) 252-1730

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6739

SUPPLEMENTARY INFORMATION: On March 5, 1984, Bayou petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in its proposed 302.12 net megawatt (MW) powerplant and cogeneration facility in Pasadena, Harris County, Texas. Natural gas will be the sole fuel utilized; there will be no emergency standby fuel. The system will consist of four (4) gas turbine generators coupled to four (4) supplementary fired heat

recovery steam generators. The combustion gas turbines will produce the necessary hot gases for the heat recovery steam generators which are supplementally fired with natural gas. At design conditions, the energy output of the facility will be as follows: Electric power from the gas turbine driven generators will be 302.12 net megawatts (MW); process steam for industrial use will be 1,249,600 pounds per hour at 800 psig and 1,369 net Btu's per pound, and 130,000 pounds per hour at 175 psig and 1198.3 net Btu's per pound. Virtually all of the net annual electric power generation of Bayou's turbine generators will be sold to the Houston Lighting and Power Company (HLP) thereby classifying the unit, by definition, an electric powerplant under 10 CFR 500.2.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Bayou's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the proposed powerplant, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petiton and Availability of Certification in the **Federal Register** on April 24, 1984 (49 FR 17562), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on June 8, 1984; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption clearly will not result in significant effects on the quality of the human environment, and, as such, requires neither an environmental impact statement nor an environmental assessment. ERA's compliance with the documentary requirements of the National Environmental Policy Act of 1969 (NEPA) has accordingly been accomplished by the preparation of a memorandum to the file in accordance with section A.3(c)(1) of DOE's NEPA guidelines.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Bayou has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Bayou to permit the use of natural gas as the primary energy source for its cogeneration facility at Pasadena, Harris County, Texas.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C., on June 12, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-16597 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-84-008; OFP Case No. 63024-9244-21-24]

Order Granting to Greenleaf Power Corporation Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to the Greenleaf Power Corporation (Greenleaf or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a proposed 49.5 megawatt (MW) cogeneration facility designed to produce electricity and useful thermal energy at the petitioner's plant in Sutter County, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on August 20, 1984.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073C, Washington, D.C. 20585, Phone (202) 252-1730

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6739

SUPPLEMENTARY INFORMATION: On February 15, 1984, Greenleaf petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a proposed 49.5 MW cogeneration facility in Sutter County, California consisting of a gas turbine, an associated natural circulation duct-fired heat recovery steam generator, a condensing steam turbine-generator set, and a system for using thermal energy to benefit local agriculture. The termal energy will be used in either a wood chip dryer or an irrigation water warming service. Only one of these options will be constructed at the proposed site.

Virtually all of the net annual generation of electric power from the unit will be sold to the Pacific Gas & Electric Company (PG&E) thereby classifying the unit, by definition, an electric powerplant under 10 CFR 500.2.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Greenleaf's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the proposed powerplant, for which an

exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

Procedural requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on April 24, 1984 (49 FR 17563), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on June 8, 1984; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption clearly will not result in significant effects on the quality of the human environment, and, as such, requires neither an environmental impact statement nor an environmental assessment. ERA's compliance with the documentary requirements of the National Environmental Policy Act of 1969 (NEPA) has accordingly been accomplished by the preparation of a memorandum to the file in accordance with section A.3(c)(1) of DOE's NEPA guidelines.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Greenleaf has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Greenleaf to permit the use of natural gas as the primary energy source for its cogeneration facility at its plant in Sutter County, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C., on June 12, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-16595 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-84-013; OFP Case No. 55393-9247-01-12]

Acceptance of Petition for Exemption and Availability of Certification by Owens-Illinois, Inc. for its Orange, Texas Facility

On June 1, 1984, Owens-Illinois, Inc. (Owens-Illinois) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent emergency purposes exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for a new boiler to be located at its unbleached kraft linerboard pulp and paper mill at Orange, Texas. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the emergency purposes exemption are found at 10 CFR 503.39.

The project for which the exemption is requested consists of a package, emergency standby natural gas-fired boiler with the capacity to generate 170,000 pounds per hour of steam at a pressure of 850 psig.

ERA has determined that the petition is sufficient to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3 and 501.63. ERA retains the right, however, to request additionl relevant information from Owens-Illinois at any time during the proceeding, as circumstances may require. A review of the petition is porvided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before August 6, 1984. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-033, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA-FC-84-013 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, D.C. 20585, Phone (202) 252-6002

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-141 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6739

SUPPLEMENTARY INFORMATION: Title II of FUA prohibits the use of natural gas or petroleum in new MFBI's that consist of a boiler unless an exemption for such use has been granted by ERA. Owens-Illinois has filed a petition with ERA requesting a permanent emergency purposes exemption to permit the use of these fuels as the primary energy source in the proposed new package standby boiler to be located at its unbleached kraft linerboard pulp and paper mill at Orange, Texas. The new unit will operate during periods when any of the four boilers at the existing facility are shutdown or turned down in order to ensure continued facility production which would otherwise be reduced due to interruption of alternate fuel supplies, equipment failures, imminent equipment failures, temporary environmental restrictions, and other qualifying emergency conditions. The unit will generate 170,000 lbs/hr steam at 850 psig.

Section 212(e) of the Act and 10 CFR 503.39 provide for a permanent emergency purposes exemption from the prohibitions of Title II of FUA. In accordance with the requirements of §503.39(a), Owens-Illinois has certified to ERA that:

1. It will operate and maintain the proposed unit for emergency purposes only; and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the proposed boiler for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.39(c) (and in addition to the certifications discussed above), Owens-Illinois has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. Environmental certifications, as required under 10 CFR 503.13(b).

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7976) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for emergency purposes, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Owens-Illinois has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. ERA will review the completed environmental checklist submitted by Owens-Illinois pursuant to 10 CFR 503.13(b), together with other relevant information. Unless it appears during the proceeding on Owens-Illinois' exemption request that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that Owens-Illinois is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on June 12, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-16594 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Clean Coal Use Technology Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Clean Coal Use Technology Panel of the Energy Research Advisory Board (ERAB).

Date and time: July 31, 1984 from 9 a.m. to 5 p.m.

Place: Los Alamos National Laboratory, J. Robert Oppenheimer Research and Study Center, Casa Grande Drive, Building SM-207, Room 218, Los Alamos, NM 87545.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-5444.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

- Discussions of:

Precombustion Technologies:

A. Coal preparation (coarse and fine cleaning by physical and chemical means)

B. Coal/liquid (water) mixture preparation and handling

Combustion:

A. Pulverized coal furnaces: technologies for emission abatement, for retrofitting and new units (all sizes)

B. Fluidized bed combustion systems (all types)

C. Air blown gasification (2-stage combustion systems)

Post Combustion Abatement

A. Fluegas treatment for SO_2, NO_x

B. Particulate removal, etc.

Solid waste disposal

Other Systems: direct use of coal in gas turbines and diesel engines, etc.

- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 12, 1984.

J. Ronald Young

Director, Office of Management, Office of Energy Research.

[FR Doc. 84-16589 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-2569-002 and CI64-612-002]

Aminoil Inc.; Amendment to Application for Partial Abandonment Authorization and Request for Limited-Term Certificate

June 18, 1984.

Take notice that on June 8, 1984, Aminoil Inc. (Aminoil) of P.O. Box 94193, Houston, Texas 77292 filed an application pursuant to section 7(c) of the Natural Gas Act [15 U.S.C. 717f(c) (1976 and Supp. IV 1980)] and §§ 157.23, *et seq.*, (1983)], to amend its Application for Partial Abandonment Authorization filed in Docket Nos. G-2569-002 and CI64-612-002 on June 22, 1983. This amendment requests certificate authorization with pregranted abandonment for Aminoil to make sales for resale to Neches Gas Distribution Company (Neches) of all gas released from Aminoil's certificate to Northwest Central Pipeline Corporation (Northwest Central) under the June 1983 partial abandonment application.

Pursuant to a Gas Sales and Purchase Agreement dated September 1, 1983 Aminoil agreed to sell to Neches certain quantities of residue gas, as available, from Aminoil's Fox Plant. This agreement covers gas which Aminoil has the right to sell and dispose of from the Fox Plant which is not required by other purchasers under existing

contracts. The term of the agreement is for two years and year-to-year thereafter. Furthermore Aminoil requests that the Commission provide for pregranted abandonment of this sale to Neches when the sales to Northwest Central of this excess gas recommence. The gas to be released under the partial abandonment request and, in turn, sold to Neches is covered by sections 102, 103, 106(a), 108, 109 and 104 (Post-1974, 1973–74 Biennium, Replacement Contract, and Flowing Gas).

Aminoil requests that the limited-term certificate with pregranted abandonment for sales to Neches, as requested herein, be issued concurrently with the authorization for the limited-term partial abandonment of sales to Northwest Central.

Any person desiring to be heard or to make protest with reference to said application should on or before, June 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants 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 petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16576 Filed 6-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-90-000]

Lone Star Gas Company; Tariff Filing

June 18, 1984.

Take notice that on June 12, 1984, Lone Star Gas Company (Lone Star) tendered for filing its FERC Gas Tariff, Original Volume No. 2 in accordance with the requirements of § 154.61 of the Federal Energy Regulatory Commission's (Commission) regulations. This tariff is an initial filing and is accompanied by Lone Star's Cost of Service study supporting the proposed rate.

This tariff will permit Lone Star to offer transportation service on its interstate facilities under the Blanket Certificate issued to Lone Star in CP83-59-000. Lone Star has not previously offered this service on these facilities. All transportation performed under this tariff will comply with the requirements of § 157.209 of the Commission's regulations.

Lone Star proposes an effective date of July 13, 1984 and requests that, if necessary, notice requirements be waived pursuant to § 154.51 of the Commission's regulations in order to permit this new service to begin at the earliest possible date.

Lone Star rates that since this is an initial filing, dealing with a transportation service it has not previously offered, copies of the filing have not been provided to any other persons.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 25, 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. 84-16577 Filed 6-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-41-003]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

June 18, 1984.

Take notice that Southwest Gas Corporation (Southwest) on June 13, 1984, tendered for filing Twenty-third Revised Sheet No. 10 pursuant to Section 9, Purchased Gas Adjustment Clause of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect a decrease in rates occasioned by a decrease in rates from Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective May 1, 1984. The proposed effective date for Southwest's proposed decrease in rates is May 1, 1984.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 25, 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. 84-16578 Filed 6-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-9-001]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Rate Change Under Tariff Rate Adjustment Provisions

June 18, 1984.

Take notice that on June 7, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing the following tariff sheet to its FERC Gas Tariff to be effective July 1, 1984:

Original Volume No. 1

Substitute Twelfth Revised Sheet No. 21.

Tennessee states that the purpose of the revised tariff sheet is to reflect the Section 3 Surcharge as a positive rather than a negative amount.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 25, 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 84-16573 Filed 6-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-487-000]

Texas Gas Transmission Corp.; Application

June 15, 1984.

Take notice that on June 14, 1984, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP84-487-000 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Applicant to sell, during the period of June 1, 1984, through October 31, 1984, natural gas to its jurisdictional customers purchasing under its Rate Schedules G, CD, and CDL in accordance with an interim, experimental Summer Excess Gas Rate Schedule, to be incorporated in Applicant's FERC Gas Tariff, Third Revised Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes that its interim Rate Schedule SXS would be made available beginning June 1, 1984, through October 31, 1984, to Applicant's jurisdictional customers purchasing gas on a firm basis under its Rate Schedule G, CD, or CDL and taking delivery of such natural gas in one or more of Applicant's service zones 1, 2, 3, and 4. Further, Applicant proposes that customers electing to purchase volumes made available under Rate Schedule SXS must notify Applicant that they may desire to purchase gas when offered under this rate schedule.

Applicant asserts that service under Rate Schedule SXS would apply to gas delivered to purchasers in excess of Applicant's obligations to such purchasers under executed service agreements for service under Rate Schedules G, CD, or CDL. It is further asserted that the deliveries of gas are interruptible and are subject to curtailment, interruption, or discontinuance at any time as Applicant in its sole judgment, deems desirable.

Applicant proposes that the charge for deliveries in each zone is the applicable commodity rate as set forth in the currently effective Sheet No. 7 of Applicant's FERC Gas Tariff.

Applicant asserts that if it delivers gas to a purchaser under Rate Schedule SXS and under other rate schedules at the same point or points of delivery on the same day, the volumes under Rate Schedule SXS on such day would be all gas delivered to the purchaser on such day in excess of the volume which Applicant is obligated to deliver to the purchaser on such day under executed service agreements for service under other rate schedules.

Whenever Applicant is able and willing to offer gas for sale under this rate schedule, Applicant asserts it would offer such gas in an equitable manner to all purchasers which have notified Applicant of the desire to purchase gas when offered under Rate Schedule SXS. Applicant asserts that any gas rejected by a purchaser may be offered by Applicant to other purchasers in any manner Applicant desires.

Applicant asserts that the proposed rate schedule is necessary to permit and create greater competition in the natural gas market generally, and, specifically in Applicant's traditional market.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 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. 84-16580 Filed 6-20-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Period of May 21 Through June 1, 1984

During the period of May 21 through June 1, 1984, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: June 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Welsch Oil Company, Bellevue, Iowa, HEE-0090, Reporting Requirements

Mr. Greg Welsch, owner of Welsch Oil Company, filed an Application for Exception from the provisions of the Energy Information Agency's form filing requirements. The exception request, if granted, would permit Welsch Oil Company to be exempted from filing Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On May 30, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted. The Office of Hearings and Appeals ruled that Welsch Oil Company has demonstrated that the form filing requirement will result in an excessive burden to the firm.

[FR Doc. 84-16591 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Period of May 21 Through June 1, 1984

During the period of May 21 through June 1, 1984, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed request to participate. Persons may also be placed on the official service list as nonparticipants for good cause shown.

All request to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: June 13, 1984.

George B. Brenznay,

Director, Office of Hearings and Appeals.

Compton Corporation and Gratex Corporation, Abilene, Texas, HRO-0230, Crude Oil

On May 29, 1984, the Assistant Attorney General of the State of Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas Field Office of the Economic Regulatory Administration issued to the firms on April 27, 1984. In the PRO the Dallas Field Office found that during the period December 1978 through December 1980, Compton Corporation and Gratex Corporation sold crude oil at prices in excess of those permitted under 10 CFR Part 212.

According to the PRO the Compton and Gratex violation resulted in $6,065,681.93 of overcharges.

[FR Doc. 84-16592 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of April 20 Through April 27, 1984, and Objection to Proposed Remedial Order Filed; Week of March 26 Through March 30, 1984; Correction

This is a correction to a **Federal Register** document entitled "Cases Filed; Week of April 20 Through April 27, 1984" beginning on page 21792, published May 23, 1984. In the table for List of Cases Received, the Type of Submission entry on page 21793 for Case No. HRS-0043 now reading "* * * pending a final determination on its appeal to the United States Bankruptcy Court for the Northern District of Texas." The entry should read: "* * * pending a final determination by the United States Bankruptcy Court for the Northern District of Texas in the bankruptcy proceeding involving International Crude Corporation."

This a correction to a **Federal Register** document entitled "Objection to Proposed Remedial Order Filed; Week of March 26 Through March 30, 1984" on page 18168, published April 27, 1984. In the third column of page 18168, line 20, the portion of the sentence reading "In the PRO the ERA and Mr. Pritchard found that * * *" should read "In the PRO the ERA found that * * *".

Dated: June 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-16590 Filed 6-20-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[(OPTS-51520); TSH-FRL 25934]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 84-13950 beginning on page 22128 in the issue of Friday, May 25, 1984, make the following corrections:

1. On page 22129, third column, PMN 84-698, *Toxicity Data,* line twelve, "TL^{o}" should read "TL_o".

2. On page 22130, third column, PMN 84-711, *Environmental Release/Disposal,* second line "J..2" should read "0.2".

3. On page 22131, first column, PMN 84-716, *Chemical,* second line, "informatin" should read "information".

4. On the same page, first column, PMN 84-717, *Toxicity Data,* line six, "Photoxicity" should read "Phototoxicity"; and "pototoxic" should read "phototoxic".

BILLING CODE 1505-01-M

[OPTS-51522; TSH-FRL 2604-4]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 84-15279, beginning on page 23916, in the issue of Friday, June 8, 1984, make the following corrections:

1. On page 23916, column three, PMN 84-744, *Toxicity Data,* line five, "Non-mutagenci" should read "Non-mutagenic".

2. On the same page, column three, PMN 84-746, *Toxicity Data,* line three, "Non-mutagenci" should read "Non-mutagenic".

3. On page 23917, column one, PMN 84-749, *Exposure,* second line, "upt" should read "up".

4. On page 23919, column three, PMN 84-786, *Toxicity Data,* should read "Acute oral: Males, females > 3,200 mg/kg; Acute dermal: > 20 ml/kg/; Irritation: Skin—Slight, Eye—Slight.".

BILLING CODE 1505-01-M

[(OPTS-59158); BH-FRL 2593-3]

Certain Chemicals; Premanufacture Exemption Applications

Correction

In FR Doc. 84-13951 appearing on page 22132 in the issue of Friday, May 25, 1984, make the following corrections:

1. In column three, TME 84-53, *Use/Import,* second line, a comma should appear between "caulks" and "carpet".

2. In column three, TME 84-53, *Import range,* "confidential" should read "Confidential".

BILLING CODE 1505-01-M

[OPTS-59156A; TSH-FRL 2603-1]

Toxic and Hazardous Substances Control; Certain Chemicals; Approval of Test Marketing Exemptions

Correction

In FR Doc. 84-15280 beginning on page 23690 in the issue of Thursday, June 7, 1984, make the following corrections:

1. In the heading, the third line should read "[OPTS–59156A; TSH–FRL 2603–1]".

2. On page 23691, column two, line five, "effectively" should read "effective"; and in line thirteen "tothe" should read "to the".

BILLING CODE 1505–01–M

FEDERAL RESERVE SYSTEM

Bank of New England 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(a) 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 of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 11, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation*, Boston, Massachusetts; to engage through its subsidiary Beacon Asset Management, Inc., Boston, Massachusetts, in the investment advisory business, including providing investment advisory services to individuals, trusts, employee benefit plans, corporations, government bodies, banks, thrift institutions, insurance companies, investment companies and other legal entities.

B. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Friona Bancoporation*, Friona, Texas; to engage through its subsidiary Sunshine Leasing, Friona, Texas, in leasing activities.

Board of Governors of the Federal Reserve System, June 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–16516 Filed 6–20–84; 8:45 am]

BILLING CODE 6210–01–M

First Interstate Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) 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(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged 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.

The 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 of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California; to acquire 20 percent of the common stock of Leland, O'Brien, Rubenstein Associates Incorporated, Los Angeles, California, and thereby to engage in investment advisory services, specifically, providing portfolio investment advice to any other person.

Board of Governors of the Federal Reserve System, June 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–16518 Filed 6–20–84; 8:45 am]

BILLING CODE 6210–01–M

Marshall & Ilsley Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) 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(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged 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.

The 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 of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 11, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation,* Milwaukee, Wisconsin; to acquire through its wholly owned subsidiary, M&I Data Services Corporation, Moline, Illinois, the assets of Midwest Banks Data Processing, Inc., and thereby provide data processing services to financial institutions.

Board of Governors of the Federal Reserve System, June 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16517 Filed 6-20-84; 8:45 am]

BILLING CODE 6210-01-M

Montgomery County Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this service 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 July 13, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Montgomery County Bancshares, Inc.,* Little Rock, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Montgomery County, Mount Ida, Arkansas.

2. *Mutual Banc Corp.,* New Albany, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Mutual Trust Bank, New Albany, Indiana.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Union Bancshares, Inc.,* Laredo, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Union National Bank of Laredo, Laredo, Texas.

2. *Springhill Bancshares, Inc.,* Springhill Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Springhill Bank & Trust Company, Springhill, Louisiana.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Guardian Bancorp, Inc.,* Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the shares of Guardian Bank, Phoenix, Arizona.

Board of Governors of the Federal Reserve Systems, June 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16519 Filed 6-20-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84F-0011]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant/stabilizer in ethylene-vinyl acetate copolymers used in contact with alcoholic foods.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3764) has been filed by Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant/stabilizer in ethylene-vinyl acetate copolymers that comply with 21 CFR 177.1350, and that are used in articles contacting alcoholic foods.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 14, 1984.

Taylor M. Quinn,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-16509 Filed 6-20-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Utah 53716]

Salt Lake District; Sale of Public Lands in Tooele County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: This is a Notice of a direct sale of 140 acres of public land in Tooele County, in accordance with existing law.

DATE: The date of the sale is August 21, 1984.

ADDRESS: Comments concerning the sale will be accepted for a period of 45 days from the date of this notice by the:

District Manager, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Nancy Bloyer, Pony Express Realty Specialist, (801) 524–5348.

SUPPLEMENTARY INFORMATION: This Notice replaces an earlier Notice which described a sale of the same lands to Mr. Eldon Stubbs. That Notice is hereby cancelled.

The following described public land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) or FLPMA:

Legal description	Acreage
T. 6 S., R. 18 W., SLB+M:	
Sec. 4, W½E½SW¼	40
Sec. 8, NE¼NE¼	40
Sec. 9, W½NE¼NW¼, NW¼NW¼	60
Total acres	140

The land is being offered by direct sale to Mr. Gail Bunker at the appraised fair market value of $17,500.

The lands are being offered for sale to serve the public objective of economic development and the growing of cultivated crops. Authorizing the farming of these lands will enhance Mr. Bunker's adjoining farm operation. The objective could not be achieved on other public land such as a parcel that was noncontiguous. The parcel does not possess more important public values than economic development since livestock grazing is the present and projected use of the land. The tract is no larger than necessary to support a family-sized farm.

A direct sale to Mr. Bunker will recognize a preference to him as a user with existing improvements and as an adjoining landowner, as set forth in FLPMA.

The sale is consistent with the Bureau of Land Management's planning system and with Tooele County planning and zoning.

The public lands will be sold on the 21st day of August, 1984.

Terms and conditions applicable to the sale are:

1. The sale of these lands will be subject to all valid existing rights.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. All minerals will be reserved to the United States.

4. Federal law requires that the buyer be a U.S. citizen. Proof of this requirement shall be presented by Mr. Bunker on the date of the sale.

The designated purchaser, Mr. Bunker, will be required to pay for the cost to publish this notice in the **Federal Register** and in the local paper. He will also be required to submit a nonrefundable deposit of one-fifth of the full price of $17,500 on the sale date, August 21, 1984, by certified check. The remainder of the full price shall be paid within 30 days of the sale date. Failure to pay the full price within 30 days shall disqualify Mr. Bunker as the designated purchaser and the deposit shall be forfeited and disposed of as other receipts of sale. The lands many then be offered on a competitive bidding basis, with details of such a sale to be set forth in a subsequent notice.

Detailed information concerning the sale, including the planning documents and environmental assessment is available for review at the above address. 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.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 84-16410 Filed 6-20-84; 9:31 am]

BILLING CODE 4310-DQ-M

[A-17362]

Public Lands Exchange; Mohave County, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands in Mohave County, Arizona.

SUMMARY: The following described public lands and interests have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 27 N., R. 20 W.,
Section 16, SW¼NE¼, NW¼ and S½;
Section 20, N½, NW¼SW¼, S½SW¼, and SE¼.

Comprising 1120 acres of public land.

In exchange for these lands, the Federal government will acquire non-Federal land from Dale D. Smith described as follows:

Gila and Salt River Meridian, Arizona

T. 28 N., R. 16 W.,
Section 1, lots 1 thru 4, S½N½, S½;
Section 11, E½, NW¼, NE¼SW¼, S½SW¼;
Section 15, all;
Section 19, lots 1 thru 4, E½, E½W½;
Section 21, all.

Comprising 3157.48 acres of private land.

The above described public lands were previously segregated by Bureau action of June 16, 1982. Whereas, final appraisals have been completed and an exchange agreement consummated, it is necessary to initiate an additional segregative action to afford the proponent ample time to obtain mortgage releases.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. Right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1980, 26 Stat, 391, 43 U.S.C. 945.

2. A reservation of all oil and gas in the N½NW¼, SW¼NW¼, NW¼SW¼, section 20, T. 27 N., R. 20 W., G&SRM, to the United States with the right to prospect for, mine and remove such deposits.

3. A road easement 100 feet in width for the White Hills Road constructed under the authority of R.S. 2477 as recorded in Mohave County, Book 274, Page 50, of Official Records.

4. A reservation for a powerline as has been granted to Citizens Utilities, its successors and assigns, by right-of-way AR–035294–A under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

5. Subject to those rights for a roadway as have been granted to Mohave County Board of Supervisors, its successors or assigns, by right-of-way A–10109 under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company.

The publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange including the environmental analysis

and the record of public discussions, is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of 45 days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. 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.

Dated: June 18, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-16502 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-32-M

[C-17-83]

California; Filing of Plat of Survey

June 13, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Nevada County

T. 16 N., R. 8 E.

2. This supplemental plat of the NE¼ Section 26, Township 16 North Range 8 East, Mount Diablo Meridian was accepted May 29, 1984.

3. This plat will immediately become the basic record for describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 84-16503 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-40-M

[Group 805; Group 825]

California; Filing of Plat of Survey

June 13, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Nevada County

Tulare and Mariposa Counties

T. 25 S., R. 32 E.
T. 9 S., R. 19 E.

2. These plats, representing the (1) metes-and-bounds survey of Tract 37, T. 25 S., R. 32 E., Mount Diablo Meridian, under Group No. 825, California; and (2) the corrective dependent resurvey of a portion of the subdivisional lines of T. 9 S., R. 19 E., Mount Diablo Meridian, under Group No. 805, California, were accepted May 23, 1984.

3. This plat will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Department of Agriculture, Forest Service, and this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 84-16504 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-40-M

[I-20586]

Idaho: Notice of Realty Action—Exchange

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Exchange.

SUMMARY: The following described federal land comprising 60.00 acres in Kootenai County, Idaho, has been determined to be suitable for disposal by exchange under Section 205 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 49 N., R. 5 W.,
Sec. 3, NW¼SW¼, N½SW¼SW¼.

The Federal Government is offered the following described 8.00 acres of private land in Kootenai County, Idaho by Jack Marshall, et al.:

Boise Meridian, Idaho

T. 49 N., R. 3 W.,
Sec. 2, Lot 9.

The purpose of this exchange is to acquire private land adjacent to the Bureau of Land Management Mineral Ridge Recreation area and Beauty Bay. This proposed exchange will be based on equal value determined by fair market value appraisals and may ultimately involve less than the total acreage described for federal land.

This exchange is consistent with Bureau of Land Management Land use planning. The federal land is not needed for any federal program. The land has previously been identified for transfer from federal ownership by private exchange.

Grazing privileges of Forest Godde will be reduced upon successful completion of this exchange. The grazing permittee was first notified of the planned disposal of the subject federal land by letter dated January 24, 1984. Forest Godde waived his right to a two-year continuance of these privileges on January 31, 1984.

There is no known value for minerals in the Federal land. It is expected that the mineral estate will be conveyed with the surface estate.

Patent, if and when issued, will contain the following reservation to the United States:

1. A right-of-way, 60-feet in width, for the existing road which crosses the public lands to be transfered. The distance of this right-of-way will depend upon how much Federal land will be transfered.

Upon publication of this Notice in the **Federal Register**, the public land will be segregated from all appropriation under the public land laws, including the mining laws, except exchanges, for a period of two years or upon issuance of patent. After acquisition, the private land will become a part of the Mineral Ridge Recreation Area.

ADDRESS: Detailed information concerning this exchange is available for review at the Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third, Coeur d'Alene, ID 83814.

For a period of 45 days from the first publication of this Notice, interested parties may submit comments to the District Manager and forwarded to the Idaho State Director, Bureau of Land Management, who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 14, 1984.

Wayne Zinne,

District Manager, Coeur d'Alene District.

[FR Doc. 84-16500 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-GG-M

[M-55662]

Montana; Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Order Providing for Opening of Public Lands in Garfield County, Montana.

SUMMARY: This order opens the lands reconveyed to the United States in an exchange pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)) to the operation of the public land laws. No mineral estate was acquired in the exchange.

DATE: At 9 a.m. on August 8, 1984, the following described lands that were conveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, (406) 657-6082.

1. The following described lands were conveyed to the United States without a mineral reservation since all minerals are already held by the U.S.:

Principal Meridian, Montana

T. 18 N., R. 38 E.,
Sec. 24, SE¼NE¼.
T. 18 N., R. 39 E.,
Sec. 7, lot 4;
Sec. 9, S½N½S½, S½SE¼;
Sec. 19, lots 2, 3, 4; and
Sec. 30, NE¼NW¼.
T. 19 N., R. 39 E.,
Sec. 31, lot 3.

Aggregating 426.69 acres.

2. The following described lands were conveyed to the United States with a reservation to the grantors, their successors and assigns, or to their predecessors, all right and title to all minerals except coal (which is federally owned):

Principal Meridian, Montana

T. 18 N., R. 38 E.,
Sec. 12, E½E½;
Sec. 13, E½SE¼; and
Sec. 24, NE¼NE¼.
T. 18 N., R. 39 E.,
Sec. 6, lots 1, 2, 3 and 7, SW¼NE¼, SE¼NW¼;
Sec. 7, lots 1, 2, 3;
Sec. 8, S½S½;
Sec. 10, S½NE¼SW¼, SE¼SW¼, S½SE¼;
Sec. 15, E½E½;
Sec. 17, N½, N½S½;
Sec. 18, lots 3 and 4, SE¼NE¼, E½SW¼, SE¼;
Sec. 19, lot 1, E½, E½W½; and
Sec. 30, N½NE¼.
T. 19 N., R. 39 E.,
Sec. 30, SW¼NE¼.

Aggregating 2,559.76 acres.

3. At 9 a.m. on August 8, 1984, the above lands will be open to the operation of the public and laws.

Dated: June 14, 1984.

John A. Kwiatkowski,

Deptuy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84-16498 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-DN-M

Land Resource Management; Montana State Office

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plat of survey of the lands described below accepted May 31, 1984, will be officially filed in the Montana State Office effective 8 a.m. on August 13, 1984.

Principal Meridian, Montana

T. 9 S., R. 26 E.

The supplemental plat of sections 19 and 33, Township 9 South, Range 26 East, Principal Meridian, Montana, shows a subdivision of original Lot 1, Section 19, and a subdivision of original Lots 2, 5, and 7, Section 33, Township 9 South, Range 26 East, Principal Meridian, Montana. The area described is in Carbon County.

This plat was prepared to meet certain administrative needs of the Bureau.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: June 12, 1984.

Linda M. Wagner,

Chief, Branch of Records.

[FR Doc. 84-16499 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-DN-M

[N-39007; N-39008]

Nevada; Realty Action—Sale of Public Lands in White Pine County, Nevada

The following lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than fair market value:

Parcel	Serial No.	Legal description, Mt. Diablo Meridian, Nevada	Acreage
1	N-39007	T. 12 N., R. 70 E., Sec. 34, lot 1.	31.58
2	N-39008	T. 15 N., R. 68 E., Sec. 24, SE¼SW¼NE¼SE¼SE¼, N½NE¼NW¼SE¼SE¼SE¼, W½W½SW¼SE¼NE¼SE¼SE¼, W½W½N½NW¼NE¼SE¼SE¼SE¼.	1.17

Parcel 1 is a surveyed lot located between two parcels of private land. The lot is composed of a steep sided canyon with about five acres of level ground which has been used to grow alfalfa. Parcel 2 has three graves on it. One of the relatives wishes to purchase the parcel for a family cemetery. Disposal of these lands will resolve the unauthorized use of public land. Parcel 1 is located 75 miles from Ely, Nevada and Parcel 2 is located 50 miles from Ely, Nevada.

The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. The sale is consistent with the Schell Resource Area Land Use Plan which received public review prior to it's implementation. Disposal would best serve the public interest.

Both parcels will be first offered by direct noncompetitive sale to the following designated bidders:

Parcel No.	Serial No.	Designated bidders
1	N-39007	John Osborne.
2	N-39008	David Eldridge.

Successful purchasers will be given the opportunity to purchase the mineral estate (with the exception of the oil and gas resources which will be reserved to the United States) for $50.00 nonrefundable filing fee. The locatable and saleable mineral estate being offered have no known mineral value and are being offered for conveyance under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)).

The patents when issued as the result of the sale will be subject to all valid existing rights of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945), and all the oil and gas mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of Interior may prescribe.

The patent when issued for parcel no. 1 will be subject to those rights granted by oil and gas lease N–32114, made under Section 29 of the Act of February 25, 1920; 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570.

Parcel Serial No. N–39007.

Lease No. N–32114.

This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations for the duration of oil and gas lease N–32114, and any authorized extension of that lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Parcel 1 will further be subject to: Those rights for power line purposes which have been granted to Bell Telephone Company of Nevada, its successors or assigns, by permit No. N–17524 under the Act of October 21, 1976, Title V, 90 Stat. 274, 43 U.S.C. 1713.

Parcel 2 will be subject to: An easement for White Pine County Road No. 40.

Any unsold parcels will be reoffered on the first Wednesday of each month beginning December 5, 1984, until they are sold or removed from sale. The offering will be by competitive sale bidding procedures required by 43 CFR 2711.3–1.

The loss of AUMs due to the land transfer will be less than 1 AUM per grazing allotment; therefore, there will be no reduction in any permittee privileges.

The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or applicable laws. The land will not be offered for sale sooner than 60 days after the date of this notice.

For a period of 45 days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the Ely District Manager. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action. Detailed information concerning the sale, including the land report and environmental assessment report is available for review at the Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301.

Merrill L. DeSpain,

District Manager.

[FR Doc. 84–16501 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–HC–M

[M 59731]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Blaine County, Montana.

SUMMARY: This order will open the lands reconveyed in an exchange under the Act of October 21, 1976, et seq., to the operation of the public land laws. No mineral estate was transferred or acquired in the exchange.

DATE: At 9 a.m. on August 6, 1984, the lands reconveyed to the United States shall be open to the operation of the public lands laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to William A. Nace and Loretta K. Nace, which was created by the Notice of Realty Action published in the **Federal Register** on April 5, 1984 (49 FR 13596), terminated on issuance of the deed on June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, MT 59107, Phone: (406) 657–6082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the surface estate of the following described lands in Phillips County was conveyed to William A. Nace and Loretta K. Nace of Turner, Montana:

Principal Meridian, Montana

T. 37 N., R. 27 E.,
Sec. 1, S½; and
Sec. 12, all.
T. 37 N., R. 28 E.,
Sec. 4, lots 10–12, inclusive; and
Sec. 6, lots 6, 7, 12, and 13, and E½SW¼.
Aggregating 1,278.41 acres.

In exchange for the above land, the United States acquired the following described land in Blaine County:

Principal Meridian, Montana

T. 37 N., R. 24 E.,
Sec. 10, SE¼;
Sec. 11, NW¼;
Sec. 14, W½;
Sec. 15, E½; and
Sec. 22, S½NE¼.
Containing 1,040 acres.

At 9 a.m. on August 6, 1984, the above-described lands that were reconveyed to the United States will be open to the operation of the public land laws.

June 14, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84–16505 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–DN–M

[M–60210]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Phillips County, Montana.

SUMMARY: This order will open the lands reconveyed in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. All minerals in the offered lands were reserved to the private party in the exchange. The government reserved all minerals on 314.35 acres, and the oil and gas deposits only on the remaining public lands transferred.

DATE: At 9 a.m. on August 6, 1984, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provision of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to the private party, which was created by the Notice of Realty Action published in the **Federal Register** on March 27, 1984 (49 FR 11721–11722), terminated on issuance of the patent and deed on May 21, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (406) 657–6082.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land, with a reservation to the United States of all mineral deposits, was conveyed to First Montana Title Insurance Company, as Trustee for the benefit of Federal Land Exchange of Nevada, Inc.:

Principal Meridian, Montana

T. 31 N., R. 31 E.,
Sec. 19, lot 3, S½NE¼, NE¼SW¼, and SE¼.

Containing 314.35 acres.

2. The following described lands, with a reservation to the United States of all of the oil and gas deposits, were also conveyed to First Montana Title Insurance Company, as the Trustee:

Principal Meridian, Montana

T. 29 N., R. 27 E.,
Sec. 17, NE¼NW¼.
T. 29 N., R. 28 E.,
Sec. 5, lots 1 and 2, S½NE¼;
Sec. 19, W½NE¼, NE¼SW¼, and NW¼SE¼.
T. 35 N., R. 29 E.,
Sec. 26, SE¼NW¼.
T. 28 N., R. 31 E.,
Sec. 32, E½, N½SW¼, SE¼SW¼, excluding from the NW¼SW¼ a one-acre tract of ground as described on the quitclaim deed;
Sec. 33, W½SW¼.
T. 36 N., R. 32 E.,
Sec. 27, SE¼NE¼; and
Sec. 34, NW¼NE¼.
T. 34, N., R. 33 E.,
Sec. 31, SE¼.

Aggregating 1,165.89 acres.

3. In exchange for the above selected land, the United States acquired the surface estate of the following describing land in Phillips County, Montana:

Principal Meridian, Montana

T. 31 N., R. 31 E.,
Sec. 13, SW¼SW¼;
Sec. 14, W½NE¼ and SE¼NW¼; and
Sec. 22, N½N½.
T. 36 N., R. 31 E.,
Sec. 3, lot 1 and SE¼; and
Sec. 10, E½NE¼ and NE¼SE¼; and
T. 28 N., R. 32 E.,
Sec. 32, N½.
T. 33 N., R. 32 E.,
Sec. 2, E½SW¼.
T. 29 N., R. 34 E.,
Sec. 27, NW¼NW¼, S½N½, NE¼SW¼, and N½SE¼.
T. 35 N., R. 34 E.,
Sec. 2, lots 1, 2, and 3.
T. 36 N., R. 34 E.,
Sec. 35, E½SW¼, NW¼SE¼, and S½SE¼.

Aggregating 1,704.54 acres.

At 9 a.m. on August 6, 1984, the above described lands that were conveyed to the United States will be open to the operation of the public land laws.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewal Resources.

[FR Doc. 84-16506 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-DN-M

[A-19263]

Public Lands Exchange; Mohave County, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands in Mohave County, Arizona.

SUMMARY: The following described public lands are being considered for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 21 W.,
Sec. 28, all.
T. 19 N., R. 22 W.,
Sec. 12, N½ and N½S½.

Comprising 1,120 acres, more or less.

In exchange for these lands, the federal government would acquire approximately 6,309 acres from Mr. George M. Aeed of Scottsdale, Arizona. The private offered lands contain highly diversified wildlife habitat and exhibit potential for recreational development in the Walnut Creek area of the Hualapai Mountains south of Kingman, Arizona.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response period of forty-five (45) days during which public comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1(b), shall segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

This action is necessary to avoid the occurrence of nuisance mining claims that could encumber the public lands while the preparation of an environmental assessment is ongoing. Upon completion of the environmental assessment and land use decision, a Notice of Realty Action shall be published specifying the lands to be exchange and any reservations of records.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange including a list of the offered lands is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of 45 days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: June 14, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-16507 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-32-M

Utah; Filing of State Indemnity Selection Application

On December 4, 1983, the State of Utah filed a state indemnity selection application, U-53874, to have 11,346.58 acres of federally-owned land and interest in land transferred to the State of Utah pursuant to sections 2275 and 2276 of the Revised Statutes, as amended, (43 U.S.C. 851-852).

The lands containing the federally-owned lands and interests in land included in this application are described as follows:

Salt Lake Meridian, Utah

T. 36 S., R. 4 E.,
Secs. 34-35, all.
T. 37 S., R. 4 E.,
Sec. 1, all;
Sec. 3, all;
Secs. 10-12, all.
T. 36 S., R. 5 E.,
Sec. 31, lots 1-4, E½W½.
T. 37 S., R. 5 E.,
Sec. 6, S½, NW¼;
Sec. 7, all.
T. 37 S., R. 11 E.,
Sec. 8, all;
Sec. 17, all.
T. 37 S., R. 18 E.,
Secs. 10-15, all.
T. 25 S., R. 21 E.,
Sec. 24, lots 1-4;
Sec. 25, lots 1-4; W½NE¼, E½NW¼.

The filing of this application segregates the federally-owned lands and interests in land in the above-described lands from settlement, sale, location, or entry under the public land laws, including the mining laws but not the mineral leasing laws or the Geothermal Steam Act. This segregative effect shall terminate upon the issuance of a document of conveyance to these federally-owned lands and interests in lands, or upon the publication in the **Federal Register** of a notice of termination of the segregation, or upon the exipration of two years from the date of the filing of this application, whichever occurs first.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-16544 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-DQ-M

[M 57954]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management.

ACTION: Notice of Convynance and Order Providing for Opening of Public Lands in Valley County, Montana.

SUMMARY: This order will open lands reconveyed in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. No minerals were acquired or transferred in the exchange.

DATE: At 9 a.m. on July 30, 1984, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to Valley County, which was created by the Notice of Realty Action published in the **Federal Register** on December 22, 1983 (48 FR 56651), terminated on issuance of the patent and quitclaim deed on May 17, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (406) 567–6082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the surface estate of the following described land was conveyed to Valley County, Montana.

Principal Meridian, Montana

T. 30 N., R. 40 E.,
sec. 3, lots 1–4, S½N¼; and
sec. 4, lots 1–3, S½NE¼ and SE¼NW¼
T. 31 N., R. 40 E.,
sec. 35, lots 2 and 3, NE¼, NE¼ SW¼ and N½ SE¼.
Aggregating 922.16 acres.

In exchange for the above land, the United States acquired the surface estate of the following described land in Valley County, Montana:

Principal Meridian, Montana

T. 30 N., R. 35 E.
sec. 11, lots 1, 2, 3, SW¼NE¼ and SE¼NW¼.
T. 35 N., R. 35 E.
sec. 19, SW¼NE¼ and SE¼.
T. 34 N., R. 39 E.,
sec. 16, SE¼NW¼, NE¼SW¼ and S½SW¼;
sec. 17, S½; and
sec. 20, N½NW¼, E½SE¼NW¼.
Aggregating 978.48 acres.

At 9 a.m. on July 30, 1984, the above-described lands that were reconveyed to the United States will be open to the operation of the public land laws.

Dated: June 13, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84–16551 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–DN–M

Intent To Amend and Availability of Pre-Planning Criteria

AGENCY: Bureau of Land Management.

ACTION: Notice of Intent and Availability.

SUMMARY: Notice is hereby given, pursuant to 43 CFR 1600, that the California Desert District is planning to amend the California Desert Plan to allow the withdrawal of twelve sections of public land adjacent to the China Lake Naval Weapons Center for inclusion in the Center.

DATE: An Environmental Assessment (EA) on the amendment will be completed by early August, 1984. Any comments received within 30 days of the publication of this notice will be considered in the preparation of the EA.

SUPPLEMENTARY INFORMATION: The China Lake Naval Weapons Center (NWC) applied in December 1983 to the California State Director, Bureau of Land Management (BLM) for withdrawal from the public domain of approximately 8,320 acres of land adjacent to NWC in San Bernandino County, California. The NWC, which encompasses 1,095,680 acres of land in Kern, Inyo and San Bernardino Counties, is the United States Navy's principal laboratory for research, development, testing, and evaluation of air and electronic warfare systems.

Two of the most important facilities at NWC are Sea Site and the Tactical Air Navigation Facility (TACAN). They were constructed near the boundary of the NWC in the early 1970's. At that time, very limited and sporadic activity occurred on the public lands west of the NWC boundary, so the location of these facilities to the perimeter of Navy land posed no apparent major problems. Since that time, use of the public lands for recreation has increased greatly. Part of the adjacent region was designated as an "open" area by the Desert Plan. As a result, the potential for accidental intrusions on the NWC have increased. In addition, interested in prospecting for precious metals has been received in the area due to higher prices on the world market. The renewed mining interest may promote increased human activity near Sea Site.

The NWC withdrawal application stated that unrestricted use of Sea Site is integral to the continued evolution of the Navy's electronic warfare defenses and capabilities. The Bureau of Land Management recognizes the importance of Sea Site and the need for the withdrawal. However, the proposed withdrawal is not in conformance with the California Desert Plan. All BLM actions not in conformance with approved land use plans can only be taken through an amendment to the existing plan (43 CFR 1610.5–3). Accordingly, an amendment to the California Desert Plan will be considered through an environmental assessment to be prepared and released for public review by early August, 1984. The EA will address the impacts of the withdrawal, as well as impacts of alternatives, including a smaller withdrawal and a denial of the withdrawal. A final decision is expected by the Fall of 1984.

Consideration of the amendment will be guided by the following pre-planning criteria:

1. What procedures will be used for phasing out the use of the portion of the Spangler Hills grazing allotment within the withdrawal area?

2. What alternative methods are available for conducting organized vehicle competitive events in the Spangler Hills Open Area?

3. What is the likely future of mineral development in the area if the withdrawal is denied, as well as procedures for compensation of phased-out operations if the withdrawal is accepted?

4. How would that portion of the Christmas Canyon Area of Critical Environmental Concern remaining outside the withdrawal area (a strip of six sections) still be manageable as an ACEC? How would that portion of the ACEC within the withdrawal be managed?

FOR FURTHER INFORMATION CONTACT: Mark Lawrence at (619) 375–7125

Dated: June 15, 1984.

H. W. Riecken,

District Manager.

[FR Doc. 84–16549 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–40–M

[I, 20887]

Realty Action; Exchange of Public Lands for Private Lands all within Blaine County, Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice of Realty Action, Exchange of public land for private land all within Blaine County, Idaho, I–20887.

DATE: Comments should be submitted to the Shoshone District Office, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, by July 30, 1984.

SUMMARY: The purpose of the exchange is to acquire non-Federal grazing land to improve the manageability of the public lands for livestock and wildlife habitat. The exchange is consistent with the Bureau's planning of the lands involved and has been discussed with Blaine County Commissioners and Idaho Department of Fish & Game. The public interest will be well served by making the exchange.

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Blaine County, Idaho

T. 1 N., R. 21 E.,
Section 24: E1/2SW1/4
Containing 80 acres.

In exchange for these lands, the Federal government will acquire a parcel of non-Federal land from Little Fish Creek Grazing Association, described as follows:

Boise Meridian, Blaine County, Idaho

T. 1 N., R. 22 E.,
Section 20: SW1/4NE1/4, E1/2NW1/4
Containing 80 acres.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

There are no minieral reservations, including geothermal or oil and gas, on either the private or public land.

The patent when issued will contain the following reservations and conditions to the United States:

1. A right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. All valid exising rights and reservations of record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

ADDRESS: Detailed information concerning the exchange, including the environmental assessment and the record of public discussions, is available for review at the Shoshone District Office, 400 West F Street, Shoshone, Idaho, or by calling Ervin Cowley at (208) 886–2206.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Charles J. Haszier, District Manager.

Dated: June 12, 1984.

Charles J. Haszier,
District Manager.

[FR Doc. 84–16550 Filed 6–20–84; 8:45 am]
BILLING CODE 4310–GG–M

[M–57784]

Conveyance and Order Providing for Operating of Public Lands; Custer County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance and order providing for opening public lands in Custer County, Montana.

SUMMARY: This order will open the lands reconveyed in an exchange under the Act of October 21 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. No mineral estate was transferred or acquired in the exchange.

DATE: At 9 a.m. on August 6, 1984, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to Griffin Ranch Company, which was created by the notice of realty action published in the **Federal Register** on January 19, 1984 (49 FR 2315), terminated on issuance of the patent and deed on May 17, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau Chief, Land Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (406) 657–6082).

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the surface estate of the following described land was conveyed to Griffin Ranch Company of Locate, Montana:

Principal Meridian, Montana

T. 9 N., R. 50 E.,
sec. 24, W½.

T. 9 N., R. 51 E.,
sec. 28, lots 2, 3, 4, 5, 8 and 9, NE¼;
sec. 32, lots 1, 4, and 5; and
sec. 33, lot 5, N½SE¼ and SE¼SE¼
Aggregating 799.35 acres.

In exchange for the above land, the United States acquired the followig described land in Custer County, Montana;

Principal Meridian, Montana

T. 9 N., R. 50 E.,
sec. 27, all.

T. 9 N., R. 51 E.,
sec. 22, S½;
sec. 25, NW¼; and
sec. 34, W½SE¼.

T. 9 N., R. 52 E.,
sec. 30, lots 1, 2, 3, E½NW¼, NE¼SW¼ and W½SE¼.
Aggregating 1,518,27 acrea.

At 9 a.m. on August 6, 1984, the above-described lands that were recoveyed to the United States will be open to the operation of the public land laws.

Dated: June 14, 1984.

John A. Kwiatkowski,
Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84–16552 Filed 6–20–84; 8:45 am]
BILLING CODE 4310–DN–M

Nevada; Realty Action; Sale of Public Land

June 13, 1984.

Pub. L. 96–586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing competitive procedures, at not less than fair market value:

Parcel No.	Serial No.	Legal Description	Acres
		T. 20 S., R. 60 E., MDM., Section 27	
84–01	N–39190	S½NW¼NE¼NW¼	5.0
84–02	N–39191	SW¼NE¼NE¼SW¼	2.5
84–03	N–39192	N½SE¼SW¼SW¼SE¼ SW¼SW¼.	7.5

Parcel No.	Serial No.	Legal Description	Acres
		T. 20 S., R. 60 E., MDM., Section 28	
84-04	N-39193	E½NW¼SW¼SE¼	5.0
84-05	N-39194	W½NE¼SE¼SE¼	5.0
		T. 20 S., R. 60 E., MDM., Section 22	
84-06	N-39195	W½SW¼SE¼	20.0
84-07	N-39196	SW¼NW¼SE¼	10.0
84-08	N-39197	NW¼NE¼	40.0
		T. 20 S., R. 60 E., MDM., Section 15	
84-09	N-39198	N½SW¼SW¼, SE¼SW¼SW¼, N½SW¼SW¼SW¼.	35.0
84-10	N-39199	SE¼SW¼	40.0
84-11	N-39200	W½SW½SW¼SE¼	5.0
84-12	N-39201	N½SW¼SE¼	20.0
84-13	N-39202	NW¼SE¼SE¼, N½SW¼SE¼SE¼, SE¼SW¼SE¼SE¼.	17.5
84-14	N-39203	NE¼SE¼SE¼, N½SE¼SE¼SE¼, SW¼SE¼SE¼SE¼.	17.5
84-15	N-39204	NW¼SW¼	40.0
84-16	N-39205	W½NE¼SW¼	20.0
84-17	N-39206	NE¼NE¼SW¼	10.0
84-18	N-39207	NW¼SE¼, W½W½NE¼SE¼, W½SE¼NW¼NE¼SE¼, W½E½SW¼NE¼SE¼.	53.75
84-19	N-39208	E½NE¼SE¼, NE¼NW¼NE¼SE¼, E½SE¼NW¼NE¼SE¼, E½E½, SW¼NE¼SE¼.	26.25
84-20	N-39209	W½W½W½SE¼NE¼, SW¼NE¼.	45.0
84-21	N-39210	E½W½SE¼NE¼, E½W½W½SE¼NE¼.	15.0
84-22	N-39211	W½NE¼SE¼NE¼, SE¼NE¼SE¼NE¼.	7.5
84-23	N-39212	E½SE¼SE¼NE¼, SW¼SE¼SE¼NE¼.	7.5
84-24	N-39213	S½N½NW¼NE¼, S½NW¼NE¼.	30.0
84-25	N-39214	S½N½NE¼NE¼, S½NE¼NE¼.	30.0
		T. 20 S., R. 60 E., MDM., Section 33	
84-26	N-39215	Lot 60	5.0
84-27	N-39216	Lot 61	5.0
		T. 21 S., R. 60 E., MDM., Section 3	
84-28	N-39217	Lot 36	5.32
84-29	N-39218	Lot 65	5.31
		T. 21 S., R. 60 E., MDM., Section 10	
84-30	N-39219	W½NE¼NW¼NW¼	5.0
84-31	N-39220	W½NE¼SW¼SW¼	5.0
84-32	N-39221	W½NW¼SE¼SE¼	5.0
		T. 21 S., R. 60 E., MDM., Section 21	
84-33	N-39222	NW¼NE¼NE¼, W½NE¼NE¼NE¼.	15.0
84-34	N-39223	N½NW¼NE¼	20.0
84-35	N-39224	W½SE¼NW¼NW¼, E½SW¼NW¼NW¼.	10.0
		T. 21 S., R. 61 E., MDM., Section 30	
84-36	N-39225	NW¼NE¼NW¼NE¼	2.5
84-37	N-39226	NW¼SE¼NW¼NE¼	2.5
		T. 21 S., R. 62 E., MDM., Section 19	
84-38	N-39227	Lot 7	4.42
		T. 21 S., R. 62 E., MDM., Section 28	
84-39	N-39228	SW¼SW¼SW¼	10.0
84-40	N-39229	N½SW¼SW¼	20.0
84-41	N-39230	E½SW¼SE¼SW¼, W½SE¼SE¼SW¼.	10.0
84-42	N-39231	S½SE¼NE¼SW¼, N½NE¼SE¼SW¼.	10.0
		Total acres	655.05

These parcels, situated in the Las Vegas Valley, have potential for urban-suburban, commercial and industrial development. Transfer of this land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. All or portions of the subject land herein described will be offered for sale initially at a public auction to be held in the last quarter of 1984 in Las Vegas. The parcels not sold through the initial auction will be offered by procedures outlined by the Bureau of Land management's Las Vegas District Office at a later date.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. A bid will constitute an application for conveyance of those mineral interests offered on the parcel. The declared high bidder will be required to deposit one/fifth of the full bid price and a $50.00 nonreturnable filing fee for conveyance of the mineral interests immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date.

General terms and conditions of the sare are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservation for streets, roads, flood control and public utilities, both existing and proposed, in accordance with Clark County and City of Las Vegas plans.

3. All land that is sold will be subject to applicable Clark County and City of Las Vegas ordinances.

4. Any development and proposed development of a parcel affected by the 100-year flood plain shall be subject to review and regulations by Clark County Department of Public Works, Flood Control Division for flood control and storm water management.

5. The United States reserves the oil and gas, sodium and potassium leaseable mineral interests on all parcels being offered, and reserves the geothermal leaseable mineral interests on those parcels in T. 21 S., R. 61 and 62 E., without limitation under the General Mineral Leasing Law and the Geothermal Steam Act.

6. The United States reserves to itself, its permittees and lessees, the right to prospect for, mine and remove minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the geothermal and mineral leasing laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, open pit or surface mining operations, storage and transportation facilities deemed necessary and authorized under law and implementing regulations.

7. Permittees, and lessees of the United States shall only be liable for and shall only compensate owners of the surface estate for damages to the extent prescribed by regulations issued by the Secretary of the Interior.

8. Unless otherwise provided by separate agreement with the surface owner, permittees and lessees of the United States shall reclaim desturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

9. All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against permittees, and lessees of the United States and the United States shall not be liable for the acts or omissions of its permittees, and lessees.

Adjoining landowners have no preference rights. Only U.S. citizens and legally chartered U.S. corporations are eligible to purchase these lands. Specific information regarding the time and site of the auction, and sale procedures will be published in a sale brochure and made available to the public prior to the sale.

The Bureau of Land Management may accept or reject any and all offers, or withdraw any lands or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

For a period of 45 days from the date of the notice, interested persons may submit comments regarding this sale to the District Manager, Las Vegas District Office, P.O. Box 26569, Law Vegas, Nevada 89126-0569.

Dated: June 13, 1984.

Kemp Conn,

District Manager, Las Vegas.

[FR Doc. 84-16553 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-HC-M

[A-18888-S and A-14965]

Arizona; Notice and Conveyance

June 13, 1984.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750, 2757, 43 U.S.C. 1713, 1719), the following patents have been issued to the individuals listed for the lands described:

Patentees	Legal description	Patent No.	Date issued	Purchase price
Marilyn W. Al-Jehani	Gila & Salt River Mer. T. 5 N., R. 15 W., containing 160 acres.	02-84-0047	May 25, 1984	$36,000
Mathew E. and Myrtle E. Gibson	Gila & Salt River Mer. T. 8 S., R. 26 E., containing 20 acres.	02-84-0050	June 8, 1984	19,000

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of the patents.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-16564 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-32-M

[CA-15731]

California; Notice of Realty Action, Competitive Sale of Public Land in San Bernardino, San Diego, and Riverside Counties, California

The following described parcels of land have been examined and identified as suitable for disposal by sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value shown:

Parcel No.	Legal description	Acres	Appraised value
San Bernardino County, Calif.			
1 CA 15365	T. 1 S., R. 2 W., SBM; Sec. 34, SW¼NW¼	40.00	$16,000
2 CA 15366	T. 1 S., R. 1 W., SBM; Sec. 32, Lots 1, 2, 3, 4, N½SE¼	233.28	72,000
3 CA 15367	T. 1 N., R. 4 W., SBM; Sec. 6, Lot 2	40.00	24,400
4 CA 15368	T. 1 N., R. 7 W., SBM; Sec. 13, W½NW¼NE¼SE¼, NE¼NE¼SE¼SE¼	7.50	3,000
San Diego County, Calif.			
5 CA 15369	T. 11 S., R. 2 W., SBM; Sec. 25, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.	71.20	390,000
6 CA 15370	T. 11 S., R. 2 W., SBM; Sec. 26, W½NE¼, E½NW¼	160.00	800,000
7 CA 15371	T. 11 S., R. 2 W., SBM; Sec. 22, NE¼SE¼	40.00	160,000
8 CA 15372	T. 11 S., R. 2 W., SBM; Sec. 23, NW¼SE¼	40.00	210,000
9 CA 15373	T. 12 S., R. 1 W., SBM; Sec. 4, Lots 5, 6, 7, 8, 9, 10; S½N½N½NE¼, S½N½NE¼, SE¼NE¼, S½N½NE¼NW¼, S½NE¼NW¼.	160.79	480,000
10 CA 15373A	T. 12 S., R. 1 W., SBM; Sec. 4, SW¼, NW¼SE¼	200.00	600,000
11 CA 15374	T. 13 S., R. 1 W., SBM; Sec. 21, Lots 9, 16, 17, 24, 25	26.23	118,000
12 CA 15375	T. 13 S., R. 1 W., SBM; Sec. 21, Lots 27, 28, 29, 30, 31, 32	31.45	167,000
13 CA 15376	T. 14 S., R. 1 E., SBM; Sec. 9, Lot 2	1.02	100
14 CA 15378	T. 13 S., R. 1 E., SBM; Sec. 5, Lots 6, 7	36.44	100,000
15 CA 15379	T. 14 S., R. 1 E., SBM; Sec. 8, NE¼SW¼	40.00	60,000
16 CA 15380	T. 15 S., R. 1 E., SBM; Sec. 35, Lot 3	19.42	40,000
17 CA 15380A	T. 15 S., R. 1 E., SBM; Sec. 35, Lot 4	4.21	10,000
18 CA 15381	T. 10 S., R. 1 W., SBM; Sec. 5, Lot 1	1.71	35,000
19 CA 15382	T. 13 S., R. 1 W., SBM; Sec. 22, W½W½NW¼SE¼, W½NW¼SW¼SE¼, S½SW¼SE¼.	35.00	225,000
20 CA 15383	T. 11 S., R. 3 E., SBM; Sec. 30, Lot 1	9.79	5,000
21 CA 15384	T. 10 S., R. 3 W., SBM; Sec. 33, NW¼NW¼	40.00	300,000
22 CA 15385	T. 13 S., R. 1 W., SBM; Sec. 20, W½SW¼SE¼	20.00	120,000
Riverside County, Calif.			
23 CA 15386	T. 8 S., R. 2 E., SBM; Sec. 14, NW¼NW¼	40.00	80,000

The sale parcels will be offered for competitive sale by sealed bid to the highest qualified bidder.

This sale is consistent with the existing land use plans developed in accordance with the Department's planning regulations, public participation and in coordination with local governmental entities. The parcels because of their location and physical characteristics are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency.

The sale will be held on Wednesday, September 12, 1984 at 10:30 a.m., in the Conference Room at the California Desert District Office, 1695 Spruce Street, Riverside, California.

Sealed bids will be considered only if received by the Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, prior to 4:30 p.m., Tuesday, September 11, 1984, and made for no less than the fair market value. A separate bid must be submitted for each parcel. Each bid must be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior-BLM for not less than one-fifth of the amount bid and shall be enclosed in a sealed envelope. The aforementioned envelope shall be clearly marked "Bid for Public Land Sale, Notice of Realty Action, CA-15731," and include a reference to the sale parcel number and county and dated September 12, 1984. The sealed bids will be opened and publicly declared at the time of the sale by the authorized officer. If 2 or more valid bids of the same amount are receive and they are the high bid, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying bid shall then be publicly declared.

The successful bidder must submit the remaining four-fifths of the amount bid within 30 days from the date of sale. Failure to submit the remaining bid amount within 30 days from the date of sale shall result in forfeiture of the deposit, and the lands will be offered to the next highest qualified bidder. If there are no other qualified bidders subsequent to the September 12, 1984 sale, any remaining parcels of land will be disposed of through sale and/or exchange in 1985. Consideration may also be given toward disposal of any remaining parcels through lease/patent for planned public-benefiting recreation or public purposes projects to qualified state, County or local government authorities or non-profit corporations or associations. Any action involving the disposal of the aforementioned public land will be preceded by the appropriate notice(s) of realty action pursuant to Title 43 of the Code of Federal Regulations.

The authorized officer may reject the highest qualified bid and release the bidder from their obligation and withdraw any parcel from the sale, if he determines that consummation of the

sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consummation of the sale would encourage or promote speculation in public lands. Until the acceptance of the offer and payment of the purchase price, the bidder has no contractual or other rights against the United States, and no action taken shall create any contractual or other obligations of the United States.

It has been determined that the sale parcels are without known mineral value and a successful high bid will constitute a simultaneous request for conveyance of the mineral estate. Therefore, pursuant to 43 CFR 2711.5–1, the successful high bidder, as a condition of the sale, will be required to deposit a $50.00 nonrefundable filing fee for conveyance of the mineral estate in addition to the one-fifth of the amount bid.

Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2440.4, the sale parcels will be segregated from appropriation under the mining laws but not the mineral leasing laws for a period not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two year period.

All bidders must be either: (1) 18 years of age or older and provide proof of U.S. citizenship; or (2) a State, State instrumentality or political subdivision authorized to hold property; or (3) a corporation authorized to own real estate in the State of California or (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of California, and where applicable, the entity shall also meet the requirements of 1 and 3 above.

The patents for the lands, when issued, will be subject to the following reservations:

1. A right of way for ditches or canals reserved pursuant to the act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All valid existing rights and reservations of record.

Further information concerning this sale, including the planning documents and Environmental Assessment is available in the California Desert District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 93507.

For a period of 45 days from the date of this notice, interested parties may submit comments to the California Desert District Manager at the above address. Any adverse comments will be evaluated by California State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a Final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Hugo Riecken,

Associate District Manager.

[FR Doc. 84–16565 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–40–M

[ORE 011183]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the land withdrawal for the Wapinitia Project continue for an additional 100 years. The land(s) would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

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

The Bureau of Reclamation proposes that the existing land withdrawal made by Secretarial Order of March 21, 1916, as amended by Public Land Order No. 2733 of July 19, 1962, be continued in part for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land(s) involved are located adjacent to Clear Lake approximately thirteen miles south of Mt. Hood and aggregate 1,198.06 acres within T. 4 S., R's. 8½ and 9 E., W.M., Wasco and Clackamas Counties, Oregon.

The purpose of the withdrawal is to protect the Wapinitia Reclamation Project. The withdrawal segregates the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions,or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: June 15, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–16566 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–33–M

[W–81777]

Wyoming; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 6,449 acres of public land and public mineral interests in private land for protection of the Tres Charros and Great Expectations cave systems near Hyattville, Wyoming. This notice closes the land for up to 2 years from surface entry and mining location. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by September 19, 1984.

ADDRESS: Comments and requests for a public meeting should be sent to: Wyoming State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, (307) 772–2089.

On June 8, 1984, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the nondiscretionary public land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming, Big Horn County

T. 51 N., R. 88 W.,

sec. 4, lots 5, 6, and 7, S½NE¼, S½NW¼, SW¼, and SE¼;
sec. 5, lots 6, 7, 8, 9, and 10, SW¼NE¼, S½SE¼NE¼, and SE¼;
sec. 8, lot 1 and NW¼NE¼;
sec. 9, NE¼, E½NW¼, N½NE¼SW¼, and N½NW¼SE¼.
T. 52 N., R. 88 W.,
sec. 15, W½, unsurveyed;
sec. 16, E½, E½W½, and SW¼SW¼;
sec. 17, E½SE¼SE¼;
sec. 20, lots 1, 2, and 3, NE¼, and NW¼NW¼SE¼;
sec. 21, N½, N½NE¼SW¼, and N½SE¼;
sec. 22, NW¼ and N½SW¼, unsurveyed;
sec. 32, lot 4 and SW¼SE¼;
sec. 33, SE¼SW¼ and S½SE¼.
T. 51 N., R. 89 W.,
sec. 1, lots 10 and 11, and SW¼;
sec. 11, E½E½;
sec. 12, lots 1, 2, 3, and 4, W½NE¼, W½, and W½SE¼;
sec. 13, lots 1, 2, and 3, and N½MW¼;
sec. 14, lot 1 and E½NE¼.
T. 52 N., R. 89 W.,
sec. 14, NE¼NE¼SW¼, W½NE¼SW¼, W½SW¼, and NW¼SE¼SW¼;
sec. 15, SE¼NE¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, and SE¼SE¼;
sec. 22, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼, W½SW¼, SE¼, and NE¼SE¼SE¼;
sec. 23, E½NW¼, SE¼NW¼NE¼, SW¼NE¼, W½NW¼, SE¼NW¼, and S½;
sec. 24, lots 2, 3, and 4, S½SW¼NE¼, W½NW¼, SW¼, and W½SE¼
sec. 25, N½NW¼NW¼;
sec. 26, NE¼NE¼NE¼.

The areas described, including both public lands and lands with private surface ownership and public minerals, aggregate 6,449.08 acres.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are those currently ongoing discretionary uses including livestock grazing, timber harvesting, wildlife habitat management, and outdoor recreation.

All communications in connection with this proposed withdrawal should be addressed to the State Director, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

P. D. Leonard,

Associate State Director, Wyoming.

[FR Doc. 84-16567 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86132]

Nebraska; Conveyance Sale of Public Land in Brown County, Nebraska

June 11, 1984.

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), Clifford and James Barta have purchased and received a patent for the following described public land in Brown County, Nebraska:

Sixth Principal Meridian

T. 27 N., R. 21 W.,
sec. 27, SE¼NW¼.
Containing 40.00 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 84-16568 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Meeting of FWS Migratory Bird Regulations Committee

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee will meet to review preliminary information on the status of waterfowl on the breeding grounds in 1984.

DATE: July 6, 1984.

ADDRESS: The meeting will be held in room 7000A, Main Interior Building, 18th and C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone AC 202-254-3207.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee, including Flyway Council Consultants to the Committee, will meet in Washington, D.C. on July 6 at 8:30 a.m. in room 7000A, Main Interior Building to receive and consider staff reports on results of 1984 waterfowl breeding grounds surveys.

The reports will include breeding population estimates, pond indexes, and other information on habitat conditions on the breeding grounds. The purpose is to provide the Committee with preliminary information about the impact of continuing drought conditions on prairie and parklands breeding habitats. Additional information and a more complete assessment of 1984 conditions will be presented to the Committee at the regularly scheduled waterfowl status meeting to be held in Denver, Colorado on July 25, 1984.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee that are attended by persons outside the Department, this meeting will be open to public observation. Members of the public may submit to the Director written comments on the matters discussed.

Dated: June 18, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-16562 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Mobil Oil Exploration & Producing Southeast Inc.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Mobil Oil Exploration & Producing Southeast Inc., Unit Operator of the Ship Shoal Block 72 Federal Unit Agreement No. 14-08-001-2945, submitted on June 1, 1984, a proposed development operations coordination document describing the activities it proposes to conduct on the Ship Shoal Block 72 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 14, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–16514 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Forest Oil Corporation

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Forest Oil Corporation, Unit Operator of the Eugene Island Block 292 Federal Unit Agreement No. 14–08–0001–8764, submitted on May 21, 1984, a proposed development operations coordination document describing the activities it proposes to conduct on the Eugene Island Block 292 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Land Act Amendment of 1978, the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing parctices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 15, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–16515 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5438 and 4215, Blocks 314 and 315, Vermilion 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 6, 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 OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Matairie, 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: Ms. Angie Gobert, Minerals Management Service, Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 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 § 250.34 of Title 30 of the CFR.

Dated: June 13, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84–16573 Filed 6–20–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3340, Block 53, Breton Sound 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 Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on June 12, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

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 § 250.34 of Title 30 of the CFR.

Dated: June 12, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-16570 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5391, Block 299, 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 Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on June 12, 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 OCS 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: Ms. A. D. Gobert, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 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 § 250.34 of Title 30 of the CFR.

Dated: June 12, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-16571 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4754, Block 132, 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 Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on June 15, 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 OCS 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: Ms. Angie Gobert, Minerals Management Service, Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 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 § 250.34 of Title 30 of the CFR.

Dated: June 15, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-16572 Filed 6-20-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-12 (Sub.-72X)]

Southern Pacific Transportation Co.—Abandonment—in Los Angeles County, CA; Exemption

Southern Pacific Transportation Company (SP) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 495.14 and milepost 495.18, a distance of 0.04 mile, in Los Angeles County, CA.

SP has certified (1) that no local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line or by a State or local governmental entity acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in California has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on July 20, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by June 29, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed July 10, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to SP's representative: G.A. Laakso, One Market Plaza, San Franisco, CA 94105.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 13, 1984.

By the Commission, Heber P. Hardy Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-16495 Filed 6-20-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30501]

Alabama Industrial Railroad, Inc.—Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Alabama Industrial Railroad, Inc., from the provisions of 49 U.S.C. 11301 in connection with a stock issuance of $5,000 pertaining to the operations of a 13.25 mile line of railroad.

DATES: This exemption is effective on June 18, 1984. Petitons to reopen must be filed by July 11, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30501 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

Decided: June 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Commissioner Gradison, joined by Vice Chairman Andre, would have also exempted future issuances of securities relating to operation of this particular line as requested by the petitioner.

James H. Bayne,

Secretary.

[FR Doc. 84-16630 Filed 6-20-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-111 (Sub-No. 7)]

Grand Trunk Western Railroad Co.—Abandonment—In Pike and Jackson Counties, OH; Findings

The Commission has issued a certificate authorizing the Grand Trunk Western Railroad Company to abandon its 18.3 mile rail line between milepost 288.5 near Greggs and milepost 306.8 near Jackson in Pike and Jackson Counties, OH. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 84-16632 Filed 6-20-84; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Rail Cost Adjustment Factor and Adjustment in Maximum Allowable Increase to Compensate for an Overstatement in the First Quarter of 1984.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The application of the index provides for a third quarter 1984 Rail Cost Adjustment Factor (RCAF) of 1.058. Application of the RCAF provides for a maximum increase of 0.4 percent above the level authorized in our decision served March 21, 1984, after a .1 percent downward adjustment to compensate for a similar

overstatement occurring in the first quarter of 1984.

EFFECTIVE DATE: July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek, (202) 275–0938 or Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981), we outlined the procedures for the calculation of the interim mid-quarter index of railroad costs and the methodology for the computaition of the RCAF. AAR was required to calculate and submit the mid-quarter index to the Commission no later than 20 days before the end of each quarter.

By decision served June 14, 1084, the Commission decided to make an adjustment to compesnate for the overstatement of .001 made in the first quarter 1984 RCAF. This adjustment is a reduction of .1 percent in the maximum rate increase allowed for the third quarter of 1984 and will be effective for one quarter only. Therefore, although the third quarter RCAF is set at 1.058, maximum rate increases under these provisions will be limited to .4 percent. Rate increases taken under these provisions for the fourth quarter 1984 or thereafter may include the .1 percent to the extent that the RCAF remains at or exceeds 1.058.

We have reviewed AAR's calculations of the mid-quarter index for the third quarter of 1984 and find that these calculations comply with the guidelines contained in our decision served April 17, 1981.

EX PARTE NO. 290 (SUB-NO. 2) Interim Mid-Quarter Index

Line No. and category	1982 weights (percent)	First quarter 1984 actual	Second quarter 1984 forecast	Third quarter 1984 forecast
1—Salaries, wages and supplements	48.3	147.7	147.3	147.3
2—Fuel	11.3	99.9	98.9	99.4
3—Materials and supplies	10.4	102.3	102.8	104.2
4—Other expense	30.0	115.1	116.3	117.6
5—Weighted average:				
a. 1980=100 (1982 weights)		xxx	127.9	128.5
b. 1980=100 (1980 weights)		127.2	127.3	[1] 127.9
6—Rail Cost Adjustment Factor [2] (10/1/82=100) 120.9=100		[3]1.052	1.053	1.058

[1] Linking is necessitated by a change of weights from 1980 to 1982. The following formula was used: 3rd Quarter 1984 Index (1982 Weights) 2nd Quarter 1984 Index (1982 Weights) × 2nd Quarter 1984 Index (Linked Index)=Linked Index (1980 Weights to 1982 Weights), or 128.5/127.9×127.3=127.9.

[2] The denominator was rebased to an October 1, 1982 level in accordance with the requirments of the Staggers Rail Act of 1980.

[3] For comparative purposes an RCAF for the first quarter 1984 is shown using actual data. The published RCAF is computed using forecasted data.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: June 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–16626 Filed 6–20–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30398]

St. Joseph and Grand Island Railway Co. Purchase (Portion)—Exemption—Missouri Pacific Railroad Co.; Amended Notice of Exemption

On February 2, 1984, a notice was served, allowing Union Pacific Railroad Company (UP) to acquire about 6 miles of the Missouri Pacific Railroad Company (MP), using the class exemption at 49 CFR 1180.2(d).

By petition filed May 9, 1984, MP, UP and St. Joseph and Grand Island Railway Company (St. J&GI) seek to amend the prior notice to reflect that the track will be acquired by St. J&GI and operated by UP. The segment of track being conveyed is the same as in the prior notice, the Hastings Subdivision, extending from milepost 547.7 near Muriel to milepost 580.3 at Hastings in Adams County, NE.

The amended proposal, involving more than one common carrier by railroad, is within one corporate family, the Union Pacific System, and comes within that class of transactions described at 49 CFR 1180.2(d), which has been exempted from Commission regulation. The transaction as modified will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of the amended exemption, any employees affected by the acquisition of the line by St. J&GI shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: June 14, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–16631 Filed 6–20–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket Nos. 30435 and 30464]

Union Pacific Railroad Co., et al.—Trackage Rights Exemption—Wallula, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval (1) under 49 U.S.C. 11343 the acquisition by Union Pacific Railroad Company (UP) of trackage rights over a Burlington Northern Railroad Company (BN) line of track from milepost 0.36 near Wallula, WA to milepost 2.39 near Wallula, WA to milepost 2.39 near Wallula Junction, WA and the acquisition by BN of trackage rights over a parallel UP line of track running from and to the same points, subject to standard labor protection, and (2) under 49 U.S.C. 10901 the relocation by BN of its turnout located at point H, shown in UP's appendix to its petition filed with the Commission, to point F (BN milepost 0+2.20) and construction by UP and BN of new crossover tracks from UP milepost 213.37 to BN milepost 0+2.20 and from UP milepost 214.27 to BN milepost 0+1.54.

DATES: This exemption will be effective on July 23, 1984. Petitions to stay must be filed by July 2, 1984, and petitions for reconsideration must be filed by July 11, 1984.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 30435 and 30464 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representatives: Joseph D. Anthofer (UP), 1416 Dodge Street, Omaha, NE 68179

Douglas J. Babb (BN), 176 East Fifth Street, St. Paul, MN 55101

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: June 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84-16629 Filed 6-20-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (84-60)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: July 18, 1984, 9 a.m. to 5:15 p.m., and July 19, 1984, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, 400 Maryland Avenue, Room 7002, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-five members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting

Open.

Agenda

July 18, 1984

9 a.m.—Introductory Remarks.
9:15 a.m.—Overview of NASA's FY 1986 Planning.
10:15 a.m.—Aeronautics and Space Technology Planning.
1:15 p.m.—Space Science and Applications Planning.
3:15 p.m.—Report of the Shuttle Science Working Group.
4 p.m.—Space Station Planning.
5:15 p.m.—Adjourn.

July 19, 1984

8:30 a.m.—Space Flight Planning.
9:30 a.m.—Space Tracking and Data Systems Planning.
10:15 a.m.—Discussion of NAC Views of Long Range Planning and Proposed Programs.
1:15 p.m.—Status Reports and New Business.
3 p.m.—Adjourn.

Dated: June 14, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-16512 Filed 6-20-84; 8:45 am]

BILLING CODE 7510-01-M

[Notice (84-59)]

NASA Wage Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage Committee.

DATE AND TIME: June 27, 1984, 1:30 p.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms Deborah C. Green Code NPC, National Aeronautics and Space Administration, Washington, DC. 20546 (202/453-2622).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director of Personnel Programs Division on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, Wage area, pursuant to Pub. L. 92-392. The Committee, Chaired by Mr. William Dey, consists of members. During this meeting the Committee will consider wages data, local reports, recommendations, and statistical analyses and proposed wage schedules reviewed therefrom. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters felt to be deserving of the Committee's attention. This meeting must be held on June 27, 1984, because it is the only day that all Committee members will be available to attend before the July 4, 1984, holiday and the deadline for submitting the wage survey results is early in July.

Type of Meeting

Closed.

Purpose of Meeting

The NASA Wage Committee will recommend to the NASA Wage Fixing Authority the Proposed wage schedule to be adopted.

Dated: June 14, 1984.

Richard L. Daniels,

Deputy Director, Logistics, Management and Information Programs Division, Office of Management.

[FR Doc. 84-16513 Filed 6-20-84; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-254/265]

Commonwealth Edison Co. et al. (Quad Cities Nuclear Power Station, Units 1 and 2); Exemption

I

The Commonwealth Edison Company (CECo/the licensee) is the holder of Facility Operating License Nos. DPR-29 and DPR-30 (the licenses) which authorize operation of the Quad Cities Nuclear Power Station, Units 1 and 2 respectively, located in Rock Island County, Illinois, at steady state reactor core power levels not in excess of 2527 megawatts thermal. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor

containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975, each licensee was requested to review the extent to which its facility met the requirements.

On September 26, 1975, Commonwealth Edison Company submitted its evaluation of the Zion Station Unit Nos. 1 and 2, Dresden Station Unit Nos. 1, 2, and 3, and Quad Cities Station Unit Nos. 1 and 2 in which it assessed compliance with the rule and also requested an exemption from certain requirements of the rule. This Exemption addresses only the Quad Cities Nuclear Power Station, Units 1 and 2. The CECo submittal for the Quad Cities Nuclear Power Station, Unis 1 and 2 was supplemented by letters dated September 9, 1976, April 5, 1977, and March 21, 1978. In these submittals, CECo requested that certain test sequences and methodology, components, and penetrations be exempted from Appendix J requirements. The Franklin Research Center, as a consultant to NRR, has reviewed the licensee's submittals and prepared a Technical Evaluation Report (TER) of its findings. The NRC staff has reviewed this TER and, in its Safety Evaluation, the staff has made the following findings. Item 4 below required additional staff evaluation prior to determining the acceptability of the licensee's request.

The exemption requests found to be acceptable are as follows:

1. Section III.A.1.(a) of Appendix J requires, in part, that the Type A test be performed as close as practical to the "as is" condition. When excessive leakage paths are identified during the Type A test, the test is to be terminated and leakage through such paths is to be measured by local leakage rate procedures. After repair or adjustment, a subsequent Type A test is performed.

CECo requested an exemption from this requirement in order to perform local valve leakage rate tests (Type C tests) prior to the integrated primary containment leakage rate test (Type A test) and to back-correct the results of the Type A test with the results of the Type C tests. CECo submitted its methodology and justification that performance of the test sequence in this manner would yield conservative results.

We have reviewed CECo's submittals and have concluded that the licensee's methodology will yield conservative results under certain conditions. Therefore, the licensee's request for exemption from the required sequence of conducting Type A and C tests is acceptable, provided that:

a. When performing Type C tests, the conservative assumption that all measured leakage is in a direction out of the containment is applied, unless the test is performed by pressurizing between the isolation valves; and,

b. When performing Type C tests by pressurizing between the isolation valves, the conservative assumption that the two valves leak equally is applied, where the isolation valves are shut by normal operation without preliminary exercising or adjustment.

2. Section II.H.1 of Appendix J requires, in part, Type C testing of containment isolation valves which provide a direct connection between inside and outside atmospheres of the primary reactor containment under normal operation. CECo requested an exemption frm this requirement in order to exclude certain instrument line manual isolation valves from the Type C test requirements and submitted certain design information as justification.

We have reviewed the licensee's submittals and have determined that the instrument line manual isolation valves are not instrument valves which provide a direct connection between the inside and outside atmospheres of the primary reactor containment under normal operation. In addition, the instrument lines were installed in accordance with Regulatory Guide 1.11, Instrument Lines Penetrating Primary Reactor Containment.

Since these valves remain open in both normal and accident conditions, the licensee's request for exemption from Type C test requirements for the instrument line manual isolation valves is acceptable, provided that the affected instrument lines are not isolated from the containment atmosphere during the performance of a Type A test.

3. Section III.C.2 of Appendix J requires, in part, that Type C testing be performed at the peak calculated accident pressure (Pa). CECo requested an exemption from this requirement for the Main Steam Isolation Valves (MSIVs) to permit testing at 25 psig rather than a Pa (62 psig) and submitted certain design information as justification.

The MSIVs are leak tested by pressurizing between the valves. The MSIVs are angled in the main steam lines in the direction of flow in order to afford better sealing upon closure. Consideration of this feature was included at the design stage of the facility when the original test pressure of 25 psig was established. A test pressure of Pa acting under the inboard disc is sufficient to lift the disc off its seats, and results in excessive leakage into the reactor vessel.

We have reviewed the licensee's submittals and have concluded that testing of the MSIVs at a reduced pressure of 25 psig will result in a conservative determination of the leakage rate through the MSIVs and, therefore, the proposed exemption is acceptable.

4. Section III.D.2 of Appendix J requires, in part, that Type B tests be performed on containment airlocks at six-month intervals at a test pressure of not less than Pa. CECo requested an exemption from the frequency requirement in order to permit testing on a schedule consistent with the plant operating cycle (i.e., each refueling outage). CECo also requested an exemption to conduct the tests at a reduced pressure.

Our contractor's evaluation of the licensee's submittals concluded that the licensee's program related to test frequency and pressure should conform to the requirements of Section III.D.2 of Appendix J. However, subsequent discussions with the licensee regarding test methodology and additional evaluation by the NRC staff of airlock degradation causal factors and operating history have resulted in a reevaluation of our position. The staff agrees with the licensee that without this exemption from the Appendix J requirements, the plant would have to be shutdown and the equipment hatch opened in order to install a strongback on the inner airlock door to perform the test, and subsequent door and hatch openings to remove it. This would result in an outage of several days for the licensee, the cost of replacement power to the public, and could subject operating personnel to additional radiation exposure. In addition, the additional openings of the equipment hatch and airlock provide additional opportunities for inadvertent seal degradation.

As a result, the staff has reevaluated the six-month test requirement and has developed a revised position which is believed to meet the objectives of Appendix J requirements for containment airlock door tests. This revised position still requires the containment airlock to be tested at six-month intervals at a pressure of Pa in accordance with Appendix J, except that this test interval may be extended up to

the next refueling outage (up to a maximum interval between Pa tests of 24 months) if there have been no airlock openings since the last successful test at Pa and a Pa test is performed following the next airlock opening. The intent of the Appendix J requirement is to assure that the airlock door seal integrity is maintained and no degradation has occurred as a result of opening of the airlock doors between testing intervals at Pa. Since there is no adequate basis to conclude that airlock seal integrity is maintained if the airlock doors have been opened between extended testing intervals at Pa, we believe that a reduced pressure test or testing between seals every six months should be performed to assure that the airlock door seal integrity is maintained between the extended testing intervals at Pa. We believe this position satisfies the objectives of the requirements. Therefore, the exemption from the airlock testing frequency requirement of Appendix J requested by the license is granted on condition that the licensee complies with the staff's revised position on airlock testing and should be granted. Upon implementation of this Exemption, the licensee should propose modifications to the Technical Specifications as appropriate.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption requests:

1. Exemption is granted from the requirements of Section III.A.1(a) of Appendix J pertaining to the sequence for conducting Type A and Type C tests provided that:

a. When performing Type C tests, the conservative assumption that all measured leakage is in a direction out of the containment is applied unless the test is performed by pressurizing between the isolation valves; and,

b. When performing Type C tests by pressurizing between the isolation valves, the conservative assumption that the two valves leak equally (and therefore one half of the measured leakage is in a direction out of the containment) is applied, where the isolation valves are shut by normal operation without preliminary exercising or adjustment.

2. Exemption is granted from the requirements of Section II.H.1 of Appendix J pertaining to the Type C testing of instrument lines provided that the affected instrument lines are not isolated from the containment atmosphere during the performance of a Type A test.

3. Exemption is granted from the requirements of Section III.C.2 of Appendix J pertaining to the Type C testing of the main steamline isolation valves at a test pressure of Pa. Testing at a reduced pressure of 25 psig is acceptable due to the unique design of the valves.

4. Exemption is granted from the requirements of Section III.D.2 of Appendix J pertaining to the test frequency for conducting Type B tests at six-month intervals at a test pressure of not less than Pa. The test interval may be extended to the next refueling outage, but in no case shall exceed 24 months from the last test at Pa, provided that there have been no airlock openings since the last successful test at Pa and a Pa test is performed following the next airlock opening. A reduced pressure test or testing between seals every six months shall be performed to assure that airlock door seal integrity is maintained between extended testing intervals at Pa.

The NRC staff has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 12th day of June, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-16611 Filed 6-20-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-254/265]

Commonwealth Edison Co. et al. (Quad Cities Nuclear Power Station, Unit Nos. 1 and 2); Order Confirming Licensee Commitments on Emergency Response Capability

I

Commonwealth Edison Company (CECo) (the licensee) is the holder of Facility Operating License Nos. DPR-29 and DPR-30 which authorize the operation of the Quad Cities Nuclear Station, Unit Nos. 1 nd 2 (the facility) at steady-state power levels not in excess of 2511 megawatts thermal. The facility is two boiling water reactors (BWRs) located in Rock Island County, Illinois.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

CECo responded to Generic Letter 82-33 by letter dated April 14, 1983. By letters dated July 20 and 28, August 25, November 15, and December 15, 1983, CECo modified several dates as a result of negotiations with the NRC staff. In these submittals, CECo made commitments to complete the basic requirements. The following Table summarizing CECo's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by CECo.

CECo's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain

requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed CECo's April 14, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these negotiations, the licensee modified certain dates by letters dated July 20 and 28, August 25, November 15, and December 15, 1983. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of CECo's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall:

Implement the specific items described in the Attachment to this order in the manner described in CECo's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concernng this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	Complete.
	1b. SPDS fully operational and operators trained	June 1, 1985.[1]
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	May 1, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	Aug. 1, 1985.
	3b. Implement (installation or (upgrade) requirements	Provide an implementation schedule by Feb. 1, 1986.
4. Upgrade Emergency Operating Procedures (EOP's)	4a. Submit a Procedures Generation Package to the NRC	Oct. 30, 1984.
	4b. Implement the upgraded EOP's	Oct. 30, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete.[2]
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Jan. 30, 1985.[2]

[1] Consistent with Item I.a.1 and I.b of Attachment A of the November 15, 1983 letter from Cordell Reed to Harold Denton.
[2] The modifications and construction of the structures are finished but the TSC and EOF are not considered to be fully functional until the changes resulting from the R.G. 1.97 and human factors reviews are implemented and all testing and training are completed.

[FR Doc. 84–16612 Filed 6–20–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp. et al. (Nine Mile Point Nuclear Station, Unit No. 1); Order Confirming Licensee Commitments on Emergency Response Capability

I

The Niagara Mohawk Power Corporation (the licensee) is the holder of Facility Operating License No. DPR–63 which authorizes the operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) at steady-state power levels not in excess of 1850 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requiremetns to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG –0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic

requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and intergration of emergency response activities including training.

III

Niagara Mohawk responded to Generic Letter 82–33 by letter dated April 15, 1983. by letter dated July 7, 1983, Niagara Mohawk modified a date as a result of negotiations with the NRC staff. By letter dated September 30, 1983, Niagara Mohawk provided a firm completion date for the final summary report and schedule for the detailed control room designed review. In these submittals, Niagara Mohawk made commitments to complete the basic requirements. By letter dated February 1, 1984, Niagara Mohawk provided the following: firm completion dates for the fully operational Safety Parameter Display System and Emergency Operations Facility; informed the NRC the Operational Support Center is fully functional; and committed to providing a firm completion date for the Technical Support Center by May 1, 1984. The following Table summarizing Niagara Mohawk's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by the licensee.

Niagara Mohawk's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reveiwed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed Niagara Mohawk's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these negotiatins, the licensee modified certain dates by letters dated July 7 and September 30, 1983 and February 1, 1984. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of Niagara Mohawk's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 16lo and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall:

Implement the specific items described in the Attachment to this order in the manner described in Niagara Mohawk's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	Jan. 1, 1984 (submitted).
	1b. SPDS fully operational and operators trained	1986 refueling outage.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Oct. 1, 1983 (submitted).
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Jan. 1, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	April 1, 1984 (submitted).
	3b. Implement (installation or upgrade) requirements	Complete.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a procedures generation package to the NRC	March 1, 1984 (submitted).
	4b. Implement the upgraded EOP's	1986 refueling outage.
5. Emergency Response Facilities	5a. Technical support center fully functional	Submit a firm completion date by May 1, 1984 C.
	5b. Operational support center fully functional	Complete Feb. 1, 1984.
	5c. Emergency operations facility fully functional	Dec. 31, 1985.

[FR Doc. 84–16613 Filed 6–20–84; 8:45 am]

BILLING CODE 1590–01–M

[Docket No. 50–263]

Northern States Power Co. et al. (Monticello Nuclear Generating Plant); Order Confirming Licensee Commitments on Emergency Response Capability

I

Northern States Power Company (NSP) (the licensee) is the holder of Facility Operating License No. DPR–22 which authorizes the operation of the Monticello Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 1670 megawatts thermal. The facility is a boiling water reactor (BWR) located in Wright County, Minnesota.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational

Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

NSP responded to Generic Letter 82–33 by letter dated April 15, 1983. In a meeting on July 20, 1983, these dates were negotiated between NRC and NSP staffs. In a letter dated November 11, 1983, NSP committed to the negotiated dates. In this submittal, NSP made commitments to complete the basic requirements. In letters dated December 28 and 30, 1983, and March 30, 1984, NSP provided additional information and made additional commitments to meet all requirements. The following Table summarizing NSP's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by NSP during the meeting.

NSP's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed NSP's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. The NRC staff finds that the dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of NSP's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall:

Implement the specific items described in the Attachment to this order in the manner described in NSP's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12 day of June 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITIMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	May 31, 1984: C Implementation Plan December 31, 1984: Safety Analysis Report.
	1b. SPDS fully operational and operators trained	Before startup of Cycle 12: SPDS equipment installed, software, operator training and preoperational training completed.
	6 Mos. after startup of Cycle 12: Operational testing of SPDS w/followup corrective actions completed..	
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	July 31, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	Complete.
	3b. Implement (installation or upgrade) requirements	Before startup of Cycle 12.
4. Upgrade Emergency Operating Procedures (EOPs)	4a Submit a Procedures Generation Package to the NRC	July 31, 1984
	4b. Implement the upgraded EOP's	Sept. 30, 1985: EOP Implementation w/o SPDS.
	6 mos. after startup of Cycle 12: EOP Implementation w/ SPDS..	

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737—Continued

Title	Requirement	Licensee's completion schedule (or status)
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Dec. 31, 1983: (Completed) Complete w/meterorological data and offsite dose assessment.
	Within 6 mos. after startup of Cycle 12: later enhancement by SPDS..	
	Before startup of Cycle 12: Further enhancement by R.G. 1.97..	
	5b. Operational Support Center fully functional	Complete and fully functional.
	5c. Emergency Operations Facility fully functional	Same as response to 5a (above).

[FR Doc. 84-16614 Filed 6-20-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York et al. (James A. FitzPatrick Nuclear Power Plant); Order Confirming Licensee Commitments on Emergency Response Capability

I

Power Authority of the State of New York (PASNY) (the licensee) is the holder of Facility Operating License No. DPR-59 which authorizes the operation of the James A. FitzPatrick Nuclear Power Plant (the facility) at steady-state power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located in Oswego County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

PASNY responded to Generic Letter 82-33 by letter dated April 15, 1983, and supplemented their response by letters dated June 30, 1983 and August 24, 1983. In these submittals, PASNY made commitments to complete the basic requirements. The following Table summarizing the licensee's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by the licensee.

PASNY's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed the licensee's April 15, 1983 and June 30, 1983 letters and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. As a result of these negotiations, the licensee modified certain dates by letter dated August 24, 1983. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of PASNY's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this order in the manner described in PASNY's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	December 1, 1984.
	1b. SPDS fully operational and operators trained	Submit a firm completion date by December 1, 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Completed (Submitted on October 24, 1983).
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	November 15, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	December 1, 1984.
	3b. Implement (installation or upgrade) requirements	Submit a firm completion date by December 1, 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Completed (Submitted on June 30, 1983).
	4b. Implement the upgraded EOPs	December 31, 1984.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Submit a firm completion date by December 1, 1984.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	June 28, 1985.

[FR Doc. 84-16815 Filed 6-20-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-259]

Tennessee Valley Authority et al. (Browns Ferry Nuclear Plant, Unit No. 1); Order Confirming Licensee Commitments on Emergency Response Capability

I

The Tennessee Valley Authority (TVA) (the licensee) is the holder of Facility Operating License No. DPR-33 which authorizes the licensee to operate the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) at power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

TVA responded to Generic Letter 82-33 by letters dated April 15, 1983, November 29, 1983 and February 6, 1984. In these submittals, TVA made commitments to complete the basic requirements. The following Table summarizing TVA's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by TVA.

TVA's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed TVA's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of TVA's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this order in the manner described in TVA's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12 day of June 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulaton.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	July 30, 1984.
	1b. SPDS fully operational and operators trained	Submit a firm completion date by July 30, 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Submit summary report of completed reviews by December 31, 1986.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	April 30, 1984C.
	3b. Implement (installation or upgrade) requirements	Submit a firm completion date by April 30, 1984C.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Submit a firm completion date by December 31, 1984.
	4b. Implement the upgraded EOPs	Submit a firm completion date by March 31, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete except for data systems which are dependent on SPDS.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Complete.

[FR Doc. 84-16616 Filed 6-20-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-260]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit No. 2); Order Confirming Licensee Commitments on Emergency Response Capability

I

The Tennessee Valley Authority (TVA) (the licensee) is the holder of Facility Operating License No. DPR-52 which authorizes the licensee to operate the Browns Ferry Nuclear Plant, Unit No. 2 (the facility) at power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the times identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

TVA responded to Generic Letter 82-33 by letters dated April 15, 1983, November 29, 1983 and February 6, 1984. In these submittals, TVA made commitments to complete the basic requirements. The following Table summarizing TVA's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by TVA.

TVA's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed TVA's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of TVA's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this order in the manner described in TVA's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should

also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	June 30, 1984.
	1b. SPDS fully operational and operators trained	Submit a firm completion date by June 30, 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Submit summary report of completed reviews by December 31, 1986.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	April 30, 1984C.
	3b. Implement (installation or upgrade) requirements	Submit a firm completion date by April 30, 1984C.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Submit a firm completion date by December 31, 1984.
	4b. Implement the upgraded EOPs	Submit a firm completion date by March 31, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete except for data systems which are dependent on SPDS.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Complete.

[FR Doc. 84-16617 Filed 6-20-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-296]

Tennessee Valley Authority et al. (Browns Ferry Nuclear Plant, Unit No. 3); Order Confirming Licensee Commitments on Emergency Response Capability

II

The Tennessee Valley Authority (TVA) (the licensee) is the holder of Facility Operating License No DPR-68 which authorizes the licensee to operate the Browns Ferry Nuclear Plant, Unit No. 3 (the facility) at power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

I. Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basis requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

TVA responded to Generic Letter 82-33 by letters dated April 15, 1983, November 29, 1983 and February 6, 1984. In these submittals, TVA made commitments to complete the basic requirements. The following Table summarizing TVA's schedular commitments or status was developed by the NRC staff from the Generic Letter and the Information provided by TVA.

TVA's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation date for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed TVA's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of TVA's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this ORDER in the manner described in TVA's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the

Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of June, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	June 30, 1984.
	1b. SPDS fully operational and operators trained	Submit a firm completion date by June 30, 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Submit summary report of completed reviews by December 31, 1986.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	April 30, 1984C.
	3b. Implement (installation or upgrade) requirements	Submit a firm completion date by April 30, 1984C.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Submit a firm completion date by December 31, 1984.
	4b. Implement the upgraded EOPs	Submit a firm completion date by March 31, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete except for data systems which are dependent on SPDS.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Complete.

[FR Doc. 84–16618 Filed 6–20–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–142 OL (Proposed Renewal of Facility License)]

The Regents of the University of California (UCLA Research Reactor)

June 18, 1984.

Please take notice that the evidentiary hearings in the above proceeding scheduled to take place beginning on June 21, 1984, in the NRC Hearing Room, fifth floor, 4350 East-West Highway, Bethesda, Maryland, and continuing on June 25, 1984, in the Court of Claims, eighth floor, Federal Building, 300 North Los Angeles Street, Los Angeles, California, are hereby cancelled.

It is so ordered.

For the Atomic Safety and Licensing Board.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 84–16619 Filed 6–20–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp. et al. (Vermont Yankee Nuclear Power Station); Order Confirming Licensee Commitments on Emergency Response Capability

I

Vermont Yankee Nuclear Power Corporation (VYNPC) (the licensee) is the holder of Facility Operating License No. DPR–28 which authorizes the operation of the Vermont Yankee Nuclear Power Station (the facility) at steady-state power levels not in excess of 1593 megawatts thermal. The facility is a boiling water reactor (BWR) located in Windham County, Vermont.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

VYNPC responded to Generic Letter 82–33 by letter April 19, 1983. By letters dated August 4 and 12, and November 16, 1983, VYNPC modified several dates as a result of negotiations with the NRC staff. In these submittals, VYNPC made commitments to complete the basic requirements. The following Table summarizing VYNPC's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by VYNPC.

VYNPC's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule

for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed VYNPC's April 19, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these negotiations, the licensee modified certain dates by letters dated August 4 and 12, 1983. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of VYNPC's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this order in the manner described in VYNPC's submittals noted in Section III herein no later the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 12 day of June 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	February 1, 1985.
	1b. SPDS fully operational and operators trained	Submit a firm completion date by February 1, 1985.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	May 1, 1984.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Submit a firm completion date by July 1, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	August 1, 1984.
	3b. Implement (installation or upgrade) requirements	Submit a firm completion date by August 1, 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	July 1, 1984.
	4b. Implement the upgraded EOPs	February 1, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Fully functional except that data acquisition will be complete when SPDS is complete.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	November 1, 1985.

[FR Doc. 84–16620 Filed 6–20–84; 8:45 am]
BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Coal Options Task Force; Regular Meeting

AGENCY: Coal Options Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Approval of minutes of the first meeting
- Review of the activities of the Option Steering Committee, State Options Task Force, Hydropower Options Task Force and Cogeneration Options Task Force
- Review of Bonneville findings regarding the implications of The Clear Air Act and Clean Water Act on the options concept
- Review of PNUCC thermal resource data base, update activities in relation to smaller plant sizes, cycling and consideration of advanced technologies.
- Comment on the findings of the Battelle options report with respect to coal plants
- Review of Bonneville work regarding advanced coal technologies
- Review of Bonneville work regarding the effect of NEPA on the options concept
- Arrangements for reviews of the current status of the Creston plan and a second unit at Boardman
- New business
- Public comment
- Schedule next meeting of the Task Force

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Coal Options Task Force.

DATE: June 29, 1984. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room at 700 SW., Taylor, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jeff King (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–16543 Filed 6–20–84; 8:45 am]
BILLING CODE 0000–00–M

River Assessment Task Force; Regular Meeting

AGENCY: River Assessment Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)
Status: Open.

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- 201 Goals Briefing
- Strategy for Resident Fish and Wildlife
- State/Regional Structure for Non-Fish and Wildlife Assessment
- Category III Alternatives
- Integration of River Assessment Anadromous Fish Results with 201 Goals
- Other Business

SUMMARY: The Northwest Power Planning Council hereby annouces a forthcoming meeting of its River Assessment Task Force.

DATE: June 26, 1984. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room at 700 SW. Taylor, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–16544 Filed 6–20–84; 8:45 am]

BILLING CODE 0000–00–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: Peabody Coal Co. et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Peabody Coal Company an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. A notice of the request for exemption was published in the **Federal Register** on April 6, 1984 (49 FR 13784). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (190) at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA"), a sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser furnish a bond or escrow for five plan years after the sale.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on variances for sales of assets (29 CFR Part 2643), the PBGC will approve a request for an exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of an exemption request in the **Federal Register**, and to give interested parties an opportunity to comment on the proposed exemption.

Decision

On April 6, 1984 (49 FR 13784), the PBGC published a notice of the pendency of a request from Peabody Coal Company ("Peabody"), Armco, Inc. ("Armco"), and Big Mountain Coals, Inc. ("Big Mountain"), for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B), in connection with the purchase by Peabody of certain assets of Armco and all of Big Mountain's coal production properties. The sale contract was signed on January 20, 1984. Big Mountain is a wholly-owned subsidiary of Armco. No comments were received in response to the notice.

In connection with the sale, Peabody assumed Armco's and Big Mountain's obligation, under the National Bituminous Coal Wage Agreement of 1981, to contribute to the United Mineworkers of America 1950 Pension Plan ("1950 Plan") and the United Mineworkers of America 1974 Pension Plan ("1974 Plan").

Both the 1950 Plan and the 1974 Plan have adopted amendments to include the text of section 4204 (a) and (b), which otherwise would not apply to these plans under ERISA section 4211(d)(2). Section 4204 (c) and (d) apply as a matter of law. *U.S. Steel Mining Co., Inc.*, 49 FR 9037, 9038 (March 9, 1984).

Armco's and Big Mountain's estimated withdrawal liability, and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B), with respect to each plan are as follows:

	Withdrawal liability	Bond/escrow amount
1950 plan:		
Armco	$15,379,725	$3,496,284
Big Mountain	3,385,674	550,504
Subtotal	18,765,399	4,046,788
1974 plan:		
Armco	14,210,774	2,429,696
Big Mountain	2,899,760	403,053
Subtotal	17,110,534	2,832,749
Total	25,875,933	6,879,537

All of the bond amounts are based on the average annual contributions that Armoc and Big Mountain were required to make to the plans for the three plan years preceeding the sale.

Peabody's average net income after taxes for the fiscal years 1981–1983, reduced by the interest expense incurred with respect to the sale and payable in the fiscal year following the sale, was over $100 million.

Based on the facts of this case and the representations and statements made in connection with the exemption request, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan.

Therefore, the PBGC hereby grants the request for an exemption from the b ond/escrow requirement of section 4204(a)(1)(B) with respect to Peabody's purchase of assets from Armco and Big

Mountain. The granting of such an exemption does not constitute a determination by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). That determination is made by the plan sponsor.

Issued at Washington, D.C. on this 18th day of June 1984.

C. C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-16627 Filed 6-20-84; 8:45 am]
BILLING CODE 7708-01-M

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: J.J.W. Trucking, Ltd., d.b.a. James J. Williams

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation ("PBGC") has received a request from J.J.W. Trucking Ltd., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a period of five plan years beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before August 6, 1984.

ADDRESSES: All written comments (at least three copies) should be addressed to: Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan within first five plan years beginning after the sale and fails to pay its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC will approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from J.J.W. Trucking, Ltd., dba James J. Williams (formerly Michaud-Wyman, Inc.) ("Michaud-Wyman") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). Michaud-Wyman represents, among other things, as follows:

1. Pursuant to an asset purchase agreement with J.D.R. Enterprises, Inc. (formerly J.J.W. Trucking, Ltd., dba James J. Williams) ("J.D.R."), Michaud-Wyman purchased substantially all of the assets of J.D.R. The agreement recited an effective date of July 1, 1983; the agreement was made, and the sale closed, on August 30, 1983,

2. In connection with the sale, Michaud-Wyman has assumed J.D.R.'s responsibilities, under a collective bargaining agreement with Local 690 of the Western Conference of Teamsters, to contribute to the Western Conference of Teamsters Pension Trust Fund (the "Fund") for substantially the same number of contribution base units for which J.D.R. had an obligation to contribute.

3. The amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) is $49,832.71 (the average annual contributions of J.D.R. for the three plan years preceding the sale). J.D.R.'s potential withdrawal liability to the Fund is estimated to be $67,010.72.

4. Michaud-Wyman is a new corporation, and thus is unable to submit financial statements in compliance with PBGC regulation (29 CFR § 2643.2(d)(7)). It did submit unaudited financial statements for its short first year of operations ending December 31, 1983, showing a net loss of $25,111.25 and net assets of $19,888.75.

5. Michaud-Wyman stated that the request for an exemption should be granted on a *de minimis* basis. The average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred was $470,590,339. Thus, the amount of the bond/escrow is about one-hundredth of one percent of the amount of employer contributions.

6. Michaud-Wyman has sent a copy of its request to the Fund and to the collective bargaining representative of J.D.R.'s former employees

Comment

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before August 6, 1984. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 18th day of June, 1984.

C. C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-16628 Filed 6-20-84; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 Fifth Street, NW., Washington, D.C. 20549.

New

EDGAR
Form S-E (No. 270-289)
Transmittal Form for Electronic Format Documents (No. 270-290)

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance two forms under the Securities Act of 1933 and the Securities Exchange Act of 1934 for use by registrants voluntarily participating in the EDGAR Pilot Project. The first, Form S-E, will be used by new registrants to file paper copies of exhibit documents that cannot be transmitted electronically. The second, the Transmittal Form for Electronic Format Documents, will accompany tapes and diskettes submitted to the Commission.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

June 15, 1984.

[FR Doc. 84-16634 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13988; 812-5775]

Federal Life Insurance Company, et al.; Application for an Order of Exemption Pursuant to Section 6(c) of the Act From the Provisions of Section 12(d)(1)

June 15, 1984.

Notice is hereby given that Federal Insurance Company ("Federal Life"); 3750 West Deerfield Road, Riverwoods, Illinois, 60015, Variable Annuity Account C of Federal Life, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust ("Account") Portfolio of Bond Shares, Inc., Portfolio of Income and Growth Fund Shares, Inc., and Portfolio of Mutual Fund Shares, Inc., management investment companies registered under the Act (collectively, "Portfolio Funds"); and FED Mutual Financial Services, Inc., underwriter for the Account (all parties collectively, "Applicants"), filed an application on February 17, 1984 for an order pursuant to Section 6(c) of the Act granting an exemption from the provisions of Section 12(d)(1) to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein in support of the requested relief pursuant to Section 6(c), which are summarized below, and are referred to the Act for a statement of the relevant provisions.

The Account proposes to issue variable annuity contracts funded by the Portfolio Funds which, in turn, will invest solely in shares of publicly available mutual funds. The Portfolio Funds will charge no sales load and will invest solely in shares of mutual funds which also charge no sales load and which have the same investment objectives as the respective Portfolio Funds. Furthermore, Applicants state that the Portfolio Funds will invest in no mutual fund which is subject to an asset charge for distribution expenses pursuant to Rule 12b-1 in excess of .25%, on an annual basis, or for which selling dealers are paid a commission for selling shares. Should a mutual fund adopt an asset charge pursuant to Rule 12b-1 in excess of .25%, the Portfolio Funds will liquidate any positions in such fund as soon as practicable thereafter. An advisory fee of .5% of average total net assets will be deducted from the Portfolio Funds, and a mortality and expense risk charge of no more than .95% will be decucted from contract values. In addition, Applicants will deduct a maximum contingent deferred sales load ("CDSL") of 6% of purchase payments.

In support of their application, Applicants assert that they could rely on Section 12(d)(1)(F), and will comply therewith, except for subsection (ii) thereof which would limit the Account to a sales load of 1½% of purchase payments. In establishing that the requested relief meets the standards of Section 6(c) of the Act, Applicants assert, *inter alia*, the following general legal and policy grounds: (1) Section 12(d)(1)(F) contemplates a layering of sales loads aggregating to no more than 10% (8½% plus 1½%) of purchase payments, and Applicants propose an aggregate sales load of no more than 6% of purchase payments; (2) since the CDSL will be imposed in a diminishing amount and only upon withdrawal, and because annuity contracts are by their nature long term investments, a significant majority of contractholders will not be subject to any sales load; (3) the Portfolio Funds will perform a valuable service to contract-owners analogous to a switching service; and (4) contractholders will have access to large, well-managed, publicly available mutual funds to fund their contracts, notwithstanding certain tax determinations by the Internal Revenue Service. Applicants also assert that complying with the provisions of Section 12(d)(1)(F) (except for (ii) as noted above) and the above representations will resolve the concerns Section 12(d)(1) was intended to address: pyramiding of investment company control, excessive advisory fees, and duplication of administrative charges and sales loads.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this 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 cetificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16630 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21058; SR-Amex-84-14]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Temporary Accelerated Approval of Proposed Rule Change

June 15, 1984.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006; submitted on May 21, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to enhance its existing AUTOPER system with an odd-lot feature known as AUTOPER ODD-LOT for the execution of market day orders under 100 shares.[1] On June 8, 1984, Amex Submitted Amendment No. 1 to the proposed rule change to request temporary accelerated approval, pending final Commission action, in order to permit the Exchange to commence the AUTOPER ODD-LOT program in the equities of up to three specialist units. According to the Exchange, this will enable Amex to make immediately available to its membership and the investing improved accuracy of processing of odd-lot orders in those equities.

The proposed system would process applicable odd-lot orders whether received before or after the market opening. The orders would be automatically accumulated by security and routed to the applicable specialist for display on his AUTOPER touch-screen. The specialist could execute the orders via the touch-screen or remove the orders and execute via standard card input. The system automatically will total daily odd-lot volume for each security and apply odd-lot differentials, if any (as determined by the specialist), to each security. The Amex states that the proposed AUTOPER ODD-LOT will: (i) Increase the order handling capability of the Amex's automated execution system, and (ii) provide for more accurate executions and reports of odd-lot orders.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change on a temporary accelerated basis prior to the thirtieth day after the date of publication of notice of filing thereof, in that Amex is currently ready to implement its AUTOPER ODD-LOT system on a limited basis, and has indicated that its system will result in improved accuracy of processing odd-lot orders.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16633 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21059; File No. SR-CBOE-83-62]

Self-Regulatory; Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc.

June 15, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 3, 1984, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Article VI, ("Board of Directors") Sections 6.1 and 6.3(d) of the CBOE's Constitution. The proposed amendment to Section 6.1 ("Number, Election and Term of Office of Directors") provides that the terms of office of directors will expire at the first regular meeting of the Board of Directors following the annual election meeting. In its filing, the Exchange has noted that this amendment will serve to assure that the terms of directors are consistent with the terms of the members of the Executive and other Exchange Committees. The Exchange is also proposing to add a new Section 6.3(d) ("Resignation, Disqualification, and Removal of Directors") to provide that if, for any reason, the number of floor directors falls below six, because of a failure of that director to maintain the qualifications for election to the Board, as specified in Section 6.1 of the Constitution, any vacancy will be filled at the next scheduled meeting of the Board of Directors with a member who qualifies as a floor director. According to the CBOE, the purpose of the proposed change to Section 6.3(d) is to insure that there are always a minimum of six floor directors, consistent with Section 6.1 of the Constitution which provides for the election of six directors. In addition, the Exchange is proposing to amend Section 6.3(d) to require that firm and public directors shall maintain the qualifications for election to those offices and provides that the Board of Directors will be the sole judge as to whether qualifications have been maintained. The Exchange has noted that this amendment serves to impose a maintenance of qualifications requirement on all directors, rather than only on floor directors.[1] The Exchange states that the proposed rule change is consistent with Section 6 of the Act, in that it would provide for an orderly transition in the terms of directors, as well as insuring that a fair representation of floor members would be maintained on the Board.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publicaiton in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-83-62.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the

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[1] Notice of the proposed rule change was provided by issuance of a Commission release (Securities Exchange Act Release No. 21006, May 31, 1984), and by publication in the **Federal Register** (49 FR 24190, June 12, 1984).

[1] This provision was requested by the Commission in order to impose a uniform standard on all directors and was submitted by the CBOE to the Commission as Amendment No. 2, filed with the Commission on May 3, 1984.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16640 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21054; SR-MSRB-84-8]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

June 15, 1984.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, NW., Washington, D.C. 20036, on March 16, 1984, submitted copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend the procedures under MSRB rule G-12(g) for reclamation of interdealer deliveries of municipal securities.

The proposed rule change would revise rule G-12(g) to describe the procedures and effects of a reclamation in greater detail. (In general, a reclamation is a return of securities received by a party because improper securities were delivered or delivery was in some other sense incomplete.) The rule change makes clear that (1) a reclamation is accomplished by the recipient returning securities previously delivered, while a demand for reclamation involves a request for return from the original delivering party; (2) that only those securities on which a delivery problem exists need be returned to accomplish a reclamation; (3) that settlement of a reclamation shall be accomplished by substituting securities in "good delivery" form for those received on the reclamation or by return of the money previously paid at the time of the delivery being reclaimed; and (4) that reclamation reopens a "fail to deliver" on the reclaimed transaction which may be subsequently completed by a delivery of securities in "good delivery" form or by completion of a close-out procedure.

The proposed rule change also makes several revisions to the existing rules for reclamation of securities reported to be lost, stolen, fraudulent, or counterfeit. The proposed rule change allows dealers to reclaim a portion of securities reported to be lost, stolen, counterfeit, or fraudulent without waiting to reclaim all such securities at once. The dealer would be required to provide at the time of reclamation some evidence of the report it received that the securities have been lost, stolen, fraudulent, or counterfeit, and to provide evidence that the incident of loss or theft had occurred prior to the date of the delivery being reclaimed.

The MSRB has proposed this change in rule G-12(g) to provide additional guidance concerning reclamations, in part codifying Board interpretative positions. The proposed rule change also modifies the rule's application to lost, stolen, fraudulent, or counterfeit securities. The changes are intended to clarify reclamation procedures and strengthen protections against traffic in lost, stolen, fraudulent, or counterfeit securities.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 20815, published in the **Federal Register** (49 FR 20397, May 14, 1984). The only comment received by the Commission was a copy of a comment submitted to the MSRB regarding an earlier exposure draft of the proposed rule change. This comment generally supported the proposed rule change; the two specific issues raised in the comment on the exposure draft of the rule change were addressed for the most part in the final proposed rule change filed by the MSRB.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16637 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21057; File No. SR-MSTC-84-04]

Self-Regulatory Organizations; the Midwest Securities Trust Co.; Order Approving Proposed Rule Change

June 15, 1984.

On May 16, 1984, the Midwest Securities Trust Company ("MSTC") filed with the Commission a proposed rule change that would amend MSTC's By-laws to increase the number of MSTC directors. Specifically, the proposed rule change would authorize MSTC to increase its Board of Directors from seventeen to eighteen. The additional director would be a qualified individual from the business community. Notice of the proposed rule change was given in Securities Exchange Act Release No. 20968.[1] No letters of comment were received.

The Commission believes that this proposed rule change is consistent with the Act in general and with Section 17A(a)(3)(C) in particular. Specifically, the Commission believes that increasing the number of MSTC directors to 18 continues to provide for fair representation of participants in the selection of MSTC directors.

Accordingly, it is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-MSTC-84-04) be, and hereby is, approved.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16635 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21048; File No. SR-NYSE-84-22]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Options on a Doubled NYSE Composite Index

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 12, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 49 FR 21588 (May 22, 1984).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for Exchange trading of options on an index having twice the value of the NYSE Composite Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The Exchange proposes to offer a second contract based on its composite index. The new contract will better meet the needs of some market participants by translating a change in the NYSE Composite Index into greater dollar changes than does the currently-traded NYA Option.

The NYA Option is particularly well-suited for retail customers, since it meets their desires for relatively lower premium costs and for relatively smaller margin deposits. These two benefits derive from the relatively smaller value of the option's underlying index: when multiplied by the standard multiplier of 100, the smaller index value creates a relatively smaller contract size. The NYA Option's high "retail" participation, approximately 35 percent, demonstrates its utility to that group of market participants.

The relatively smaller index value of the NYA Option necessarily results in a relatively smaller dollar change when the market moves and in premiums that are less responsive to market changes. Moreover, because the industry has established five-point strike-price intervals for index options, the NYA Option's smaller index value also means that the five-point interval covers a relatively larger percentage of the index value.[1]

[1] Halving the "nominal" strike-price interval to 2½ would achieve the same effect. However, a 2½-point strike-price interval would not translate index value changes into greater premium sensitivity and would require non-standard quotation device symbols.

The interest of some market participants in greater premium sensitivity can be understood intuitively. When the market moves, a dollar invested in the new contract will yield twice the growth—or shrinkage—as one invested in the NYA Option. The new contract will permit more finely-tuned investment, hedging and trading strategies.

Strike-price intervals convering a smaller percentage of the index value will create premiums that are more responsive to changes in the index value in a second respect. Trading in the NYA Option has shown that near-term series with strike prices close to the index value have the greatest open interest and volume. The market depth and liquidity in such series lead to narrower market quotations—quotations that more accurately reflect the current market.

These characteristics are, of course, desirable for a variety of trading strategies. Some of these strategies bring into play series that are further in, or out-of, the money, thereby fueling their liquidity. The cumulative result is a deeper, more liquid market overall.

The Exchange expects the creation of a second contract based upon the same index to have beneficial synergistic effects. The Second contract will provide retail customers with a wider range of opportunities while creating arbitrage opportunities that can be expected to enhance the overall liquidity of the market.

(2) *Statutory Basis*—The statutory basis for the proposed rule change is section 6(b)(5) of the 1934 Act. Trading of options on a doubled index will provide members of the public with useful new hedging and trading opportunities under a scheme of regulations designed to facilitate the maintenance of a fair and orderly market, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade.

The new contract will trade under the same regulatory framework as the currently-traded NYA Option. Accordingly, the Exchange's more extensive statements of statutory basis in regard to the NYA Option applies with equal force to the new contract. The Exchange's filing therefore incorporates those statements. Please see File No. SR-NYSE-82-2.

(B) Self Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change has been approved unanimously by the NYSE Options Sub-Committee on Market Performance, which is comprised of individuals representing member organizations and a broad cross-section of the investment community. The Exchange does not intend to solicit further comments regarding this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 12, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 14, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16635 Filed 6-20-84: 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20979; File No. SR-NYSE-84-20]

Self-Regulatory Organizations; Proposed Rule Changes by New York Stock Exchange, Inc.; Relating to Changes to Rules 601, 603, 606, 609, 612, 626 and 630 of the Board of Directors New Rule 634

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 7, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

It is filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) *Purpose of Proposed Rule Changes.* The purposes of the proposed rule changes are to:

- Permit the simplified small claims procedures to be used in disputes involving up to $5,000.
- Permit the filing of certain cases even though more than six years shall have elapsed from the occurrence of the event giving rise to the dispute.
- Permit additional peremptory challenges in certain cases and specifying that there are unlimited challenges for cause.
- Permit the arbitrators to bar certain defenses at hearings when they have not been pleaded.
- Permit the Arbitration Director to make preliminary determinations regarding severance.
- Permit amendments after a responsive pleading has been filed.
- Raise fees in selected cases, and
- Impose a surcharge in cases where a member organization is a claimant against a non-member.

(b) *Statutory Basis for the Proposed Rule Changes.* The proposed changes are consistent with Section 6(b)(5) of the Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule changes.

II. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule changes; or

B. institute proceedings to determine whether the proposed rule changes should be disapproved.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 12, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 18, 1984.

[FR Doc. 84-16641 Filed 6-20-84: 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 15, 1984.

The Midwest Stock Exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Midwest Energy Company Common Stock, $5 Par Value (File No. 7-7518)

Reading & Bates Corporation Adjustable Rate Cumulative Preferred 5th Series (File No. 7-7521)

Michigan General Corporation Common Stock, $1 Par Value (File No. 7-7522)

Western Digital Common Stock, $.10 Par Value (File No. 7-7523)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 9, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16638 Filed 6-20-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-045]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. APP I) notice is hereby given of the Fourth meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, July 17, 1984 in the 29th Floor Boardroom of the International Trade Mart Building, New Orleans, Louisiana. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the April 17, 1984 meeting.
3. Chairman's Message.
4. Introduction of items for full committee discussion (These items will be discussed as they relate to Vessels Traffic Service, New Orleans, LA).
   A. Resolution of multichannel vessel monitoring requirements.
   B. Resolution of traffic information pertinence.
   C. Resolution of computer capacity deficiency producing accurate time, speed and distance data.
   D. Resolution of VHF—transmission/reception deficiencies.
   E. Resolution of lack of hard data gathering equipment necessary to support the reliability of advisory information.
   F. The establishment of viable criteria of those vessels who would be required to participate.
5. Introduction of any new items for discussion.
6. Announcements.
7. Adjournment.

The purpose of this committee is to provide a public forum which will furnish to the U.S. Coast Guard consultation, local expertise, and advice on a wide range of matters regarding all facets of navigation safety.

Attendance is open to the public with advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the advisory committee at any time.

Additional information may be obtained from Commander, R.A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA, 70130, telephone number (504) 589-6901.

Dated: June 18, 1984.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-16556 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-046]

Lower Mississippi River Waterway Safety Advisory Committee; River Navigation Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. APP I) notice is hereby given of a meeting of the River Navigation Subcommittee for the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Wednesday, July 11, 1984 in the Board Room of the New Orleans Board of Trade Building, New Orleans, Louisiana. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m.

The agenda for the meeting consists of the following items:

1. Call to Order
2. Chairman's Message
3. Introduction of items for full committee discussion. These items will be discussed as they relate to Vessel Traffic Service, New Orleans, LA
   A. Resolution of multichannel vessel monitoring requirements
   B. Resolution of traffic information pertinence
   C. Resolution of computer capacity deficiency producing accurate time, speed and distance data
   D. Resolution of VHF—transmission/reception deficiencies
   E. Resolution of lack of hard data gathering equipment necessary to support the reliability of advisory information
   F. The establishment of viable criteria of those vessels who would be required to participate.
4. Introduction of any new items for discussion
5. Announcements
6. Adjournment

This subcommittee has been established to provide consultation and advice to the U.S. Coast Guard via the Lower Mississippi River Waterway Safety Advisory Committee on all areas of maritime safety affecting the Lower Mississippi River and Vessel Traffic Service Auxilliary Waterways.

Attendance is open to the public with advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the advisory committee at any time.

Additional information may be obtained from Commander, R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589-6901.

Dated: June 13, 1984.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-16557 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-047]

Lower Mississippi River Waterway Safety Advisory Committee; Auxiliary Waterways Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. APP I) notice is hereby given of a meeting of the Auxiliary Waterways Subcommittee for the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Thursday, July 12, 1984 in the Board Room of the New Orleans Board of Trade Building, New Orleans, Louisiana. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m.

The agenda for the meeting consists of the following items:

1. Call to Order
2. Chairman's Message
3. Introduction of items for full committee discussion. These items will be discussed as they relate to Vessel Traffic Service, New Orleans, LA
   A. Resolution of multichannel vessel monitoring requirements
   B. Resolution of traffic information pertinence
   C. Resolution of computer capacity deficiency producing accurate time, speed and distance data
   D. Resolution of VHF-transmission/reception deficiencies
   E. Resolution of lack of hard data gathering equipment necessary to support the reliability of advisory information
   F. The establishment of viable criteria of those vessels who would be required to participate.
4. Introduction of any new items for discussion
5. Announcements
6. Adjournment

This subcommittee has been established to provide consultation and advice to the U.S. Coast Guard via the Lower Mississippi River Waterway Safety Advisory Committee on all areas of maritime safety affecting the Lower Mississippi River and Vessel Traffic Service Auxiliary Waterways.

Attendance is open to the public with advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the advisory committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA, 70130, telephone number (504) 589-6901.

Dated: June 18, 1984.

W. H. Steward,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-16558 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-048]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of the seventh meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, July 26, 1984 in the Student Conference Room of the Northern Student Center located at Texas A & M University at Galveston, Pelican Island, Galveston, Texas. The meeting is scheduled to begin at 9:00 a.m. and end at 5:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the Committee
3. Reports of Subcommittees
   A. Inshore Waterway Management
   B. Offshore Waterway Management
4. Discussion of Subcommittee Reports
5. Presentation of any additional new items for consideration to the Committee
6. Adjournment

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance at all subcommittee and full committee meetings is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander, R. A. BRUNELL, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Roon 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: June 18, 1984.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-16559 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

United States Mint

Use of Metal Tokens; Proposed Policy Change

AGENCY: United States Mint, Treasury.

ACTION: Amending Notice on Proposed Change in Treasury Policy Regarding the Use of Metal Tokens.

SUMMARY: The United States Mint, Department of Treasury proposes revisions to its policy regarding the use of metal tokens. The Mint, with certain exceptions, has been generally opposed to the production and use of metal tokens. The exceptions have included the use of metal tokens by gambling casinos and have developed on a case by case basis.

On September 2, 1983, the Mint notified the public that it was proposing to change its policy of opposition to metal tokens provided that certain enumerated criteria were met. *See* 48 FR 40054. Public comment was invited. Having received and analyzed these comments, the Mint proposes to revise the criteria for metal tokens. Essentially, the revisions take the form of broadening the prohibited diameter ranges for metal tokens, increasing the minimum thickness requirement, and further restricting the composition of the tokens. The revisions are aimed at providing added assurances that the tokens will not be used unlawfully in vending machines and similar devices. The Department believes that the revised criteria strike a more appropriate balance between the need to protect U.S. coinage and the desire to minimize the adverse impact of the restrictions on legitimate users of tokens.

DATE: Interested members of the public are jnvited to furnish written comments on the proposed policy. Comments must be received on or before July 23, 1984.

ADDRESS: Send comments to Kenneth B. Gubin, Legal Counsel, United States

Mint, Room 1032 Warner Building, 501 13 Street, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Gubin (address above) (202) 376-0564.

SUPPLEMENTARY INFORMATION: Generally, the Department has been opposed to the production and use of metal tokens because of its concern that widespread use of the tokens would lead to their circulation in the community as coinage in violation of certain provisions of the criminal code. These provisions, sections 486, 489, and 491 of title 18, United States Code, provide essentially that the manufacture, use or passing of tokens as current money is prohibited. Nonetheless, the Department has recently, on a case by case basis, not opposed individual requests by gambling casinos to use tokens for gaming purposes. In light of the considerable demand for the use of such tokens, and in order to maintain a uniform policy in this area, the Department decided that it will not oppose the manufacture and use of tokens which meet certain specifically enumerated criteria.

On September 2, 1983, the Department published certain criteria for tokens which were aimed at providing the necessary guidance in this area. Comments were received. Upon analysis of public comments to these criteria, the Department has determined that certain revisions are appropriate.

Summary of Comments

Approximately one dozen comments were received. Generally, the commenters endorsed the concept of restrictions on the use of metal tokens. Most of the commenters advocated increases in the restrictions.

One commenter suggested that the issuing establishment be required to redeem tokens at their face value. This requirement, it was suggested, would protect third parties who are in receipt of unwanted tokens.

The Department is sympathetic to the purpose of the suggestion. Its implementation would, however, have the effect of increasing the value of the tokens and would result in their increased unlawful circulation as money. Accordingly, the Department declines to adopt this suggestion.

Another commenter suggested expanding the prohibited ranges for the diameter of tokens that correspond to the size of the nickel and the dime in order to assure rejection of the tokens by vending machines. The Department agrees that increased protection is appropriate. Accordingly, these ranges have been revised so as to exclude any token whose diameter is between .680 and .860 inches.

A number of commenters stated that large numbers of quarter-sized metal tokens have been used to slug their vending machines, resulting in large financial losses. Expansion of the prohibited diameter range for this token has been vigorously requested. The Department has adopted this suggestion so as to exclude any token which is between .890 and .980 inches in diameter.

One commenter requested that the minimum thickness of the tokens be increased to 0.060 inches to insure that tokens would not be lodged in coin paths. This change has likewise been adopted.

It was noted that certain machines may be jammed as a result of receiving metal coins and disks. The suggestion was that any magnetic material be excluded from the composition of the tokens. The change has been adopted so that no ferromagnetic material may be used in making tokens.

Commenters took issue with the provisions in our original notice which prohibited reeded or serrated edges on tokens which are less then 1.475 inches in diameter and limited the number of them on larger tokens. It was noted that the Department has not objected to reeds on certain smaller tokens and that smaller tokens routinely contain reeded edges. Upon reconsideration of this issue, the Department has determined that the regulations concerning reeds are no longer necessary in view of the increased protection provided by the additional restrictions on the diameter of tokens. Accordingly, the restrictions on reeds have been eliminated.

One commenter requests the Department to undertake a nationwide effort to persuade the United States Attorneys to vigorously enforce the counterfeiting statutes as applied to metal tokens. As the commenter suggests, the ultimate responsibility for the enforcement of the criminal statutes rests with the Department of Justice. Each case must of necessity be evaluated in light of the particular facts presented. The United States Secret Service is responsible for conducting investigations into violations of these provisions pursuant to specific complaints. Any person who believes that such a violation has occurred should contact the Secret Service.

Revised Token Restrictions

The Department is of the view that compliance with the following restrictions will minimize the possibility of a violation of the criminal statutes cited above.

1. Tokens must be clearly identified with the name and location of the establishment from which they originate on at least one side.

2. Tokens must contain language which limits their redemption to the issuing establishment.

3. Tokens must meet the following specifications:

(a) Weight—Tokens shall weigh no less than two grams.

(b) Diameter—Tokens must be outside the following ranges in diameter (inches):

0.680—0.860
0.890—0.980
1.018—1.068
1.180—1.230
1.475—1.525

(c) Thickness—No token shall be less than 0.060 inch thick.

(d) Tokens shall not be manufactured from a three layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper based material, except if the total of zinc, nickel, aluminum, magnesium and other alloying materials exceeds twenty-five percent of the token's weight. In addition, tokens shall not be composed of a ferromagnetic material.

4. Establishments using these tokens shall prominently and conspicuously post signs on their premises notifying patrons that federal law prohibits the use of such tokens outside the premises for any monetary purpose whatever.

5. The issuing establishments shall not accept tokens as payment for any goods or services offered by such establishment with the exception of the specific use of which the tokens were designed.

6. The design on the token shall not resemble any current or past foreign or U.S. coinage.

The Department of the Treasury anticipates that the publication of the foregoing restrictions will obviate the necessity of examining individual tokens for compliance. Should a novel question be presented with regard to a token's design or specifications, the Department will be willing to review the matter.

Katherine D. Ortega,

Treasurer of the United States.

[FR Doc. 84-16656 Filed 6-20-84; 8:45 am]

BILLING CODE 4810-37-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Office (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Officer of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503 (202) 395-6880.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: June 18, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Loan and Cash Surrender Values
3. VA Form 29–5772
4. On occasion
5. Individuals or households
6. 27,000 responses
7. 4,500 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Supporting Statement Regarding Marriage
3. VA Form 21–4171
4. On occasion
5. Individuals or households
6. 2,400 responses
7. 800 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Agreement for Paying Delinquent Loan Payments
3. VA Form 26–6392
4. On occasion
5. Individuals or households
6. 960 responses
7. 80 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Statement of Applicant and/or Physical Examination Report
3. VA Form 29–4465
4. On occasion
5. Individuals or households
6. 1,400 responses
7. 1,820 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Manufactured Home Loan Claim Under Loan Guaranty Combination Loan—Manufactured Home Unit and Lot or Lot Only
3. VA Form 26–8630
4. On occasion
5. Businesses or other for-profit
6. 75 responses
7. 25 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Application of Education Loan
3. VA Form 22–8725
4. On occasion
5. Individuals or households
6. 540 responses
7. 360 hours
8. Not applicable

[FR Doc. 84–16530 Filed 6–20–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 121
Thursday, June 21, 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).

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Consumer Product Safety Commission	1
Equal Employment Opportunity Commission	2
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Federal Election Commission	6
Federal Reserve System	7
National Credit Union Administration	8

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: June 25, 1984, Monday.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public 8:30 a.m.

MATTERS TO BE CONSIDERED:

Commission—Staff Briefing

The Commissioners and staff will have a discussion of matters in general.

10:00 a.m.

FY 85 Operating Plan

The Commission will consider issues related to the Operating Plan for Fiscal Year 1985.

For a recorded message containing the latest agenda information call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Dated: June 19, 1984.

Sheldon Butts,

Deputy Secretary.

[FR Doc. 84-16700 Filed 6-19-84; 1:30 pm]

BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, June 26, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C 20507

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84-04-FOIA-06-AT, concerning a request for a copy of the transcript of an EEO hearing.
4. Freedom of Information Act Appeal No. 84-4-FOIA-76-CL, concerning a request for an investigator's memorandum and other information in an ADEA charge file.
5. Freedom of Information Act Appeal No. 84-4-FOIA-67-CL, concerning a request for documents contained in a closed Title VII/ADEA charge file.
6. Freedom of Information Act Appeal No. 84-04-FOIA-46-HU, 84-5-FOIA-9-LA, 84-4-FOIA-84-CL and 84-04-FOIA-81-PA, concerning the same request to four district offices for all files regarding a particular respondent
7. Proposed Qualification Criteria for EEOC's Tribal Employment Rights Office (TERO) Program
8. Proposed Modification to Procedure for Issuance of Determinations of Reasonable Cause
9. Proposed Apprenticeship Program Regulation
10. Equal Pay Act (EPA) Opinion Letter Procedures
11. Procedures for Issuance of Opinion Letters under Title VII, ADEA and EPA
12. Procedures for Issuance of Title VII Opinion Letters
13. Pension Benefits at Normal Retirement Age—Public Comments and Options

Closed

1. Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

Dated: June 19, 1984.

Treva McCall,

Executive Secretary, to the Commission.

[FR Doc. 84-16705 Filed 6-19-84; 2:59 pm]

BILLING CODE 6750-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 18, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13 of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation and that the matter could be considered in a closed meeting by authority of subsection (c)(4) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4)).

Dated: June 18, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-16721 Filed 6-19-84; 3:57 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 18, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague

(Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Lynn Five Cents Savings Bank, Lynn, Massachusetts, an insured mutual savings bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Colonial National Bank, Danvers, Massachusetts, and for consent to establish the two offices of The Colonial National Bank as branches of the resultant bank.

Application of Bankers Trust of South Carolina, Columbia, South Carolina, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the South Windmere Branch, Charleston, South Carolina, of The South Carolina National Bank, Charleston, South Carolina, and the St. Andrew's Branch, Charleston, South Carolina, of the First National Bank of South Carolina, Columbia, South Carolina, and for consent to establish the South Windmere Branch and The St. Andrew's Branch as branches of Bankers Trust of South Carolina.

Application of Tri-City Bank and Trust Company, Blountville, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with Farmers and Merchants Bank, Limestone, Tennessee, and for consent to establish the sole office of Farmers and Merchants Bank as a branch of the resultant bank.

The Board further determined, by the same majority vote, that Corporation business required, on less than seven days' notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. that same day, of the following matters:

Application of Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a branch at #48 Northpark Shopping Mall, 320 West Kimberly Road, Davenport, Iowa.

Application of Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a remote service facility at St. Lukes Hospital, 1227 East Rusholme Street, Davenport, Iowa.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,060-L—Toney Brothers Bank, Doerun, Georgia

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 19, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-16722 Filed 6-20-84; 3:58 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:35 p.m. on Friday, June 15, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Lawrence County Bank, Lawrenceburg, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Friday, June 15, 1984; (2) accept the bid for the transaction submitted by Farmers Bank of Lawrence County, Lawrenceburg, Tennessee, a newly-chartered State nonmember bank; (3) approve the applications of Farmers Bank of Lawrence County, Lawrenceburg, Tennessee, for Federal deposit insurance, for consent to purchase the assets of and to assume the liability to pay deposits made in The Lawrence County Bank, Lawrenceburg, Tennessee, and for consent to establish the two branches of The Lawrence County Bank as branches of Farmers Bank of Lawrence County; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. David L. Chew, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 3:40 p.m., and at 4:45 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors:

(A) Modified certain conditions relating to a previous Order approving the applications of Farmers Bank of Lawrence County, Lawrenceburg, Tennessee, for Federal deposit insurance, for consent to purchase the assets of and to assume the liability to pay deposits made in The Lawrence County Bank, Lawrenceburg, Tennessee, and for consent to establish the two branches of The Lawrence County Bank as branches of Farmers Bank of Lawrence County;

(B)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank, Lyons, South Dakota, which was closed by the Director of Banking and Finance for the State of South Dakota on Friday, June 15, 1984; (2) accepted the bid for the transaction submitted by Dakota State Bank, Colman, South Dakota, an insured State nonmember bank; (3) approved the application of Dakota State Bank, Colman, South Dakota, for consent to purchase certain assets of and to assume the liability to pay deposits made in Farmers State Bank, Lyons, South Dakota, and for consent to establish the main office and one branch of Farmers State Bank as branches of Dakota State Bank; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(C) considered a recommendation with respect to the initiation and conduct of a removal proceeding against certain individuals in connection with an insured bank (names of persons and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

In reconvening the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. David L. Chew, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the

meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 4:55 p.m., and at 6:20 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Corning Bank, Corning, Arkansas, which was closed by the State Bank Commissioner for the State of Arkansas on Friday, June 15, 1984; (2) accepted the bid for the transation submitted by The Corning Bank, Corning, Arkansas, a de novo bank; (3) approved the application of The Corning Bank, Corning, Arkansas, a de novo bank, for Federal deposit insurance, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Corning Bank, Corning, Arkansas (the failed bank), and for consent to establish the two branches of the failed bank as branches of the de novo bank; and (4) provided such financial assistance, pursuant to section 13 (c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), was necessary to effect the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. David L. Chew, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public obervation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 18, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-16723 Filed 6-19-84; 8:45 am]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

[Federal Register No. 84-15345]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 21, 1984, 10:00 a.m.

THE FOLLOWING ITEM HAS BEEN CONTINUED FROM THE MEETING OF JUNE 14, 1984: Draft Advisory Opinion #1984-23, Charles E. Hawkins, III, on behalf of Associated Builders and Contractors, Inc.

* * * * *

DATE AND TIME: Tuesday, June 26, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, June 28, 1984, 10:00 a.m.

PLACE: 1325 K STREET, NW., WASHINGTON, D.C. (FIFTH FLOOR).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1984-17: James Bopp, Jr., on behalf of National Right to Life Committee, Inc.
Draft Advisory Opinion #1984-26: J. David Keaney, on behalf of Honorable David M. Bartley for U. S. Senate Committee
Finance Committee report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Majorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-16863 Filed 6-19-84; 11:24 am]

BILLING CODE 6715-01-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10:00 a.m., Wednesday, June 27, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16724 Filed 6-19-84; 8:45 am]

BILLING CODE 6210-01-M

8

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 2:30 p.m., Tuesday, June 26, 1984.

PLACE: Department of Agriculture, Thomas Jefferson Memorial Auditorium, Wing 5 Entrance, 14th and Independence, Washington, DC 20250.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Special Share Insurance Premium.
4. Appeal of Regional Director's Denial of Charter Amendment for Waterford School Employees FCU #7604.
5. Appeal of Regional Director's Denial of Bylaw Amendment for Mid States Corporate FCU #22253.
6. Community Charter Application: Proposed Southeast Fort Worth Federal Credit Union (Texas).
7. Committee Report on Field of Membership Study.

TIME AND DATE: 9:00 a.m., Wednesday, June 27, 1984.

PLACE: National Credit Union Administration, Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Insurability of Accounts Under Sections 101 and 207 of the Federal Credit Union Act. Closed pursuant to exemption (9)(A)(ii).
3. Special Assistance Under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-16825 Filed 6-18-84; 5:01 pm]

BILLING CODE 7535-01-M

federal register

Thursday
June 21, 1984

Part II

Department of Energy

41 CFR Ch. 109

Property Management Regulations; Final Rule

DEPARTMENT OF ENERGY

41 CFR Ch. 109

Property Management Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Energy Property Management Regulations (DOE–PMR, 41 CFR Ch. 109) which were published on January 3, 1979 (44 FR 986). The revisions update the regulations to reflect: (i) Organizational, policy, and procedural changes that have occurred subsequent to their issuance; (ii) amendments to the Federal Property Management Regulations (41 CFR Ch. 101); and (iii) the issuance of the Federal Acquisition Regulations (FAR) and the Department of Energy Acquisition Regulations (DEAR) which became effective April 1, 1984. Because of the extensive changes to the DOE–PMR, with the exception of Parts 109–35 and 109–40, they are printed in their entirety in this final rule.

EFFECTIVE DATE: June 21, 1984.

FOR FURTHER INFORMATION CONTACT:

John D. French, Director, Property and Equipment Management Division, Procurement and Assistance Management, Department of Energy, Washington, D.C. 20585, (202) 252–8255

Elliot Winnick, Office of General Counsel, Department of Energy, Room 6B–190, Washington, D.C. 20585, (202) 252–1526

SUPPLEMENTARY INFORMATION:

I. Legislative Background
II. Written Comments
III. Procedural Requirements

I. Legislative Background

Under Section 644 of the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in him. The Department of Energy Property Management Regulations (DOE–PMR) were promulgated on January 3, 1979 (44 FR 986, 41 CFR Chapter 109).

On March 30, 1984, DOE published proposed amendments to the aforesaid Property Management Regulations in the **Federal Register** (49 FR 12822). Interested persons were invited to submit written comments on the proposed amendments, and such comments were received from DOE component organizations. The changes made in this final rule reflect the recommended revisions contained in the comments received.

II. Written Comments

Written comments were received from five DOE component organizations and were carefully reviewed and fully considered in the formulation of the final rule. Accordingly, this final rule reflects the following revisions which were recommended in the comments received:

1. Part 109–29 has been inserted in the table of contents and in the regulation. This part was erroneously omitted in the proposed amendment. There is no substantive change from the current DOE–PMR.

2. Section 109–1.5106–1 has been revised to clarify the requirement for identification marking of Government property.

3. Section 109–45.5003–2 has been revised to reflect the current operating policy of heads of field offices approving or disapproving requests for utilization or disposal of contaminated property outside of DOE.

4. In Section 109–50.310, the DOE office in Seattle, Washington, has been deleted from the list of screening locations.

5. In Section 109–60.001, the acquisition cost of equipment for capitalization purposes has been revised to $1,000 to reflect the current DOE policy.

6. Several changes have been made to correct typographical errors or to make editorial improvements or clarifications. These changes do not substantively revise DOE policies or procedures.

III. Procedural Requirements

A. Review Under Executive Order 12291

Inasmuch as this final rule relates to agency management of personal property under the DOE procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE has determined that this final rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

The information collections in this rule have been submitted to the Office of Management and Budget for clearance under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and 5 CFR 1320.

List of Subjects in 41 CFR Ch. 109

Government property, DOE property management regulations.

(Section 644 of the Department of Energy Organization Act (Pub. L. 95–91, 42 U.S.C. 7254))

For the reasons set out above, Chapter 109 of Title 41 of the Code of Federal Regulations, except for Parts 109–35 and 109–40, is hereby revised to read as set forth below.

Issued in Washington, D.C. June 15, 1984.

Thomas J. Davin, Jr.,

Acting Director, Procurement and Assistance Management Directorate.

Chapter 109—Department of Energy Property Management Regulations

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Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–1.000–50 Scope of part.

This part establishes a system by which the Department of Energy (DOE) implements and supplements the Federal Property Management Regulations (FPMR) (41 CFR Chapter 101) issued by the General Services Administration (GSA).

Subpart 109–1.1–Regulation System

§ 109–1.100–50 Scope of subpart.

This subpart establishes the Department of Energy Property Management Regulations (DOE–PMR), Chapter 109 of the Federal Property Management Regulations System (FPMR)(41 CFR Chapter 109).

§ 109–1.100–51 Definitions.

As used in this chapter the following definitions apply:

(a) "Heads of field offices" are the heads of any Departmental office located outside the Washington, D.C. metropolitan area. In addition, the Federal Energy Regulatory Commission, Headquarters, shall be considered a field office for purposes of these regulations. See § 109–1.5005–4 concerning the responsibilities of the Director, Office of Procurement Operations, Procurement and Assistance Management Directorate, Headquarters.

(b) "Direct operations" means operations conducted by DOE personnel.

(c) "Contractor" means a management and operating contractor, as that term is defined in the Federal Acquisition Regulation (FAR) 48 CFR 17.601 as supplemented by the Department of Energy Acquisition Regulations (DEAR) 48 CFR 917.604–70, and such other contractors as may be designated by the Procurement Executive or head of the contracting activity as subject to the provisions of this chapter.

§ 109–1.102–50 Department of Energy Property Management Regulations.

The DOE–PMR, established in this part, implement and supplement the FPMR provisions governing the acquisition, utilization, management, and disposal of personal property. The DOE–PMR are issued to establish uniform property management policies and, as necessary, procedures for the Department of Energy. (See 109–1.106–50(d) and (e) with respect to management of property in the possession of other DOE contractors and financial assistance recipients).

§ 109–1.103–50 DOE–PMR Bulletins.

A DOE–PMR Bulletin will be used to disseminate information not affecting policy or to clarify instructions in actions required by the FPMR or the DOE–PMR.

§ 109–1.104–50 Publication and distribution of DOE–PMR.

§ 109–1.104–1–50 Publication.

The DOE–PMR will be published in the **Federal Register** and will appear in the Code of Federal Regulations as Chapter 109 of Title 41, Public Contracts and Property Management. Looseleaf publications will be distributed to DOE offices.

§ 109–1.104–2–50 Distribution.

The responsibilities and authorities for distribution of publications in the FPMR series are as follows:

(a) The Director of Procurement and Assistance Management—

(1) Designates an official to serve as liaison with GSA;

(2) Establishes and maintains distribution patterns; and

(3) Processes DOE–PMR Handbooks for final approval and publication.

(b) The Director of Administration—

(1) Distributes publications in accordance with established patterns;

(2) Maintains a stock of FPMR and DOE–PMR publications for furnishing additional copies; and

(3) Provides additional support services as required.

(c) Heads of field offices—

(1) Provide the Director of Procurement and Assistance Management with field organization requirements;

(2) Forward one-time requests for additional copies of centrally distributed publications to the Office of Administrative Services, Headquarters (MA–234.2); and

(3) Distribute publications to their offices and contractors in accordance with established distribution patterns.

§ 109–1.106–50 Applicability of Federal and Departmental regulatory issuances.

(a) The FPMR and this DOE–PMR apply to all direct operations.

(b) Unless otherwise provided in the appropriate part or subpart, contracting officers shall assure that the FPMR and DOE–PMR are applied to contractors.

(c) The FPMR and DOE–PMR, as appropriate, shall be used by contracting officers in the administration of contracts, and in the review, approval, or appraisal of such contractor operations.

(d) Regulations for the management of Government property in the possession of other DOE contractors are contained in the Federal Acquisition Regulations, Part 45 (48 CFR Chapter 1) and in the DOE Acquisition Regulations, Part 945 (48 CFR Chapter 9).

(e) Regulations for the management of property held by financial assistance recipients are contained in the DOE Financial Assistance Rules (10 CFR Part 600) and the Financial Assistance Procedures Manual, DOE Order 4600.1.

§ 109–1.107–50 Consultation regarding DOE–PMR.

The DOE–PMR shall be fully coordinated with all Departmental elements substantively concerned with the subject matter.

§ 109–1.108 Agency implementation and supplementation of FPMR.

(a) The DOE–PMR shall include regulations deemed necessary to understand basic and significant Departmental property management policies and procedures which implement, supplement, or deviate from the FPMR. In the absence of any DOE–PMR issuance, the basic FPMR material shall govern.

(b) The DOE–PMR shall be consistent with the policies and procedures contained in the FPMR and shall not duplicate or paraphrase the FPMR material.

(c) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE–PMR may be issued by Headquarters or field organizations provided that the implementing procedures, instructions and guides—

(1) Are consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicates, paraphrases, or is inconsistent with the contents of this regulation.

§ 109–1.109–50 Numbering of DOE–PMR.

(a) Where the DOE–PMR implement the FPMR, the implementing part, subpart, section or subsection of the DOE–PMR will be numbered and captioned, to the extent possible, to correspond to the applicable part, subpart, section, or subsection of the FPMR.

(b) Where the DOE–PMR supplement the FPMR, the numbers 50 and up will be assigned to the parts, subparts, sections or subsections involved.

§ 109–1.110–50 Deviation procedures.

(a) Requests for deviations from the FPMR and the DOE–PMR shall be forwarded to the Headquarters organization having functional responsibility, as follows:

(1) Part 109–35—Director, Division of Telecommunications.

(2) Part 109–40—Assistant Secretary for Defense Programs.

(3) All other parts—Director of Procurement and Assistance Management.

(b) In individual cases, deviations from the FPMR and DOE–PMR may be authorized by the Headquarters organization having functional responsibility. A supporting statement for each individual deviation, which indicates briefly the nature of the deviation, the reasons for such special action, and the Headquarters approval, shall be maintained by the Headquarters organization concerned.

(c) In classes of cases, requests for deviations from the FPMR and the DOE–PMR shall be accompanied by a supporting statement. Requests shall be considered on an expedited basis and coordination with Headquarters organizations will be obtained as appropriate. Requests involving the FPMR will be considered jointly by DOE and GSA, unless, in the judgment of the Headquarters organization having functional responsibility, circumstances preclude such joint effort. In such cases, the organization having functional responsibility will approve such class deviations as determined to be necessary and notify GSA.

Subpart 109–1.50—Personal Property Management Program

§ 109–1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property management policy and program objectives, and prescribes authorities and responsibilities for the conduct of an effective property management program in DOE.

§ 109–1.5001 Policy.

It is DOE policy that a program for the management of Government personal property (sometimes referred to as personal property or as property) shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and Federal agency regulations.

§ 109–1.5002 Property management program objectives.

The objectives of the DOE property management program are to provide—

(a) A system for effectively managing Government personal property in the custody or possession of DOE organizations and DOE contractors; and

(b) Uniform principles, policies, standards, and procedures for economical and efficient management of Government personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

§ 109–1.5003 Definitions.

As used in these regulations, the following definitions apply:

(a) "Government personal property" means property of any kind or type which is Government-owned or -rented or -leased from commercial sources in the custody of DOE or its contractors except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Order 5630.2 "Control and Accountability of Nuclear Materials, Basic Principles" apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in Section II of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

(b) "Personal property management" means the development, implementation, and administration of policies, programs and procedures for effective and economical acquisition, receipt, storage, issue, use, control, physical protection, care and maintenance, determination of requirements and maintenance of related operating records, and disposal, as appropriate, for Government personal property exclusive of the accounting records.

§ 109–1.5004 Delegation of authority.

(a) The Secretary of Energy has delegated to the Assistant Secretary,

Management and Administration, on a non-exclusive basis, the authority to acquire, manage, and dispose of personal property held by the Department for official use by its employees or contractors.

(b) The Assistant Secretary, Management and Administration has delegated to the Director, Procurement and Assistance Management, the authority to acquire, manage, and dispose of personal property held by the Department for official use by its employees or contractors.

(c) The Director of Administration and Heads of field offices are delegated appropriate procurement authority by memorandum from the Director, Procurement and Assistance Management, to acquire, manage, and dispose of personal property held by the Department for official use by its employees or contractors, consistent with policies, standards, and procedures as contained in this regulation.

§ 109–1.5005 Responsibilities.

§ 109–1.5005–1 The Director of Procurement and Assistance Management.

The Director of Procurement and Assistance Management provides direction and general supervision in the development and administration of an effective and efficient personal property management system for the Department, to include:

(a) The establishment of Department-wide policies, standards, systems, regulations, and procedures in accordance with applicable laws and regulations and sound management practice; and

(b) The review, evaluation, and improvement of personal property management programs, functions, operations, and procedures in the Department.

§ 109–1.5005–2 The Departmental Property Management Officer.

The Departmental Property Management Officer shall be the Director, Property and Equipment Management Division, Headquarters. This individual is responsible for developing, promoting, monitoring, administering, coordinating, and evaluating the Department-wide personal property management program, and shall—

(a) Develop and maintain Departmental personal property policies, standards and procedures;

(b) Develop and publish Departmental regulations relating to personal property management;

(c) Represent the Department with GSA and other agencies on matters relating to personal property management;

(d) Submit Departmental personal property management reports to GSA, the Congress and other Federal agencies, as required;

(e) Provide staff assistance to Departmental organizations performing personal property management functions;

(f) Conduct reviews and appraisals of Departmental personal property management functions; and

(g) Prepare the Departmental aircraft and motor vehicle budget.

§ 109–1.5005–3 The Director of Administration.

The Director of Administration—

(a) Manages personal property for DOE direct operations located in the Washington, D.C. metropolitan area with the exception of the Federal Energy Regulatory Commission.

(b) Exercises responsibilities cited in § 109–1.5005–5 as they relate to functions under his/her management control; and

(c) Appoints an Organizational Property Management Officer to be responsible for his/her organization's personal property management program.

§ 109–1.5005–4 Director, Office of Procurement Operations, Procurement and Assistance Management.

The Director, Office of Procurement Operations, Procurement and Assistance Management Directorate, Headquarters, shall exercise the responsibilities of the head of a field office as set forth in these regulations with respect to the management of property held under contracts for which his/her office is responsible.

§ 109–1.5005–5 Heads of field offices.

Heads of field offices shall—

(a) Appoint an Organizational Property Management Officer who shall be responsible for the organization's personal property management program; and

(b) Establish and administer a personal property management program within the organization which will provide for—

(1) Effective management of Government personal property in the custody of DOE and its contractors, consistent with applicable laws and regulations;

(2) Application of personal property management regulations, instructions, standards, procedures, and practices as prescribed in the FPMR and DOE–PMR;

(3) Planning and scheduling of property requirements to assure that supplies and equipment are readily available to satisfy program needs while minimizing operating costs and inventory levels;

(4) Development and maintenance of complete and accurate inventory control and accountability record systems;

(5) Maximum utilization of available property for official purposes;

(6) Proper care and securing of property to include storage, handling, preservation, and preventative maintenance;

(7) Identification of property excess to the needs of the organization, and proper reutilization of this property within the Department and reporting to GSA for transfer, donation, or disposal;

(8) The development and submission of required property management reports;

(9) Assuring that DOE employees and contractors are aware that acts of theft, illegal possession, and unlawful destruction or use of Government personal property are violations punishable under Federal law, notwithstanding disciplinary measures taken under administrative policy;

(10) Assuring that DOE employees and contractors are aware that every user of Government personal property is responsible for its physical protection and for reporting the loss, theft, destruction or damage of property;

(11) The conducting of periodic management reviews within the activity to assure compliance with prescribed policies, regulations, standards, and procedures; and

(12) The establishment of equipment and supply subsidiary records and accounts to support general ledger control accounts for personal property.

§ 109–1.5005–6 Organizational Property Management Officer.

The Organizational Property Management Officer (OPMO)—

(a) Provides advice and guidance for the organization's personal property management program;

(b) Coordinates and conducts the activities of the organization's personal property management program;

(c) Serves as principal contact point for the organization in matters concerning personal property management; and

(d) Represents the organization, or designates a representative, to attend Department meetings concerning personal property management issues, and acts as liaison with other DOE offices or other Federal agencies in property management matters affecting their organization.

§ 109–1.5005–7 Contracting officers.

Contracting officers shall—

(a) Assure that all contracts that involve property contain the applicable DEAR property clause; and

(b) Assure that contractors' personal property management systems are reviewed, appraised, and approved as provided for in § 109–1.52.

Subpart 109–1.51—Personal Property Management Standards and Practices

§ 109–1.5100 Scope of subpart.

This subpart provides guidance on DOE standards and practices to be applied in the management of Government personal property.

§ 109–1.5101 Definition.

"Sensitive items" are those items of property, regardless of value, which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.

§ 109–1.5102 Official use of property.

Property shall be used only in the performance of official work of the United States Government, except (a) in emergencies threatening loss of life or property, or (b) as otherwise authorized by law and approved by the Director of Administration and heads of field offices for their respective organizations, or by the contracting officer for contractor-held property.

§ 109–1.5103 Maximum use of property.

Property management practices shall assure that the best possible use is made of property. Supplies and equipment shall be generally limited to those items essential for carrying out the programs of DOE effectively. Adequate staff review shall be made of operating programs to coordinate and plan future supply activities and to assure against overstocking, waste, and improper use of property.

§ 109–1.5104 Loan of property.

(a) Property which would otherwise be out of service for temporary periods (and not excess) may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. Such loans shall be covered by written agreements or memorandum receipts which shall include all terms of the loan (such as loan period, delivery time, method of payment of transportation, point of delivery and return, conditions of use, responsibilities of the borrower for condition of property on return, inspection requirements, etc.) that may be required to ensure proper control and protect DOE's interest. The loan period should not exceed one year, but may be renewed.

(b) Requests for loan by foreign Governments and other foreign organizations shall be submitted through the Property and Equipment Management Division (MA–422) to the Assistant Secretary for International Affairs for approval, with a copy to the cognizant Headquarters program office.

§ 109–1.5105 Borrowing of property.

(a) DOE organizations and contractors are encouraged to borrow property within DOE to further DOE programs. Property classified as "Equipment Held For Future Projects (EHFFP)" or as "In Standby" should be reviewed by those receiving availability inquiries for short-term loans (one year or less). Borrowing of Government property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be covered by written agreements which include all the terms of the transaction.

(b) In determining whether it is practical and economical to borrow property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

§ 109–1.5106 Control of property.

§ 109–1.5106–1 Identification marking of property.

(a) Government property will be identified as U.S. Government property subject to the criteria below. Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

(1) Capitalized and sensitive property shall be marked as U.S. Government property and by numbering for control purposes.

(2) Other property susceptible to unauthorized personal use, such as hand tools, should be considered for marking as U.S. Government property, and by numbering for control purposes.

(b) Property which by its nature cannot be marked, such as stores items, metal stock, etc., is exempted from this requirement. Such Government property in the custody of contractors should not be commingled with contractor-owned property unless it is determined by the contracting officer to be advantageous to the Government.

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of DOE, or additional markings may be added to indicate such disposal.

§ 109–1.5106–2 Segregation of property.

Ordinarily, provisions shall be made for the contractor to keep Government property segregated from contrator-owned property. Commingling of Government-owned and contractor-owned property may be allowed only when—

(a) The segregation of the property would materially hinder the progress of the work, i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs; and

(b) Control procedures are adequate, i.e., the Government property is specifically marked or otherwise identified as being Government property.

§ 109–1.5106–3 Physical protection of property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, marking of tools, and perimeter fencing shall be established as required to prevent loss, theft, or unauthorized movement of property from the premises on which such property is located.

§ 109–1.5106–4 Control of sensitive items.

(a) Controls shall be established over the acquisition, storage, issue, use, and return of sensitive items of property.

(b) Items on capital equipment which are also designated as sensitive items will be controlled as sensitive items and as capital equipment.

(c) A list of sensitive items shall be maintained for property considered to require special controls before and after issue. Determination of specific sensitive items shall be a matter for management judgment at individual locations, taking into consideration the dollar value of the items to be controlled and costs of administration.

(d) Written procedures shall be established for control of sensitive items, to include:

(1) Approval of purchase requisitions or issue documents at an appropriate supervisory level prior to acquisition or issue;

(2) Establishment of administrative controls in the central receiving and warehousing department. Such controls should include extraordinary physical protection, guidance for receiving and warehousing personnel as to procedures for protection, and a current listing of sensitive items;

(3) Establishment and maintenance of appropriate property management records;

(4) Requirements for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;
(6) Establishment of custodial responsibilities describing—
(i) Need for extraordinary physical protection;
(ii) Requirement for prompt reporting of apparent loss, damage or destruction;
(iii) Requirement to return items in condition beyond economical repair to an appropriate organizational element;
(iv) Requirement for promptly reporting changes in custody or extended loans;
(v) Reminder of prohibition of use for other than official purposes, and penalties for misuse;
(vi) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances; and
(vii) A clear definition of the extent of responsibility or financial accountability, depending on contractor policy.
(7) Requirement for annual physical inventory;
(8) Requirement for prompt and thorough investigation of losses;
(9) Requirement for an employee transfer or termination checkout procedure and examination and adjustment of records; and
(10) Other property management procedures which, through experience and independent audit, have demonstrated effective physical and administrative control over sensitive items.

§ 109–1.5106–5 Physical inventories.

(a) Physical inventories of property shall be conducted at all DOE and contractor locations, consistent with approved procedures and generally accepted accounting procedures.
(b) The preferred method of performing physical inventories is by the use of personnel other than the property staff or custodian of the property. Where staffing restraints or other considerations require, the inventory may be performed by the property staff or the custodian.
(c) Detailed procedures for the taking of physical inventories shall be developed for each DOE organization and contractor. The Director of Administration and heads of field offices shall approve the procedures for their respective DOE operation. The appropriate field organization staff shall review and approve contractor's procedures.

(d) The taking of a physical inventory will be observed, or follow-on audits made, by independent representatives, e.g., finance, audit, or property staffs, to the extent deemed necessary to assure that the procedures are being followed and the results are accurate. These observations or audits should be documented and the documentation should be retained in the inventory record file.

(e) Procedures that are limited to a check-off of a listing of recorded property without actual verification of the location and existence of such property do not meet the requirements of a physical inventory.

(f) The frequency of physical inventories shall be as follows:
(1) *Moveable capital equipment*—not less frequently than every two years.
(2) *Sensitive items*—not less frequently than every twelve months.
(3) *Stores inventories*—not less frequently than every twelve months.
(4) *Precious metals*—not less frequently than every six months.

(g) A physical inventory shall be performed at intervals more frequently than required in § 109–1.5106–5(f) whenever experience at any given location or with any given item or items indicates that this action is necessary for effective property accounting, utilization, or control.

(h) Special inventories may be required on certain types of property or on certain items or kinds of items when circumstances arise requiring such action, such as audits or special reviews.

(i) The results of physical inventories shall be reconciled with the property records and, except for non-capital sensitive items, with the financial control accounts in accordance with Chapter VI of the DOE Accounting Practices and Procedures Handbook.

(j) Physical inventories of capital equipment and stores inventories may be conducted by the "statistical sampling" method in lieu of the normal "wall-to-wall" method. In addition, the "inventory by exception" method may be used for capital equipment physical inventories. However, the system and procedures for taking physical inventories by these methods must be fully documented and approved by the Director of Administration and by heads of field offices for their respective organizations.

§ 109–1.5107 Retirement of property.

When Government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, abandonment, or damage. The retirement work order shall be reviewed by the property management staff and signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report.

§ 109–1.5108 Property belonging to others.

Procedures shall be established which will provide for adequate attention to the management of property belonging to other Federal agencies in the possession or custody of DOE organizations or its contractors.

§ 109–1.5109 Employee participation.

Full advantage shall be taken of suitable methods for stimulating employee participation and cooperation in carrying out an effective and economical program of property management. Some examples of effective methods are (a) indoctrination of new employees and others who have access to or use property, (b) the use of incentive award plans to promote interest, and (c) the use of visual aids such as posters, plant publications, outdoor signboards, and displays to keep employees informed as to progress and to remind them of their responsibilities.

§ 109–1.5110 Use of non-Government-owned property.

Non-Government-owned personal property shall not be installed in, affixed to, or otherwise made a part thereof, of any Government-owned personal or real property. This restriction does not apply to the use and installation of privately owned decorative items or memorabilia to the workplace, provided that the structure or safety of the facility is not thereby degraded.

§ 109–1.5148 Personal property management reports.

Property management reports to be submitted to the Property and Equipment Management Division (MA–422) are listed below.

Report title	Due at DOE headquarters	References	Form No.
(a) Reports required of all offices.			
(1) Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority.	Nov. 30	FPMR 101-46.407, DOE-PMR 109-46.407.	Letter.
(2) Excess Personal Property Furnished to Non-Federal Recipients.	Nov. 15	FPMR 101-43.4701(c), DOE-PMR 109-43.4701(c).	Letter.
(3) Contractor Property Holdings	Oct. 31	DOE-PMR 109-1.5205	Letter.
(4) Precious Metals	Oct. 31	FPMR 101-42.301-1, DOE-PMR 109-42.301-1.	Letter.
(5) Agency Report of Motor Vehicle Data.	Oct. 31	FPMR 101-38.1, DOE-PMR 109-38.1	SF 82.
(6) Unused Passenger Vehicle Replacement Authorizations.	June 15	DOE-PMR 109-38.5101-5(b)	Letter.
(7) Report of Exempted Motor Vehicles.	On request	FPMR 101-38.607, DOE-PMR 109-38.607.	Letter.
(8) Annual Forecast for Acquisition of Fuel Efficient Passenger Automobiles.	Dec. 1	Executive Order 12375, DOE-PMR 109-38.1306.	Letter.
(9) Aircraft Cost and Operations	Dec. 31	DOE-PMR 109-38.5212(a)	DOE F 4450.1.
(b) Reports required from field offices not reporting through the DOE Financial Information System.			
(1) Utilization and Disposal of Excess and Surplus Personal Property.	Nov. 15	DOE Order 2200, Chapter XI	CR 85-2.
(2) Summary of Excess Property Received from Other Agencies.		DOE Order 2200, Chapter XI	CR 85-4.
(3) Supply Activity Report	Nov. 15	DOE-PMR 109-25.48	GSA F 1473.
(4) Direct Labor Costs of Stores Warehousing Activities.	Nov. 15	DOE Order 2200, Chapter XI	CR 85-7.
(5) Completed Plant and Equipment	Oct. 31	DOE Order 2200, Chapter XI	CR 84-32.
(6) Equipment Held for Future Projects	Oct. 31	DOE Order 2200, Chapter XI	CR 57.

Subpart 109-1.52—Contractors' Personal Property Management Program

§ 109-1.5200 Scope of subpart.

This subpart prescribes policy and responsibilities for the establishment, maintenance, review and appraisal of a contractor's program and system for the management of Government personal property.

§ 109-1.5201 Policy.

(a) Contractors shall establish, maintain, and administer a program for the effective management of Government personal property consistent with the terms of the contract and directives for the contracting officer.

(b) Contractors shall maintain their personal property management systems in writing on a current basis.

(c) Contractors shall require those subcontractors provided Government property under the prime contract to establish and maintain a system for the management of such property. Procedures for assuring effective property management shall be included in the contractor's property control system. As a minimum, a subcontractor's system for control of Government property shall provide for the following:

(1) Adequate records.

(2) Controls over acquisitions.

(3) Identification as Government property.

(4) Physical inventories.

(5) Proper care, maintenance, and protection.

(6) Reporting, redistribution, and disposal of excess and surplus property.

(7) A retirement work order procedure to account for property that is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair.

(8) Periodic reporting, including physical inventory results and, at least annually, the total acquisition cost of Government property in the possession of the subcontractor.

(9) An internal surveillance system, including periodic reviews, to ensure that property is being managed in accordance with established procedures.

§ 109-1.5202 Designation of property administrator.

The contracting officer shall designate a property administrator to be responsible for property administration. This property administrator will be delegated the authority to assist the contracting officer on all matters involving the Government-owned personal property held by the contractor. If a property administrator has not been designated, the contracting officer is the property administrator.

§ 109-1.5203 Review and approval of contractor's property management system.

(a) A contractor's property management system should be reviewed by the property administrator within one year after the execution date of the contract, and the property administrator shall approve or disapprove the system in writing. If the system is disapproved, the property administrator shall advise the contractor, in writing, of deficiencies that need to be corrected, and a time schedule established for completion of the corrective actions.

(b) The purpose of the review is to determine whether the system will adequately protect, maintain, utilize, and dispose of Government personal property in accordance with the FPMR, the DOE-PMR, and applicable DOE directives.

(c) Appropriate follow-up will be made by the property administrator to ensure that corrective actions are taken.

(d) Any change to the approved property management system made after the original review and approval should be reviewed by the property administrator at the earliest possible time. Such changes should then be approved/disapproved by the property administrator as appropriate.

§ 109-1.5204 Property management appraisals.

(a) At least every two years (with a maximum period of three years) after the execution date of the contract, the property administrator shall make an appraisal of the property management operation of the contractor. The appraisal may be based on a formal in-depth appraisal on-site or a series of formal appraisals of the functional segments of the contractor's property management system to determine if the contractor is managing the Government personal property in its custody in accordance with its previously approved policies and procedures, the FPMR, the DOE-PMR, and applicable DOE directives. The property administrator shall bring deficiencies in the contractor's property management operation to the attention of the contractor's management for correction.

(b) Appropriate follow-up will be made by the property administrator to ensure that corrective actions are taken.

§ 109-1.5205 Reporting.

Within 30 days after the end of each fiscal year, heads of field offices shall report the following information to the Director, Property and Equipment Management Division (MA-422):

(a) Name and address of each contractor.

(b) Contract number.

(c) Date contractor's property management system was approved.

(d) Date of most current appraisal of contractor's property management system, and status of the system (satisfactory or unsatisfactory).

SUBCHAPTER C—DEFENSE MATERIALS

PART 109-14—NATIONAL DEFENSE STOCKPILE

Sec.

109-14.000 Scope of part.

Subpart 109-14.1—Transfer of Strategic and Critical Materials Excess to Agency Needs to the National Defense Stockpile

Sec.

109-14.103-1-50 Exceptions to reporting.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-14.000 Scope of part.

This part implements and supplements FPMR Part 101-14, National Defense Stockpile.

Subpart 109-14.1—Transfer of Strategic and Critical Materials Excess to Agency Needs to the National Defense Stockpile

§ 109-14.103-1-50 Exceptions to reporting.

The following materials excess to the needs of a DOE organization or contractor shall be reported to the DOE pool instead of to GSA:

(a) Precious metals, which include gold, silver, and the platinum family (See § 109-43.313-54).

(b) Lead (See § 109-43.313-57).

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109-25—GENERAL

Sec.

109-25.000-50 Scope of subchapter.
109-25.001-50 Scope of part.

Subpart 109-25.1—General Policies

109-25.100 Use of Government personal property and nonpersonal services.
109-25.101-1-50 Definitions.
109-25.104 Acquisition of office furniture and office machines.
109-25.109 Laboratory and research equipment.
109-25.109-1 Identification of idle equipment.
109-25.109-2 Equipment pools.
109-25.110-4 Recordkeeping responsibilities.
109-25.113 Leasing of motor vehicles.

Subpart 109-25.3—Use Standards

109-25.302 Office furniture, furnishings and equipment.
109-25.302-1 Executive type office furniture and furnishings.
109-25.302-2-50 Filing cabinets and equipment.
109-25.302-3 Electric typewriters.
109-25.302-4 Figuring machines.
109-25.302-6 Electronic office machines.
109-25.304 Additional systems and equipment for passenger motor vehicles.
109-25.304-50 Communications equipment exemption.
109-25.350 Use of furnishings and household goods in Government personnel quarters.
109-25.351 Furnishing of Government clothing and individual equipment to employees.

Subpart 109-25.4—Replacement Standards

109-25.401-50 Replacement approvals.

Subpart 109-25.48—Reports

Sec.

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-25.000-50 Scope of subchapter.

This subchapter implements and supplements FPMR Subchapter E, Supply and Procurement.

§ 109-25.001-50 Scope of part.

This part implements and supplements FPMR Part 101-25, General, and provides cross-references to the DOE Acquisition Regulations (DEAR) where appropriate.

Subpart 109-25.1—General Policies

§ 109-25.100 Use of Government personal property and nonpersonal services.

The Director of Administration and heads of field offices for their respective organizations shall ensure that the provisions of FPMR 101-25.100 are enforced to restrict the use of Government property/services to officially designated activities.

§ 109-25.101-1-50 Definitions.

As used in this subpart, the following definitions apply:

(a) "Equipment" consists of those items of nonexpendable personal property having an anticipated service life of one year or more regardless of use or source of funding.

(b) "Equipment pool" is a formally designated collection of equipment, generally functionally associated, which is available for loan or temporary use. The pool may be a physical collection of equipment or may be a record system which provides identification, location and availability information on equipment available for loan or temporary use.

(c) "Equipment in storage" is all equipment not in use, whether stored in formal storage areas, stored in or adjacent to work areas, held for future projects, or retained in standby or abandoned facilities.

§ 109-25.104 Acquisition of office furniture and office machines.

In making a determination as to whether requirements can be met through the utilization of already owned furniture and office machines as contemplated in FPMR § 101-25.104, reasonable efforts shall be made to determine whether such items are available from other DOE organizations and contractors within a reasonable transport distance. Such efforts shall include direct inquiries and shall not be limited to a review of available property circularized in accordance with § 109-43.311-1-50.

§ 109-25.109 Laboratory and research equipment.

(a) The provisions of FPMR 101-25.109 and this section shall apply to all types of personal property, including office furniture and office machines, in addition to laboratory and research equipment.

(b) The provisions of FPMR 101-25.109 and this section apply to all DOE field organizations and contractors, and are not limited to Federal laboratories.

§ 109-25.109-1 Identification of idle equipment.

(a) See § 109-25.109(b).

(b) As a minimum, management walk-through inspections shall be scheduled to provide for coverage of all operating and storage areas at least once every two years to identify idle and unneeded personal property. The frequency of management walk-through inspections may vary with the operation or area involved. A report of walk-throughs conducted, including participants, areas covered, findings, recommendations, and results achieved shall be submitted to the head of the laboratory or other facility involved. Equipment identified as idle and unneeded shall be redeployed, reassigned, placed in equipment pools or declared excess, as appropriate.

(c) In accordance with FPMR § 101-25.109-1(c), members of management walk-through inspection teams should be appointed by the head of the DOE or contractor facility.

(d) Heads of field offices and contracting officers shall periodically review walk-through procedures and practices of organizations under their jurisdiction to evaluate their effectiveness. This review should include actual walk-through inspections of representative DOE or contractor facilities.

§ 109-25.109-2 Equipment pools.

(b) In accordance with FPMR § 101-25.109-2(b), equipment pools shall be established where practicable to obtain optimum utilization of equipment. The number and types of pools to be established will depend upon local circumstances. In addition to those provided in FPMR § 101-25.109-2, factors to be considered are types of equipment, number and location of potential users and distances involved.

(c) In accordance with FPMR § 101-25.109-2(c), surveys of equipment holdings should be conducted periodically to determine those items which are suitable for pooling. Criteria

for placing an item in a pool should include (but not be limited to) the following: The item is suitable for use by more than one individual or group; its use is intermittent rather than full time; it has a degree of portability; and it has sufficient cost or value to merit controlling. It is anticipated that items pooled would vary from one activity to another due to local conditions, and each activity should develop its own criteria for items to be pooled. Items to be considered for pooling include (but are not limited to) certain types of measuring and recording equipment, pumps, electric motors, photographic equipment, portable tools, microscopes, portable radios, power supplies, amplifiers, business machines, radiation detection instruments, and construction and automotive equipment. Where feasible, equipment pools should be combined with existing calibration and maintenance services to foster use and control of pooled equipment.

(d) Records of usage shall be maintained to permit the evaluation of need for quantities and types of equipment in pools. Reviews of usage should be conducted periodically (at least annually) to eliminate items which are no longer required. Heads of field offices shall require DOE and contractor facilities to submit to them annually the report on the use and effectiveness of equipment pooling required by FPMR § 101–25.109–2(d).

(e) Heads of field offices and contracting officers shall require periodic independent reviews of equipment pool operations as required by FPMR § 101–25.109–2(e).

§ 109–25.110–4 Recordkeeping responsibilities.

In accordance with FPMR 101–25.110–4, heads of field offices shall establish procedures for promptly identifying and locating all tires whether in storage or in use on vehicles so that tire recall notices may be acted upon expeditiously.

§ 109–25.113 Leasing of motor vehicles.

See DEAR 908.11 and FPMR §§ 101–26.501–9 and 101–39.601 for additional guidance concerning the leasing of motor vehicles.

Subpart 109–25.3—Use Standards

§ 109–25.302 Office furniture, furnishings, and equipment.

(a) The criteria contemplated in FPMR § 101–25.302 shall be established by the Director of Administration and heads of field offices for their respective DOE operations, consistent with FPMR § 101–25.302–1 and this subpart. Office furniture, furnishings, and equipment shall be limited to that required for immediate needs, considering such factors as ordering lead time, potential emergency needs and economical ordering quantities. Requirements shall be met to the fullest extent practicable and economical from available excess or by rehabilitation or repair.

(d) Contractors should be encouraged to limit executive-type furniture and furnishings to contractor personnel who organizationally are in positions that are similar or comparable to DOE positions authorized to use executive type office furniture as provided in FPMR § 101–25.302–1, when such action will effect economy without decreasing efficiency.

§ 109–25.302–1 Executive type office furniture and furnishings.

The Director of Administration and heads of field offices for their respective organizations are authorized to make the determination contemplated by FPMR § 101–25.302–1.

§ 109–25.302–2 Filing cabinets and equipment.

In addition to the use standards prescribed in FPMR § 101–25.302–2, Departmental policies, standards, procedures, and guidelines for the files management program is contained in DOE Order 1324.3.

§ 109–25.302–3 Electric typewriters.

The Director of Administration and heads of field offices for their respective organizations shall establish policies, procedures, and standards for the use of electric typewriters as contemplated in FPMR § 101–25.302–3, and are authorized to approve exceptions to the criteria contained in that section.

§ 109–25.302–4 Figuring machines.

The Director of Administration and heads of field offices for their respective organizations shall establish standards for the use of figuring machines as contemplated in FPMR § 101–25.302–4.

§ 109–25.302–6 Electronic office machines.

The Director of Administration and heads of field offices for their respective organizations shall establish standards for the use of electronic office machines as contemplated in FPMR § 101–25.302–6.

§ 109–25.304 Additional systems and equipment for passenger motor vehicles.

(a) If an item is determined to be essential and the guidelines in FPMR § 101–25.304 cannot be met, or the required item is not shown in Federal Standard 122, requisitions, accompanied by supporting justifications, shall be submitted to the Property and Equipment Management Division (MA–422), for further coordination with the Commissioner, Federal Supply Service, General Services Administration, prior to acquisition.

(b) See FPMR § 101–26.501, "Purchase of new motor vehicles," and DEAR 908.7101–2, "Consolidated purchase of new vehicles by General Services Administration."

§ 109–25.304–50 Communications equipment exemption.

Communications equipment considered to be essential for the accomplishment of security and safety responsibilities is exempt from the requirements of § 109–25.304. Communications equipment may be acquired and installed in motor vehicles operated by DOE and its contractors after approval by the Director of Administration and heads of field offices for their respective organizations.

§ 109–25.350 Use of furnishings and household goods in Government personnel quarters.

The Director of Administration and heads of field offices for their respective organizations have the authority to authorize the use of furnishings and household goods in Government personnel quarters.

§ 109–25.351 Furnishing of Government clothing and individual equipment to employees.

(a) Government-owned clothing and individual equipment may be furnished employees under the circumstances indicated below. Care should be exercised to avoid the acquisition and furnishing of clothing and individual equipment to be fitted to an employee who may soon be separated from service or permanently assigned to other duties. This section does not apply to provision of uniforms or uniform allowances under the Federal Employees Uniform Allowances Act of 1954, as amended.

(b) Special clothing and individual equipment for the protection of personnel from physical injury or occupational disease may be furnished employees.

(c) Articles of clothing and individual equipment may be furnished employees when the items are such that the employee could not reasonably be required to furnish them as a part of their personal clothing and equipment necessary to enable them to perform the regular duties of the position to which they are assigned or for which services were engaged.

Subpart 109-25.4—Replacement Standards

§ 109-25.401-50 Replacement approvals.

The Director of Administration and heads of field offices for their respective organizations are authorized to approve replacement of office machines, furniture, and materials handling equipment under the conditions cited in FPMR Subpart 101-25.4.

Subpart 109-25.48—Reports

§ 109-25.4800 Scope of subpart.

This subpart supplements information concerning the reporting of supply management data to GSA as contained in FPMR §§ 101-25.48 and 101-25.49.

§ 109-25.4800-50 Applicability.

The provisions of FPMR Subparts 101-25.48 and 101-25.49 and this subpart apply only to those DOE direct operations and contractors controlling Government-owned stores inventories. However, based on an agreement with GSA, the DOE Supply Activity Report is prepared at Headquarters from supply management data available in DOE's financial reports and is sent to GSA by the Property and Equipment Management Division (MA-422). Therefore, no additional reports are required from those field organizations or contractors reporting under the DOE financial reporting system. Those activities with stores operations which do not report under the DOE financial reporting system shall submit Supply Activity Reports to the Property and Equipment Management Division (MA-422) by November 15 for inclusion in the Departmental report.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

Sec.

109-26.000 Scope of part.
109-26.050 Applicability.

Subpart 109-26.2—Federal Requisitioning System

109-26.203 Activity address codes.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

109-26.406-1 General.

Subpart 109-26.5—GSA Procurement Programs

109-26.501 Purchase of new motor vehicles.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254)

§ 109-26.000 Scope of part.

This part implements and supplements FPMR Part 101-26, Procurement Sources and Programs.

§ 109-26.050 Applicability.

FPMR Part 101-26 and this part are applicable to contractors to the extent that Government supply sources are made available. For DOE policy on the use of Government supply sources by contractors, see DEAR Subpart 970.51.

Subpart 109-26.2—Federal Requisitioning System

§ 109-26.203 Activity address codes.

In accordance with FPMR § 101-26.203, the Property and Equipment Management Division (MA-422) has been designated the DOE point of contact with GSA for matters concerning activity address codes. DOE organizations shall designate a point of contact who shall coordinate all matters concerning activity address codes with the DOE point of contact.

Subpart 109-26.4—Purchase of Items from Federal Supply Schedule Contracts

§ 109-26.406-1 General.

The Director of Administration and heads of field offices for their respective organizations may authorize the use of U.S. Government National Credit Cards in accordance with FPMR § 101-26.406-1. See FPMR § 101-38.12 and 109-38.12 for information on the assignment of billing address code numbers and the control of U.S. Government National Credit Cards.

Subpart 109-26.5—GSA Procurement Programs

§ 109-26.501 Purchase of new motor vehicles.

In addition to the provisions of FPMR § 101-26.501, DEAR 908.7101 contains DOE requirements concerning the purchase of new motor vehicles, and DEAR 908.11 contains the DOE requirements concerning the leasing of motor vehicles.

PART 109-27—INVENTORY MANAGEMENT

Sec.

109-27.000 Scope of part.
109-27.001-50 Definitions.

Subpart 109-27.1—Stock Replenishment

109-27.102-2 Guidelines.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Subpart 109-27.4—Elimination of Items from Inventory

109-27.402 Applicability.

Subpart 109-27.50—Inventory Management Policies, Procedures and Guidelines

109-27.5001 Scope of subpart.
109-27.5002 Objectives.
109-27.5003 Stores inventory turnover ratio.
109-27.5004 Stock control.
109-27.5004-1 General.
109-27.5004-2 Construction inventories.
109-27.5005 Guide levels for construction inventories.
109-27.5006 Sub-stores.
109-27.5007 Shop, bench, cupboard or site stock.
109-27.5008 Stores catalogs.
109-27.5009 Physical inventories.
109-27.5009-1 Procedures.
109-27.5009-2 Inventory adjustments.
109-27.5010 Control of drug substances and potable alcohol.
109-27.5011 Containers returnable to vendors.
109-27.5012 Identification marking of metals and metal products.
109-27.5012-1 General.
109-27.5012-2 Exception.
109-27.5012-3 Federal standards applicable to marking.

Subpart 109-27.51—Management of Equipment Held for Future Projects

109-27.5100 Scope of subpart.
109-27.5101 Definition.
109-27.5102 Objective.
109-27.5103 Records.
109-27.5104 Storage.
109-27.5105 Justification and review procedures.
109-27.5106 Field organization review.
109-27.5107 Utilization.

Subpart 109-27.52—Management of Spare Equipment

109-27.5200 Scope of subpart.
109-27.5201 Definition.
109-27.5202 Exclusions.
109-27.5203 Management policy.

Subpart 109-27.53—Management of Precious Metals

109-27.5300 Scope of subpart.
109-27.5301 Definition.
109-27.5302 Policy.
109-27.5303 Precious metals control officer.
109-27.5304 Practices and procedures.
109-27.5304-1 Acquisitions.
109-27.5304-2 Designation of custodians.
109-27.5304-3 Physical protection and storage.
109-27.5304-4 Perpetual inventory records.
109-27.5304-5 Physical inventories.
109-27.5304-6 Stock issue.
109-27.5304-7 Control by using organization.
109-27.5305 Management reviews and audits.
109-27.5306 Precious metals pool.
109-27.5306-1 Purpose and operation.
109-27.5306-2 Withdrawals.
109-27.5306-3 Returns.
109-27.5306-4 Withdrawals/returns forecasts.

Sec.

109-27.5306-5 Assistance.
109-27.5307 Recovery of silver from used hypo solution and scrap film.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

109-27.000 Scope of part.

This part implements and supplements FPMR Part 101-27, Inventory Management, but excludes atomic weapons or byproducts and source or special nuclear materials as defined in the Atomic Energy Act of 1954, as amended, enriched uranium in stockpile storage, and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

109-27.001-50 Definitions.

As used in this part the following definitions apply:

(a) "Construction inventories" are supplies, materials and parts held for exclusive use on construction projects.

(b) "Economic order quality (EOQ)" means the size of the order which produces a level at which the combined costs of procuring and carrying inventory are at a minimum.

(c) "Expensed inventories" are items for which the cost is charged to operations and are not under financial control.

(d) "Inventories" are stocks of stores, construction, special reactor and other special materials, supplies and parts used in support of DOE programs.

(e) "Inventory level," usually expressed in the number of months supply on hand based on anticipated usage, is the amount of supplies authorized to be on hand and due-in less any amount due-out.

(f) "Inventory management" means the effective use of methods, procedures and techniques for recording, analyzing, and adjusting inventories in accordance with established policy. The following related functions are included:

(1) Providing adequate protection against misuse, theft, and misappropriation.

(2) Providing accurate analyses of quantities to determine requirements so that only minimal obsolescence losses will be encountered, while ensuring adequate inventory levels to meet program schedules.

(3) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

(g) "Other special materials" include precious metals and other rare materials having a very high monetary value in relation to volume or weight, special barrier materials, and any others that have been specifically approved by the DOE Controller.

(h) "Physical inventory" means the process of counting the quantities of items on hand and reconciling quantities counted with the quantities shown on control records.

(i) "Quantity control" means the management of inventories through control of levels, determination of requirements, and replenishment of stock.

(j) "Safety stock" is that portion of inventories under stock control carried for protection against stock depletion due to an increase in demand or when lead time is greater than anticipated.

(k) "Shop, bench, cupboard or site stock" is a collection or store of materials located at or near the point of use.

(l) "Special reactor materials" include special materials approved for research and for use in reactors but not generally available through the usual channels in sufficient quantity because of limited commercial production applications.

(m) "Standardization" is the reduction of stores inventories to the least practicable variety of sizes, shapes and materials compatible with program needs.

(n) "Stock record" is a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory. The stock record of a line item may be a visible register of transactions recorded by hand or by machine for that item, or it may be the input, output, stored data, or the corresponding print-out of such data representing transactions on the item in an electronic data processing system.

(o) "Stores catalog" means a listing of stock items for use in requisitioning supplies and materials.

(p) "Sub-store" is a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

Subpart 109-27.1—Stock Replenishment

109-27.102-2 Guidelines

Procedures and practices shall provide for replenishment of stock items having recurring demands to minimize costs involved. When considered more suitable, contractors may use other generally accepted approaches to EOQ.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Procedures and practices shall provide for managing shelf-life materials to minimize loss and ensure maximum use prior to deterioration. When considered more suitable, contractors may use other generally accepted approaches to the management of shelf-life items.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Procedures and practices shall provide for maximizing use of inventories. When considered more suitable, contractors may use other generally accepted approaches to maximizing use of inventories.

Subpart 109-27.4—Elimination of Items From Inventory

§ 109-27.402 Applicability.

Procedures and practices shall provide for eliminating from inventory items that can be obtained more economically from readily available sources on a timely basis. When considered more suitable, contractors may use other generally accepted approaches to determine which items should be retained in inventory.

Subpart 109-27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109-27.5001 Scope of subpart.

This subpart supplements FPMR Part 101-27 by providing additional policies, principles and guidelines for the economical and efficient management of inventories in support of DOE programs.

§ 109-27.5002 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with program requirements. They shall be managed and controlled in the most practicable and economical manner consistent with program needs, applicable laws and regulations and the following objectives:

(a) Provide materials and supplies as needed to meet DOE requirements.

(b) Maintain reasonable inventory levels.

(c) Provide adequate safeguards for protection.

(d) Maintain adequate quantity controls for effective management ov[illegible] all inventories, including those not under financial controls.

(e) Assure maximum efficient utilization and avoid waste.

(f) Maintain an economical operation.

(g) Standardize inventories to the greatest extent practicable.

§ 109-27.5003 Stores inventory turnover ratio.

Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of month's supply on hand. Turnover or number of month's supply is calculated only on "current-use" inventory. Performance goals, i.e., a six months investment or a turnover ratio of 2.0, shall be established for each stores using activity. However, it is recognized that extenuating operating circumstances may preclude the achievement of such objectives.

§ 109-27.5004 Stock control.

§ 109-27.5004-1 General.

Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received, issued, and disposed of, and supported by proper documents in evidence of these transactions. Stock record accounts shall be available for review and inspection.

§ 109-27.5004-2 Construction inventories.

Stock control from construction inventories shall be maintained by the regular checking of individual items to assure that the quantities ordered plus amounts on hand do not exceed current job requirements. To test the effectiveness of such checks, they should be supplemented with DOE reviews of inventory items on a selective basis at approximately the 25 percent, 50 percent, and 75 percent construction completion stages. Undelivered portions of purchase orders, which these checks and reviews indicate are not needed to complete the project, should be canceled.

§ 109-27.5005 Guide levels for construction inventories.

To ensure that inventories maintained for construction programs and activities are reasonable, the following standards are established as guides (variations may be used where it is established by field organizations that they will more effectively or economically assure that inventory levels are held to the amount required to complete the construction project):

(a) Ordinary construction materials and supplies readily available from commercial sources, and not available as Government excess, permit phasing of deliveries and cancellation of undelivered quantities that may prove excess to project requirements. The onhand inventory of such materials generally should not exceed a three or four months supply at the anticipated usage rates.

(b) Ordinary construction materials and supplies readily obtainable from Government excess should be acquired only in the amounts estimated to complete the construction project.

(c) Items obtainable only by special manufacture or fabrication should be limited to the estimates of requirements to complete the project as determined from project plans and specifications, except as outlined in (d) below.

(d) Inventory levels in excess of estimates to complete the project should be confined to items so unusual in character or unique to the DOE project that they are obtainable only by special manufacture and will be required for maintenance purposes or for operation of the completed plant.

§ 109-27.5006 Sub-stores.

(a) Sub-stores shall be established when necessary to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to provide assistance in obtaining materials and supplies as needed.

(b) Items stored for issue in the sub-stores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrated with central stock records so that the total amount on hand of any item at all locations is known.

§ 109-27.5007 Shop, bench, cupboard or site stock.

(a) Shop, bench, cupboard or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

(b) Care shall be exercised to prevent excessive accumulation of inventories at such points. As a control measure, requisitions should be screened against issue data as reflected in stock records at the supply point. Also, work orders, retirement notices, minor construction projects, maintenance programs, and research and experimental projects, involving removal and dismantling should be reviewed and screened to prevent excessive inventories at point of use. However, the most effective control at point of use may be effected by administrative action through visual examination of quantities on hand, and close supervisory control and training of persons who requisition materials and supplies.

§ 109-27.5008 Stores catalogs.

A suitable stores catalog for customer use in requisitioning stores items shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility. Revisions to the catalog should be made at reasonable intervals.

§ 109-27.5009 Physical inventories.

§ 109-27.5009-1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completion of a physical inventory not less frequently than every twelve months.

(b) Reconciliation of inventory quantities with the stock records.

(c) Preparation of a report of the physical inventory results.

§ 109-27.5009-2 Inventory adjustments.

(a) Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory echelon above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before approval.

(b) Such inventory adjustment reports, when properly approved, support adjustments to the stock records and debits and credits to the financial inventory accounts. Adjustment reports shall be retained on file for inspection and review.

§ 109-27.5010 Control of drug substances and potable alcohol.

(a) The term "controlled substance" means any drug or substance which has been assigned a "Bureau of Controlled Substance Code Number" pursuant to 21

CFR Part 1308–Schedule of Controlled Substances.

(b) Effective procedures and practices shall provide for the management and physical security of controlled substances and potable alcohol from receipt to the point of use. Such procedures shall, as a minimum, provide for safeguarding, proper use, adequate records, and compliance with applicable laws and regulations. Controls and records of potable alcohol shall be maintained on quantities of one quart and above.

(c) Effective procedures and practices shall provide for the management and physical security of hypodermic needles to prevent illegal use. Controls shall include supervisory approval for issue, storage in locked repositories, and the rendering of the needles useless upon disposal.

§ 109-27.5011 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109-27.5012 Identification marking of metals and metal products.

§ 109-27.5012-1 General.

Metals and metal products shall be identification marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop or floor stock, or for use on construction projects. Additional markings not covered by the Federal standards should be used to show special properties, corrosion data or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by jobbers or other vendors when circumstances warrant.

§ 109-27.5012-2 Exception.

Exception to the marking requirement may be made when—

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

§ 109-27.5012-3 Federal standards applicable to marking.

The Federal standards listed below can be obtained from the General Services Administration, Federal Supply Service (3 FRI), Washington, D.C. 20407.

(a) Federal Standard 182A(2) "Identification Marking of Nickel and Nickel Base Alloys."

(b) Federal Standard 183B "Continuous Identification Marking of Iron and Steel Products."

(c) Federal Standard 184A "Identification Marking of Aluminum, Magnesium and Titanium."

(d) Federal Standard 185 "Continuous Marking of Copper and Copper Base Alloy Mill Products."

Subpart 109-27.51—Management of Equipment Held for Future Projects

§ 109-27.5100 Scope of subpart

This subpart provides policies, principles and guidelines to be used in the management of equipment held for future projects.

§ 109-27.5101 Definition.

"Equipment held for future projects (EHFFP)" is equipment that is being retained, based on approved justifications, for a known future use, or for a potential use in planned projects. This classification excludes spare equipment retained as backup for equipment in service or equipment placed in equipment pools (classified as "In Service"), spare and other equipment constituting a part of the facilities in standby (classified as "Standby"), excess equipment, and equipment classified as "Plant and Equipment Changes in Progress".

§ 109-27.5102 Objective.

The objective of the "equipment held for future projects" program is to enable DOE offices and contractors to retain equipment not in use in current programs but which has a known or potential use in future DOE programs, while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained which is economically justifiable for retention, considering costs of replacement, storage, obsolescence, deterioration, or future availability, that it be made available for use by others, and that equipment no longer needed be promptly excessed.

§ 109-27.5103 Records.

Records of all EHFFP shall be maintained by the holding organization. Included shall be a listing of items with original date of classification as EHFFP, initial justifications for retaining EHFFP, rejustifications for retention, and documentation of reviews made by higher levels of management.

§ 109-27.5104 Storage.

EHFFP should be stored in warehouse space designated for that purpose. When such space cannot be made available, such equipment may be stored in storage yards or other areas with due consideration to the type of property and protection required.

§ 109-27.5105 Justification and review procedures.

Procedures shall provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment, or other reasons for retention.

(b) The validity of initial classification of equipment held for future projects shall be reviewed at a level of management one echelon above that of the individual making the initial determination.

(c) Retention of EHFFP must be rejustified annually to ensure that original justifications remain valid. These rejustifications will be supported with sufficient detail to support retention.

(d) Annual rejustifications for retention of EHFFP for longer than one year shall be reviewed at a level of management at least two levels above that of the individual making the determination to retain the equipment as held for future projects. EHFFP retained for periods longer than three years should be approved by the head of the DOE field office or his designee.

§ 109-27.5106 Field organization review.

Heads of field offices and contracting officers shall conduct periodic reviews to ensure the validity of justifications for retaining EHFFP. These reviews should include onsite surveys of a representative sample of equipment in this classification.

§ 109-27.5107 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone acquisition. Procedures shall be established to provide for—

(a) Distribution within the holding organization of lists of EHFFP to acquisition offices (or some other central screening office) and potential users for screening against requirements prior to acquisition; and

(b) Exchange of lists of EHFFP which can be made available for loan between organizations involved in the same or similar programs.

Subpart 109-27.52—Management of Spare Equipment

§ 109-27.5200 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109-27.5201 Definition.

"Spare equipment" is equipment held as replacement spares for equipment in current use in DOE programs.

§ 109-27.5202 Exclusions.

The following categories of equipment will not be considered spare equipment:

(a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.

(b) Equipment-like items properly classified as stores inventory.

§ 109-27.5203 Management policy.

(a) Procedures shall require records of spare equipment and purpose for retention, cross-referenced to location in facility and engineering drawing number.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment. Frequency of review should be biennial. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provide that unneeded spare equipment be identified and reported in excess.

Subpart 109-27.53—Management of Precious Metals

§ 109-27.5300 Scope of subpart.

This subpart provides policies, principles, and guidelines to be used in the management of DOE-owned precious metals by DOE organizations and contractors.

§ 109-27.5301 Definition.

"Precious metals" means uncommon and highly valuable metals characterized by their superior resistance to corrosion and oxidation. Included are gold, silver, and the platinum group metals—platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109-27.5302 Policy.

DOE organizations and contractors shall establish effective procedures and practices for the administrative and physical control of precious metals in accordance with the provisions of this subpart.

§ 109-27.5303 Precious metals control officer.

Each DOE organization and contractor holding precious metals shall designate a responsible individual as Precious Metals Control Officer. This individual shall be the organization's primary point of contact concerning precious metals control and management, and shall be responsible for the following:

(a) Assuring that the organization's precious metals activities are conducted in accordance with the requirements of this subpart and Chapter IV of the DOE Accounting Practices and Procedures Handbook.

(b) Maintenance of an accurate list of the names of precious metals custodians.

(c) Providing instructions and training to precious metals custodians and/or users as necessary to assure compliance with regulatory responsibilities.

(d) Insuring that physical inventories are performed as required by, and in accordance with, these regulations.

(e) Witnessing physical inventories.

(f) Performance of periodic unannounced inspections of custodian's precious metals inventory and records.

(g) Conduct of an annual review of precious metals holdings to determine excess quantities.

(h) Preparation and submission of the annual forecast of anticipated withdrawals from, and returns to, the DOE precious metals pool.

(i) Conduct of a program for the recovery of silver from used hypo solution and scrap film in accordance with FPMR §§ 101-42.3 and 109-42.3.

(j) Preparation and submission of the annual report on recovery of silver from used hypo solution and scrap film as required by § 109-42.301-1.

(k) Developing and issuing current authorization lists of persons authorized by management to withdraw precious metals for stockrooms.

§ 109-27.5304 Practices and procedures.

§ 109-27.5304-1 Acquisitions.

DOE organizations and contractors shall contact the DOE Precious Metals Pool Manager to determine the availability of precious metals prior to acquisition on the open market.

§ 109-27.5304-2 Designation of custodians.

Responsible individuals shall be designated as precious metals custodians. Custodians shall be responsible for proper control and safeguarding of the precious metals when issued for use.

§ 109-27.5304-3 Physical protection and storage.

Precious metals shall be afforded exceptional physical protection from time of receipt until disposition. Precious metals not in use shall be stored in a noncombustible combination locked repository with access limited to the custodian and an alternate. When there is a change in custodian or alternate having access to the repository, the combination shall be changed immediately.

§ 109-27.5304-4 Perpetual inventory records.

Perpetual inventory records shall be maintained as specified in Chapter V of the DOE Accounting Practices and Procedures Handbook.

§ 109-27.5304-5 Physical inventories.

(a) Physical inventories shall be conducted semiannually by custodians, and witnessed by the Precious Metals Control Officer or his designee.

(b) Precious metals not in use shall be inspected and weighed on calibrated scales. The inventoried weight and form shall be recorded on the physical inventory sheets by class of metal. Metals in use in an experimental process, or which are contaminated and therefore cannot be weighed, shall be listed on the physical inventory sheet as observed and/or not observed as applicable.

(c) Any obviously idle or damaged metals should be recorded during the physical inventory. Justification for further retention of idle materials shall be required from the custodian or disposed of in accordance with established procedures.

(d) The dollar value of physical inventory results shall be reconciled with the financial records. All adjustments shall be supported by appropriate adjustment reports, and approved by a responsible official.

§ 109-27.5304-6 Stock issue.

Metals in stock are metals held in a central location and later issued to individuals when authorized requests are received. The following control procedures shall be followed for such metals:

(a) Stocks shall be held to a minimum consistent with effective and economical support to programs.

(b) The name and organization number of each individual authorized to withdraw precious metals, and the type and kind of metal, shall be prominently

maintained in the stockroom. This authorization shall be issued by the Precious Metals Control Officer or his designee and updated semiannually. Issue of metals will be made only to authorized persons.

(c) Accurate records of all movements (receipts, issues, returns, and disposals) shall be developed by, and maintained in, the stockroom.

(d) Receipts for metal issues and returns to stock shall be provided to users. Such receipts, signed by the authorized requesting individual and the stockroom clerk, shall list the requesting organization, type and form of metal, quantity, and date of transaction.

§ 109-27.5304-7 Control by using organization.

(a) After receipt, the using organization shall provide the necessary controls for the precious metal. Materials shall be stored in a locked repository at all times except for small quantities at the actual point of use.

(b) Each using organization shall maintain a log showing the individual user, type and form of metal, and the time, place, and purpose of each use. The log shall be kept in a locked repository when not in use.

(c) The logs and secured locked storage facilities are subject to review by the Precious Metals Control Officer and other audit or review staffs as required.

(d) Cognizant Department Managers are responsible for assuring that minimum quantities of precious metals are withdrawn consistent with work requirements and that quantities excess to requirements are promptly returned to the stockroom.

(e) Employee termination and transfer procedures shall include clearance for precious metals possession.

§ 109-27.5305 Management reviews and audits.

(a) Unannounced inspections of custodian's precious metals inventory and records may be conducted between scheduled inventories.

(b) DOE organizations and contractors holding precious metals shall annually review the quantity of precious metals on hand to determine if this quantity is in excess of programmatic requirements. Precious metals which are not needed for current or foreseeable requirements shall be promptly reported to the DOE Precious Metals Pool. The results of this annual review are to be documented and entered into the precious metals inventory records.

§ 109-27.5306 Precious metals pool.

§ 109-27.5306-1 Purpose and operation.

The purpose of the precious metals pool is to recycle DOE-owned precious metals within the Department at the minimum cost to participants. The pool is operated by a private firm under a contract with the Oak Ridge Operations Office. Current information regarding the contractor's name, address, and telephone number and processing charges can be obtained by request through the Chief, Property Management Branch, Oak Ridge Operations Office.

§ 109-27.5306-2 Withdrawals.

Pure metal, parts, fabricated products, catalysts, or solutions, are generally available and the DOE pool contractor can provide assistance in supplying such requirements. Metals can be shipped to any facility to fulfill fabrication requirements.

§ 109-27.5306-3 Returns.

The pool is entirely dependent on metal returns; therefore, metal inventories should be maintained on an as-needed basis, and any excess metals should be returned to the pool for recycling. With the exception of silver, this includes precious metals in any form, including shapes, scrap, or radioactively contaminated. Only high grade nonradioactively contaminated silver should be included. Procedures have been developed by the precious metals pool contractor for metal returns, including storing, packaging, shipping, and security.

§ 109-27.5306-4 Withdrawals/returns forecasts.

The precious metals pool contractor will request annually from each DOE field organization its long-range forecast of anticipated withdrawals from the pool and returns to the pool.

§ 109-27.5306-5 Assistance.

DOE organizations or contractors may obtain specific information relative to the operation of the precious metals pool by contacting the Oak Ridge Operations Office as indicated in § 109-27.5306-1.

§ 109-27.5307 Recovery of silver from used hypo solution and scrap film.

The requirements for the recovery of silver from used hypo solution and scrap film are contained in § 109-42.302.

PART 109-28—STORAGE AND DISTRIBUTION

Sec.
109-28.000 Scope of part.
109-28.001-50 Policy.
109-28.001-51 Storage guidelines.

Subpart 109-28.3—Self Service Stores

Sec.
109-28.308-3 Limitations on use.
109-28.308-6 Safeguards.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-28.000 Scope of part.

This part implements and supplements FPMR Part 101-28, Storage and Distribution.

§ 109-28.001-50 Policy.

Storage and warehouse services shall be—

(a) Established for the receipt, storage, issue, safekeeping and protection of Government-owned property when advantageous to the Government;

(b) Provided in the most economical and efficient manner through the use of Government-owned facilities, and where necessary available commercial facilities, consistent with program requirements; and

(c) Operated in accordance with generally accepted industrial management practices and principles.

§ 109-28.001-51 Storage guidelines.

(a) Adequate storage facilities shall be provided to ensure the proper safeguarding of all Government property.

(1) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities.

(2) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest.

(3) Storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

(b) The following general storage principles shall be observed in the planning for the storage of Government personal property:

(1) Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practicable, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(2) Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(3) Property should be stored according to the kind of protection required. All items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction, must be considered in selecting proper storage locations.

(4) Orderly arrangement is essential to efficient operation of storehouses. All items should be so arranged that nomenclature and quantity may be readily determined.

(5) Stock rotation is based on the general storage principle of "first in, first out." Many items, such as perishables, food stuffs, medicines, paints, and chemicals, are subject to deterioration or infestation which require that the older stock be issued first.

Subpart 109-28.3—Self Service Stores

§ 109-28.308-3 Limitations on use.

The Director of Administration and heads of field offices for their respective organizations shall establish internal controls for the use of GSA shopping plates in accordance with FPMR § 101-28.308-3.

§ 109-28.308-6 Safeguards.

The Director of Administration and heads of field offices for their respective organizations shall establish internal controls for safeguarding of GSA shopping plates in accordance with FPMR § 101-28.308-6.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

Sec.

109-29.000 Scope of part

Subpart 109-29.1—General

109-29.103 Availability of Federal standardization documents.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254)

§ 109-29.000 Scope of part.

This part implements and supplements FPMR Part 101-29, Federal Specifications and Standards.

Subpart 109-29.1—General

§ 109-29.103 Availability of Federal standardization documents.

The Index of Federal Specifications and Standards may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Copies of Federal Specifications and Standards may be obtained as provided in the Index.

PART 109-30—FEDERAL CATALOG SYSTEM

Sec.

109-30.000 Scope of part.
109-30.000-50 Applicability.

Subpart 109-30.5—Maintenance of the Federal Catalog System

109-30.503 Maintenance actions required.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-30.000 Scope of part.

This part supplements FPMR Part 101-30, Federal Catalog System.

§ 109-30.000-50 Applicability.

The provisions in FPMR Part 101-30 and this part do not apply to contractors.

Subpart 109-30.5—Maintenance of the Federal Catalog System

§ 109-30.503 Maintenance actions required.

(b) Standard Form 1303 shall be sent directly to GSA for processing. Inquiries concerning policy should be directed to the Property and Equipment Management Division (MA-422).

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

PART 109-36—ADP MANAGEMENT

Sec.

109-36.000 Scope of part.

Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

109-36.300-50 Scope of subpart.
109-36.302-50 Reassignment of ADPE within DOE.
109-36.303-1 Designation of agency ADPE point of contact.
109-36.303-3-50 Reporting excess or exchange/sale ADPE within DOE.
109-36.304 Availability list.
109-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Subpart 109-36.47—Reports

109-36.4700 Scope of subpart.
109-36.4702 Reporting excess or exchange/sale ADPE.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-36.000 Scope of part.

This part implements and supplements FPMR Part 101-36 as it relates to utilization and disposal of excess automatic data processing equipment (ADPE).

Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

§ 109-36.300-50 Scope of subpart.

This subpart implements and supplements FPMR Part 101-36.3. Policies and procedures relating to acquisition, reassignment, or retention of excess ADPE are contained in policies and procedures established by the Office of the Director of Administration.

§ 109-36.302-50 Reassignment of ADPE within DOE.

(a) Transfers within DOE of excess ADPE having a current market price equal to or greater than that specified for major items as defined in the DOE Program Budget Structure are made pursuant to the requirement for proposals submitted in accordance with instructions from the Office of the Director of Administration.

(b) Transfers within DOE of excess ADPE with a current market price of less than that specified for major items shall be approved by the head of the field office and the head of the Headquarters organization having ADPE responsibility for the equipment. However, when more than one request is received, the field office head shall notify the requestors that acquisition proposals prepared in accordance with instructions from the Office of the Director of Administration shall be forwarded to the field organization for review. After receipt of all proposals, the field office head shall—

(1) Approve the request for transfer which is judged to be in the best interest of DOE; or

(2) Where this judgment cannot be made locally, forward the proposals to the Director of Administration for action in a manner similar to proposals for equipment having a current market price equal to or greater than that specified for major items.

§ 109-36.303-1 Designation of agency ADPE point of contact.

The Director of Administration shall designate the DOE point of contact to carry out the responsibilities contained in FPMR § 101-36.303-1.

§ 109-36.303-3-50 Reporting excess or exchange/sale ADPE within DOE.

(a) All ADPE, either Government-owned or-leased, which is no longer needed or is scheduled for replacement, shall be made available for utilization within DOE as soon as plans for the release of such equipment are known.

(b)(1) Government-owned ADPE shall be reported for utilization screening

within DOE on Standard Form (SF) 120, Report of Excess Personal Property. The SF 120 shall contain the information required in FPMR 101–36.4702 and, for internal screening purposes, a release date (date of availability). If the release date is not firm, a tentative release date should be given, which would be subject to change until the actual release date is established.

(2) The SF 120 shall be submitted to the Property and Equipment Management Division (MA–422) for inclusion in the Reportable Excess Automated Property System (REAPS) in accordance with § 109–43.311–1–50.

(3) ADPE shall not be reported to GSA as excess until this screening has been accomplished and it has been established that there are no DOE claimants. Concurrent screening within DOE and GSA is not authorized. A minimum of 45 days should be allowed for screening ADPE prior to reporting it to GSA. In those instances where the release date can be determined sufficiently in advance, additional screening time should be allowed to permit maximum time for processing of requests to acquire excess ADPE.

(c) The procedures prescribed in § 109–36.303–3–50(b) shall be followed for leased ADPE. However, when time does not permit sequential DOE and GSA circularization, excess leased ADPE may be circularized concurrently in DOE and GSA to assure earned credits are not lost to the Government. The SF 120 should clearly indicate concurrent screening by DOE and GSA. Where time does not permit assurance that earned credits are not lost to the Government, announcement of availability of excess leased ADPE may be circularized within DOE by teletype (TWX). The TWX should be sent to all DOE field offices with a request to further distribute to applicable contractors, and copies should be sent to the Office of ADP Management (MA–24) and to the Property and Equipment Management Division (MA–422) at Headquarters.

§ 109–36.304 Availability list.

The Director of Administration shall develop and maintain distribution patterns for availability lists of excess and exchange/sale ADPE as contemplated in FPMR § 101–36.304.

§ 109–36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

The Director of Administration, heads of field offices, the Administrator, Energy Information Administration and contracting officers are authorized to sign Standard Form (SF) 122, Transfer Order Excess Personal Property, after appropriate approvals, involving requests for transfer of excess or exchange/sale ADPE, as required by FPMR § 101–36.306(a).

Subpart 109–36.47—Reports

§ 109–36.4700 Scope of subpart.

This subpart implements and supplements FPMR Subpart 101–36.47 as it relates to reporting excess or exchange/sale ADPE to GSA.

§ 109–36.4702 Reporting excess or exchange/sale ADPE.

Excess Government-owned or-leased ADPE and exchange/sale ADPE shall be reported to GSA on Standard Form (SF) 120, Report of Excess Personal Property, in accordance with the requirements of FPMR § 101–36.4702. No provision is made in FPMR § 101–36.4702 for the use of a TWX as a substitute for the SF 120 in reporting excess ADPE to GSA. When a TWX is used to report excess leased ADPE to GSA, it shall be followed up with an SF 120 to GSA, providing appropriate cross-reference information.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 109–38—MOTOR EQUIPMENT MANAGEMENT

Sec.

109–38.000 Scope of part.
109–38.000–50 Policy.

Subpart 109–38.0—Definition of Terms

109–38.001 Definitions.

Subpart 109–38.1—Reporting Motor Vehicle Data

109–38.100–1–50 Reporting DOE motor vehicle data.
109–38.102–2–50 Reporting DOE domestic and foreign vehicles.

Subpart 109–38.2—Registration and Inspection

109–38.202–50 Registration in foreign countries.
109–38.202–51 Shipment to foreign countries.

Subpart 109–38.3—Official U.S. Government Tags

109–38.302 Records.
109–38.303 Procurement.
109–38.305–50 Security.
109–38.305–51 Lost or stolen license tags.

Subpart 109–38.4—Official Legend and Agency Identification

109–38.404 Procurement of decalcomanias.
109–38.404–50 Security of decals.

Subpart 109–38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

109–38.602 Unlimited exemptions.
109–38.602–50 Additional Department of Energy exemptions.
109–38.605 Additional exemptions.
109–38.606 Approval of tag requests for exempted vehicles in the District of Columbia.
109–38.607 Report of exempted motor vehicles.

Subpart 109–38.7—Transfer of Title to Government-Owned Motor Vehicles

109–38.701 Methods of transfer.
109–38.701–50 Delegation of authority to sign Standard Forms 97 and 97A.

Subpart 109–38.9—Motor Vehicle Replacement Standards

109–38.900–50 Policy.
109–38.907 Fleets.
109–38.908 Exception.
109–38.908–50 Prompt disposal of replaced passenger vehicles.

Subpart 109–38.10—Scheduled Maintenance of Motor Vehicles

109–38.1003–50 DOE guidelines.

Subpart 109–38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

109–38.1200 General.
109–38.1201 Billing Code.
109–38.1202 Administrative control of credit cards.
109–38.1202–50 Additional control of credit cards.

Subpart 109–38.13—Energy Conservation in Motor Vehicle Management

109–38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.
109–38.1304–50 Selection of type of motor vehicles.
109–38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.
109–38.1306 Acquisition of fuel-efficient passenger automobiles.
109–38.1306–50 Certification of fuel-efficient passenger automobile acquisitions.
109–38.1307 Acquisition of fuel-efficient light trucks.
109–38.1350 Conservation of motor vehicle fuels.

Subpart 109–38.50—Utilization of Motor Vehicles

109–38.5000 General.
109–38.5001 Utilization controls and practices.
109–38.5002 Use objectives for motor vehicles.
109–38.5003 Application of use goals.

Subpart 109–38.51—Acquisition of Motor Vehicles

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109–38.5411 Instructions to motor vehicle operators.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§109–38.000 Scope of part.

This part implements and supplements FPMR Part 101–38 concerning the management of motor equipment, vehicles, aircraft and watercraft.

§109–38.000–50 Policy.

Necessary motor equipment, vehicles, aircraft and watercraft shall be provided, maintained and utilized in support of DOE programs in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy and applicable laws and regulations.

Subpart 109–38.0—Definition of Terms

§109–38.001 Definitions.

As used in this Part the following definitions apply:

(a) "Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, aircraft and watercraft.

(b) "Motor vehicle" means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on the highways in the transportation of property or passengers. This includes both motorcycles and motor scooters.

(c) A "replacement off-set" is an authorization to one DOE field organization to acquire a new passenger motor vehicle to replace an old passenger motor vehicle which has become excess to another DOE field organization. The transaction does not require the physical transfer of the excess vehicle, but is limited to a documentary transfer.

(d) "Special purpose vehicles" have limited but essential missions. They are not generally used to carry passengers, freight or other materials. Trucks with permanently mounted equipment, (such as fire trucks, special tank trucks, wreckers and trucks with compressors or generators in fixed mounting on the body), may be classified as special purpose trucks. Vehicles other than sedans and station wagons which are to be used only during a defined or specified contingency, such as evacuation or other similar emergency, may also be classified as special purpose vehicles. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

(e) "Experimental vehicles" are those acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used for passenger carrying services, and they are not subject to statutory price limitations or to authorization limitations.

Subpart 109–38.1—Reporting Motor Vehicle Data

§109–38.100–1–50 Reporting DOE motor vehicle data.

(a) Organizations operating DOE-owned and/or commercially term leased (60 continuous days or more) motor vehicles shall provide one copy of the following reports to the Property and Equipment Management Division (MA–422) by October 31 of each year.

(1) DOE Report of Motor Vehicle Data.

(2) DOE Report of Truck Data.

(b) Copies of the report forms may be obtained by contacting the Property and Equipment Division.

§109–38.102–2–50 Reporting DOE domestic and foreign vehicles.

Separate forms shall be prepared for vehicles located: (a) In the United States, including territories and possessions, and (b) in a foreign country.

Subpart 109–38.2—Registration and Inspection

§109–38.202–50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned.

§109–38.202–51 Shipment to foreign countries.

(a) When motor vehicles are being shipped for use in a foreign country, the desk officer or individual handling the affairs pertaining to the country in the Department of State shall be contacted before shipment is made for information concerning the licensing and shipping of the vehicle.

(b) The person responsible for, and expected to use, a motor vehicle in a foreign country shall make inquiry at the United States Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

Subpart 109–38.3—Official U.S. Government Tags

§ 109–38.302 Records.

(a) The Property and Equipment Management Division (MA–422) assigns "blocks" of U.S. Government license tag numbers to DOE organizations and maintains a current record of such assignments. Additional "blocks" will be assigned upon request.

(b) Each Departmental organization shall maintain a current record of individual assignments of license tags to the motor vehicles under its jurisdiction as required by FPMR § 101–38.302.

§109–38.303 Procurement.

The procedures for acquiring official Government license tags by DOE organizations are covered in DEAR 908.7101–7.

§ 109–38.305–50 Security.

Unissued license tags shall be stored in a locked drawer, cabinet or storage area with restricted access to prevent possible fraud or misuse.

§ 109-38.305-51 Lost or stolen license tags.

Fleet managers, upon receipt of information on lost or stolen Government license tags, should promptly report the loss to the local DOE security office and local law enforcement authorities. Lost or stolen Interagency Motor Pool Vehicle license tags should be reported to the applicable General Services Administration motor pool manager. District of Columbia or state license tags which are lost or stolen should be reported to the District of Columbia, Department of Transportation, or the appropriate state agency.

Subpart 109-38.4—Official Legend and Agency Identification

§ 109-38.404 Procurement of decalcomanias.

The official legend and agency identification for DOE shall be of elastomeric pigmented film type decalcomania which are currently available in black (DOE Form 1530.1) and white (DOE Form 1530.2). These forms shall be requisitioned from the Logistics Management Division (MA-235) using DOE Form 4250.2, "Requisition for Supplies, Equipment or Services", a local supply request form or a memorandum.

§ 109-38.404-50 Security of decals.

Unissued decals shall be stored in a locker drawer, cabinet or storage area with restricted access to prevent possible fraud or misuse.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 109-38.602 Unlimited exemptions.

(e) Exemptions from the requirement for the display of Federal license tags and other official identification may be approved by heads of field offices and the Director of Administration for motor vehicles under their cognizance which are used in the conduct of security operations or in the enforcement of security regulations of DOE.

§ 109-38.602-50 Additional Department of Energy exemptions.

The requirements for the display of Federal license tags and other identification do not apply to motor vehicles used in foreign countries, Trust Territories, or the Pacific Test Areas (see FPMR §§ 101-38.202 and 109-38.202-50).

§ 109-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR § 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles which are not within the criteria in FPMR § 101-38.602 shall be submitted through normal administrative channels to the Property and Equipment Management Division (MA-422). Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Property and Equipment Management Division (MA-422) shall be notified promptly when the need for a previously authorized exemption no longer exists.

(c) Copies of certifications and cancellation notices required to be furnished to GSA pursuant to FPMR § 101-38.605 will be transmitted to GSA by the Property and Equipment Management Division.

§ 109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The Director of Administration is designated as the DOE liaison representative to approve requests for regular District of Columbia license tags for Headquarters motor vehicles exempted from carrying U.S. Government license tags and other official identification, and furnishes annually to the District of Columbia Department of Motor Vehicles the name and specimen signature of each representative authorized to approve such requests.

§ 109-38.607 Report of exempted motor vehicles.

The Director of Administration and heads of field offices for their respective organizations shall maintain records of motor vehicles exempted from displaying Federal license tags and other identification which will permit the submission of reports by the Property and Equipment Management Division upon request of GSA in accordance with FPMR § 101-38.607. The records shall contain a listing by type of each exempted vehicle operated during the previous fiscal year, giving the information for each vehicle on hand at the beginning of the year and each of those newly authorized during the year, including—

(a) By whom exemption was authorized, by name and title of authorizing official (including any authorization by Headquarters and GSA);

(b) Date exemption was authorized;

(c) Justification for exemptions and limitations on uses of the exempted vehicle;

(d) Date of discontinuance for any exemption discontinued during the year; and

(e) Probable duration of exemption for vehicles continuing in use.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 109-38.701 Methods of transfer.

(c) The certificates and copies of Certificate of Release of a Motor Vehicle (SF's 97 and 97A) shall be numbered consecutively by each DOE field and Headquarters organization disposing of motor vehicles.

§ 109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

(a) Heads of DOE field offices and the Director of Administration may delegate the authority to sign SF's 97 and 97A to responsible DOE personnel under their jurisdiction. The name of the officer delegated to sign will be typed on the certificate in addition to the signature in ink.

(b) All DOE field and Headquarters organizations shall establish proper controls to prevent blank copies of SF's 97 and 97A from being obtained by unauthorized persons.

Subpart 109-38.9—Motor Vehicle Replacement Standards

§ 109-38.900-50 Policy.

It is the policy of DOE to continue in service motor vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that—

(a) A continued need exists for the vehicle;

(b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds 25 percent of the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention;

(c) Repair parts are readily obtainable; and

(d) Retention will not substantially reduce the exchange/sale value of the vehicle.

§ 109-38.907 Fleets.

The replacement limitations cited in FPMR § 101-38.907 are applicable to each of DOE's field organizations and may not be exceeded.

§ 109-38.908 Exception.

Motor vehicles may be replaced without regard to the replacement standards in FPMR § 101-38.9 only after certification by the appropriate head of the field or Headquarters organization that a vehicle is beyond economical repair due to accident damage or wear caused by abnormal operating conditions.

§ 109-38.908-50 Prompt disposal of replaced passenger vehicles.

Because of the limitation on the total number of passenger vehicles which DOE may own, replaced passenger vehicles shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both vehicles. Because of disposal problems, there may be occasions where quick disposal of the old equipment may not be feasible or advantageous to the Government, e.g., it may be determined that there is an insufficient number for economical sale, or that sale would bring substantially better prices at a later date because of seasonal effects on sale prices. Under such circumstances, temporary retention of the replaced passenger vehicle may be justified. However, such retention may not be used as justification for concurrent operation of the new and replaced vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

§ 109-38.1003-50 DOE guidelines.

(a) Whenever practicable, existing Government service facilities shall be consolidated, or commercial services shall be utilized, to reduce to a minimum the maintenance facilities and equipment, supplies, parts, stocks and overhead costs.

(b) Maintenance also shall be geared to a planned replacement program. Individual vehicle maintenance record files shall be kept and made readily available to appropriate maintenance personnel to provide historical records of past repairs, as a control against unnecessary repairs and excessive maintenance, and as an aid in determining the most economical time for replacement.

(c) One-time maintenance and repair limitations shall be established by heads of field offices. To exceed repair limitations, approval from heads of field offices is required, particularly as the time of replacement approaches.

(d) Adequate maintenance schedules shall be provided to accomplish the following objectives in the most economical manner:

(1) To maintain equipment in safe and economical operating condition.

(2) To prevent equipment failures resulting in program delays and excessive downtime.

(3) To prevent premature wear and deterioration.

(4) To prevent undue depreciation.

(5) To conserve materials and manpower.

(e) Warranties.

(1) Special attention shall be devoted to the warranty on each motor vehicle to ensure that maximum benefits are realized. A system should be established to assure that defective materials and workmanship on vehicles under warranty are corrected under the terms of the warranty to avoid maintenance and repair of such vehicles at Government expense.

(2) When motor vehicles are maintained in Government shops in isolated locations that are distant from franchised dealer shops, or when it is not practical to return the vehicles to a dealer, billback agreement shall be sought from manufacturers to permit warranty work to be performed in Government shops on a reimbursable basis.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 109-38.1200 General.

FPMR § 101-26.406 authorizes the use of Standard Form 149, U.S. Government National Credit Card for Federal agencies for obtaining service station deliveries and services. The use of the SF-149 by each field organization or by Headquarters is optional. When a field organization elects to use the form, it shall be used on a field organization basis.

§ 109-38.1201 Billing Code.

DOE organizations shall request the assignment of billing address code numbers from the Property and Equipment Management Division (MA-422). Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with FPMR § 101-26.406-5 and the current Federal Supply Schedule FSC Group 75, Part VII. The billing code consists of the following:

(a)(1) The first three digits of the 10-digit billing code embossed on national credit cards in use by DOE will always be 000.

(2) The fourth digit may be used by DOE organizations and contractors to designate the vehicle class or provide additional billing code numerals. If not used for either of these purposes, zero will be used.

(3) The fifth and sixth digits will be "89", the agency code assigned to DOE.

(4) The seventh, eighth, and ninth digits indicate the billing address code number.

§ 109-38.1202 Administrative control of credit cards.

(a) The head of each organization using credit cards shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR Part § 101-38.1202.

§ 109-38.1202-50 Additional control of credit cards.

(a) All vehicle operators should be provided with appropriate instructions regarding the use and protection of credit cards against theft and misuse.

(b) In the event an SF-149 is lost or stolen, reasonable precautions shall be taken to minimize the opportunity of purchases being made by unauthorized persons. In addition to the written notification required in FPMR § 101-38.1202(b)(1), the paying office shall be promptly notified of the loss or theft and to be on the alert for any unauthorized bills.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

§ 109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(c) The use of motor vehicles for official purposes within DOE is governed by the provisions of DOE Subpart 109-38.54.

(d) All requirements for term rentals or leases of sedans, station wagons or light trucks under 8,500 pounds gross vehicle weight shall be submitted to the Property and Equipment Management Division (MA-422) in accordance with §§ 109-38.1306-50, 109-38.1307 and DEAR 908.1170.

§ 109-38.1304-50 Selection of type of motor vehicles.

(a) All vehicles acquired for use, whether by buy, hire, lease, forfeiture or transfer from another agency, shall be limited to the minimum body and engine size, and to only that operational equipment (if any) necessary to fulfill programmatic needs.

(b) The least expensive unit overall should be used, considering both acquisition and operating costs for units to be bought, and rental rates for rented or leased units.

(c) Dual-purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid limitations on the number of passenger vehicles which may be acquired.

(d) Motor scooters and motorcycles in place of higher cost motor vehicles can be used advantageously for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with cost for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic.

(e) Electric vehicles may be used advantageously for certain applications. The use of these vehicles is encouraged wherever it is feasible to use them to further the goal of fuel conservation.

§ 109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.

In accordance with FPMR § 101-38.1305, all requests to acquire passenger automobiles larger than class 1A, 1B or II shall be forwarded with justifications through normal administrative channels to the Property and Equipment Management Division (MA-422) for certification to GSA.

§ 109-38.1306 Acquisition of fuel-efficient passenger automobiles.

(a) Organizations conducting motor vehicle operations shall forward annually (on or before December 1) to the Property and Equipment Management Division (MA-422) a plan for acquisition of passenger motor vehicles for the next fiscal year. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Order 12375 and as implemented by GSA and current DOE directives. Additional guidance for the preparation of the plan will be issued by the Property and Equipment Management Division (MA-422) as required. This organization shall also review each submission for conformance with established fuel efficiency standards and shall develop and forward to GSA the Departmental consolidated annual motor vehicle acquisition forecast.

§ 109-38.1306-50 Certification of fuel-efficient passenger automobile acquisitions.

(a) Requisitions for the buying of passenger motor vehicles shall be forwarded to the Property and Equipment Management Division (MA-422) for review, certification and submission to GSA.

(b) Proposals/ requests for commercially leased passenger automobiles, for a period of 60 continuous days or more, shall be forwarded to the Property and Equipment Management Division (MA-422) for review and certification prior to entering into an agreement to lease to insure compliance with Executive Order 12375 as implemented by GSA.

§ 109-38.1307 Acquisition of fuel-efficient light trucks.

In accordance with FPMR § 101-38.1307 and Executive Order 12375, the requirements of §§ 109-38.1306 and 109-38.1306-50 also apply to the acquisition of any truck under 8,000 pounds gross vehicle weight and covered by Federal Standards 292 and 307.

§ 109-38.1350 Conservation of motor vehicle fuels.

In furtherance of energy conservation objectives, each organization within DOE shall establish programs which will ensure achievement of the reduced motor vehicle fuel consumption objectives. The following actions shall be adopted to achieve the conservation goals of reduced motor vehicle fuel consumption:

(a) Do not idle engine for long periods of time.

(b) Reduce motor vehicle travel to the maximum extent practicable without jeopardizing essential business.

(c) Use the smallest vehicle that is feasible for the job.

(d) Maintain tire pressure to tire manufacturer's recommendations. Check pressure at least once each week.

(e) Give wide publicity on proper driving techniques as prescribed by GSA to conserve fuels and require that all drivers diligently follow them.

(f) Limit speed to the National Speed Limit.

(g) Ensure proper maintenance and servicing procedures, such as tuneups, in accordance with the manufacturer's latest specifications.

Subpart 109-38.50—Utilization of Motor Vehicles

§ 109-38.5000 General.

It is DOE policy to keep the number of motor vehicles at the minimum needed to satisfy program requirements. To assure attainment of this goal, continuing attention shall be given to developing and implementing controls and practices which will help achieve the most practical and economical utilization of vehicles.

§ 109-38.5001 Utilization controls and practices.

Controls and practices to be used by DOE organizations and contractors for achieving maximum economical utilization of motor vehicles shall include, but not be limited to—

(a) The maximum use of equipment pooling arrangements, taxicabs, shuttle buses, or other common service arrangements;

(b) The minimum, practicable assignment of equipment to individuals, groups or specific organizational components with periodic documented reviews of such assignments to determine if underutilization exists and whether reassignment is necessary;

(c) Frequent review of vehicle utilization statistics by appropriate levels of management, with prompt reassignment and/or disposal action performed as required;

(d) The careful selection of equipment types to permit the maximum appropriate use of multi-purpose equipment;

(e) The rotation of equipment between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy; and

(f) The maintenance of individual equipment use records, such as trip tickets or vehicle logs, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If one-time use is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage.

§ 109-38.5002 Use objectives for motor vehicles.

The following use goals are established for DOE as average objectives:

(a) Sedans and station wagons—3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles, one ton and under (less than 12,500 GVW)—10,000 miles per year.

(c) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 16,999 GVW)—7,500 miles per year.

(d) Heavy trucks and general purpose vehicles, three ton and over (17,000 GVW and over)—7,500 miles per year.

(e) Truck tractors—10,000 miles per year.

(f) All-wheel-drive vehicles—7,500 miles per year.

(g) Other motor vehicles—No average use goals for other trucks, ambulances, buses, and special purpose vehicles are established. The use of such equipment shall be reviewed and necessary action taken to ensure that the equipment is fully utilized or declared excess to the Department's needs.

§ 109-38.5003 Application of use goals.

Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any Department-wide mileage standard. Other measures of use will need to be considered. Accordingly, as an aid in achieving maximum feasible utilization, local use objectives which represent practical units of measurement for vehicle utilization and for planning and evaluating future vehicle requirements must be established. Such objectives should generally be initiated by the organization involved and reviewed and adjusted as appropriate, but not less often than annually. The objectives will take into consideration past performance, future requirements and special operating conditions, and should be consistent with the justifications used to obtain vehicle authorizations. Both Department-wide and local use objectives should be applied in such a manner that their application does not stimulate vehicle use for the purpose of meeting the objective. The ultimate standard against which vehicle use must be measured is that the minimum number of vehicles will be retained to satisfy program requirements.

Subpart 109-38.51—Acquisition of Motor Vehicles

§ 109-38.5100 General requirements.

The acquisition of motor vehicles shall be limited to the minimum number needed to adequately serve program requirements and satisfy the intent of Congress. Any additions to the fleet must be fully justified and the justification shall include substantiation that the intent of 109-38.000-50 and 109-38.50 are satisfied.

§ 109-38.5101 Authority required for acquisition or hire of passenger motor vehicles.

(a) In accordance with 31 U.S.C. 1343, authority for the buying, leasing, or hire of passenger motor vehicles is contained in the annual appropriation act for DOE.

(b) The acquisition of passenger motor vehicles by transfer from another Government agency shall be considered as an addition to the DOE passenger motor fleet.

(c) Passenger motor vehicles may not be bought or acquired by transfer or loan unless they are—

(1) Specifically authorized by the Director of Procurement and Assistance Management, pursuant to the appropriation concerned or other law;

(2) Acquired from excess for upgrading or replacement purposes and an equal number of replaced vehicles are reported for disposal as excess within 30 days; or

(3) For temporary emergency needs not in excess of three months in lieu of commercial rentals.

(4) For temporary emergency needs over three months and approved by the Director of Procurement and Assistance Management.

§ 109-38.5102 Passenger motor vehicle allocations.

(a) To assure that DOE acquisitions do not exceed the number of passenger motor vehicles authorized to be acquired in any fiscal year, the Director of Procurement and Assistance Management shall allocate to and inform the field organizations of the number of passenger motor vehicles which may be acquired each fiscal year. These allocations and the statutory cost limitations shall not be exceeded.

(b) In order that unused allocations to acquire passenger motor vehicles may be reassigned within the Department, the organizations concerned shall notify the Property and Equipment Management Division (MA-422) when allocations will not be used. Such notification shall be submitted as soon as possible but not later than June 15 of each year.

(c) Passenger motor vehicles acquired from excess to meet temporary emergency needs for longer than three months shall be charged against the number authorized for purchase unless otherwise approved by the Director of Procurement and Assistance Management (See Comp. Gen. Decision. B-154282 dated October 15, 1966).

(d) In order that passenger vehicles no longer needed by one field organization may be used by another, either by actual transfer for continued use or as replacement off-sets, they shall be reported to the Property and Equipment Management Division (MA-422) prior to any disposal action so that such use can be properly coordinated within DOE.

§ 109-38.5103 Acquisition.

(a) Policies and procedures for the procurement of new motor vehicles, including provisions for the acquisition of additional systems and equipment for sedans and station wagons, are set forth in FPMR 101-25.304 and 101-26.5 and DEAR 908.7101.

(b) Policies and procedures for the leasing of motor vehicles are set forth in FPMR § 101-39.601 and DEAR 908.11. The Director of Administration and heads of field offices for their respective organizations are responsible for certifying that leased passenger vehicles larger than type II (compact) are essential to the mission of the organization concerned.

Subpart 109-38.52—Aircraft

§ 109-38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of aircraft and aircraft services, excluding aircraft owned and operated by other Federal activities for DOE.

§ 109-38.5201 Definitions.

As used in this subpart the following definitions apply:

(a) "Aircraft" means a device that is used or intended to be used for flight in the air, including: heavier than air, and lighter than air and ultra-light aircraft, gliders, helicopters, rigid and nonrigid airships, and balloons.

(b) "Chartered aircraft" are aircraft rented or hired on an intermittent basis, with or without the services of a pilot or other operating aircrew members.

(c) "Leased aircraft" are aircraft obtained on a contractual basis, for a stipulated time interval, as distinguished from intermittent charter or short-term rental.

(d) "Military aircraft" are aircraft on loan from the Department of Defense (DOD).

(e) "Pilot" is an individual possessing the required FAA credentials and meeting the qualification requirements and other criteria as required by the employing organization.

(f) "Part-time pilot" is one who is employed specifically to operate aircraft on a "when-needed" basis.

§ 109-38.5202 General.

Department-wide policies, standards, guidelines and procedures for management of aircraft and aviation services, necessary staff assistance, and general liaison with other Federal agencies are provided by the Director of Procurement and Assistance Management. Heads of field offices

must ensure that management, review, approval and accounting procedures and systems are implemented to comply with the requirements of OMB Circular A–126, "Improving the Management and Use of Government Aircraft."

§ 109–38.5203 Aircraft safety.

(a) Policy development and general overview of aircraft safety in Departmental operations is exercised by the Assistant Secretary for Policy, Safety and Environment.

(b) Aviation operations and aircraft safety standards, criteria and procedures for DOE aviation operations are established by the Assistant Secretary for Policy, Safety and Environment. Heads of field offices may establish higher safety standards, criteria and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109–38.5204 Pilot responsibility and authority.

(a) It shall be the responsibility of the pilot to be aware of, and conform to, Federal Aviation Regulations and other requirements of the Federal Aviation Administration (FFA), Department policies and field organization directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The pilot is responsible for ensuring that all necessary maintenance, repairs and FAA inspections are accomplished and for determining that the aircraft is airworthy.

(c) The pilot is at all times responsible for the safe operation of his aircraft and for the safety of his crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109–38.5205 Authority required for the acquisition, hire, or borrowing of aircraft.

§ 109–38.5205–1 Statute.

(a) In accordance with 31 USC 1343(d), authority for the buying, leasing, or hire of aircraft is contained in the annual appropriation act for DOE.

(b) The acquisition of aircraft by transfer from another Government agency shall be considered as an addition to the DOE aircraft fleet.

(c) Aircraft may not be bought, leased, or acquired by transfer or loan unless they are—

(1) Specifically authorized by the Director of Procurement and Assistance Management, pursuant to the appropriations concerned or other laws (except for temporary rentals or loans of 30 days or less);

(2) Temporary rental or loans (30 days or less) approved by the head of the field office; or

(3) Acquired from Government excess for upgrading or replacement purposes, provided: (i) That such acquisition is without reimbursement, (ii) that the aircraft can be certified as airworthy without extensive or costly modification, and (iii) that an equal number of aircraft is reported for disposal as excess within 30 days after delivery of the replacement aircraft.

§ 109–38.5206 Aircraft authorization.

(a) To assure that acquisitions do not exceed the number of aircraft authorized to be acquired in any fiscal year, the Director of Procurement and Assistance Management shall inform DOE field organizations each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

(b) The acquisition of specific aircraft by type shall be coordinated with the Office of Operational Safety (PE–242) to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

§ 109–38.5207 Management responsibility.

The head of each field organization having an aircraft operation shall establish procedures to ensure—

(a) That the acquisition of aircraft, including military aircraft, is centrally controlled to ensure that authorizations are not exceeded;

(b) Because of the statutory limitations on the number of aircraft which DOE may acquire, replaced aircraft must be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft.

(c) That each aircraft is equipped with the appropriate avionics and accessories required by its FAA type certification or military department's operators manual for the type of flight intended. Life jackets shall be provided and readily available for all occupants of aircraft on extended overwater flights as defined in Federal Aviation Regulation 1.1. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear;

(d) Conformance with FAA requirements for the registration, certification, maintenance, and operation of aircraft, engines, and component equipment;

(e) Selection of qualified pilots and crew members and the maintenance of pilot and crew competence commensurate with job requirements;

(f) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location when operating in areas where flight plan service is not available;

(g) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(h) That pooling is used as necessary to obtain maximum utilization;

(i) That contract or charter pilots are duly certified to meet all requirements and regulations established by the FAA for the particular aircraft;

(j) That chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the FAA;

(k) Than any charter, rental or hire of aircraft and operators shall meet the requirements of 14 CFR 135; and

(l) That DOE-owned, -leased, and borrowed aircraft are used for official purposes only and that all flight and operational personnel, including the pilots, are aware of the provisions of § 109–38.54.

§ 109–38.5208 Registration and identification.

(a) Department-owned aircraft shall be registered with the FAA. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, loan or lease of aircraft.

(b) All aircraft shall display markings as required by the Federal Aviation Regulations for registered aircraft of the United States.

§ 109–38.5209 Airworthiness.

With the exception of public use aircraft being operated under special regulations of the FAA, all aircraft shall be required to have a currently effective FAA Airworthiness Certificate appropriate to the proposed usage. This certificate shall be displayed in the aircraft. Exceptions to this requirement are: (a) Uncertified aircraft may be ferried with minimum crew when there is a written determination by the head of the field office or his designee that the aircraft is safe for flight, and (b) aircraft obtained by transfer from the Department of Defense or the U.S. Coast Guard may be ferried incident to such transfer when the aircraft has been released as airworthy for flight.

§ 109-38.5210 Maintenance.

As a minimum, all aircraft, aircraft engines, propellers, accessories, and equipment shall be maintained and serviced in accordance with FAA requirements for air carrier and non-air carrier aircraft, as appropriate, and the instructions of the manufacturer. All repairs and alterations shall be performed and approved in accordance with applicable FAA or military standards and requirements. Preventive maintenance inspections shall be made of the airframe, engine, and accessory equipment in conformance with the equipment manufacturer's recommendations and FAA or military requirements, as applicable.

§ 109-38.5211 Operation.

(a) Flight operations must comply with the Federal Aviation Regulations, and responsibility for such compliance rests with the pilot of the aircraft (§ 109-38.5204). Any special problem requiring deviation from the regulations shall be submitted through normal administrative channels to the Assistant Secretary for Policy, Safety and Environment for review and possible referral to the FAA for an appropriate waiver. Such a waiver is required for all fixed-wing aircraft engaged in low-level flying, and any change of conditions shall be reported to the responsible FAA District Office.

(b) Flight plans are required for all flights over isolated areas, and are also required for flights under visual flight rules (VFR) conditions except where the flight is of a local nature. Where normal flight plan channels are not available, the procedures as stated in § 109-38.5207(f) or other controls shall be followed that will assure current knowledge by responsible DOE or DOE contractor personnel of the aircraft's operating plan and of its arrival at destination.

(c) Aircraft, engines, and equipment shall be operated within the operating limits prescribed by the manufacturer.

(d) Adequate preflight and in-flight check lists shall be provided to, and used by, all pilots. A visual preflight inspection shall be made by the pilot before each takeoff, and any deficiency which might affect the safety of the flight shall be corrected before takeoff.

(e) All flights shall be planned and conducted so that the aircraft will arrive over its destination with a fuel reserve sufficient to reach a planned alternate destination. Flights conducted under FAA Instrument Flight Rules shall be required to conform to FAA fuel-time minimum requirements, or better.

§ 109-38.5212 Records.

As a minimum, flight, aircraft, and engine logs shall be maintained in accordance with FAA requirements, and records of operations, maintenance, and costs shall be maintained as required for management budgetary and reporting purposes. Heads of field offices shall establish requirements for other records needed.

§ 109-38.5213 Reports.

(a) Organizations operating aircraft shall complete a DOE Form 4450.1, Aircraft Cost and Operations Report, for each DOE-owned, -leased (over 30 days) or borrowed aircraft operated during the fiscal year. The completed forms shall be submitted to the Property and Equipment Management Division (MA-422) by December 31 of each year, or upon receipt or disposal of individual aircraft.

(b) Reports shall be submitted as required by the Federal Aviation Administration, the National Transportation Safety Board, the General Services Administration, and the Assistant Secretary for Policy, Safety and Environment. Heads of field offices shall establish the requirements for other reports that may be needed for management or other purposes.

(c) All accidents involving aircraft shall be reported promptly to the National Transportation Safety Board, the Federal Aviation Administration as required, the head of the field organization concerned and the Assistant Secretary for Policy, Safety and Environment.

Subpart 109-38.53—Watercraft

§ 109-38.5300 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of all watercraft operated by DOE organizations and contractors. The policies and procedures set forth herein are minimal, and the head of each Departmental organization operating watercraft shall issue such supplemental instructions as may be needed to ensure the effective and efficient management of watercraft.

§ 109-38.5301 Definitions.

As used in this subpart the following definitions apply:

(a) "Watercraft" means any vessel used to transport persons or material on water.

(b) "Qualified Operator" means any person who has exhibited skill in handling watercraft, knowledge of "Rules of the Road," and other basic watercraft knowledge necessary for safe and efficient operation.

(c) "Rules of the Road" means laws which govern the operation of watercraft on: (1) Great Lakes, (2) western rivers, (3) Inland, and (4) International Waters.

§ 109-38.5302 General.

Departmental-wide policies, standards, guidelines and procedures for management of watercraft are established by the Director of Procurement and Assistance Management.

§ 109-38.5303 Watercraft safety.

Policy development and general overview of watercraft safety in Departmental operations is exercised by the Assistant Secretary for Policy, Safety and Environment.

§ 109-38.5304 Watercraft operations.

(a) No person may operate a watercraft on a waterway until skill of operation, knowledge of rules of the road, and basic watercraft knowledge have been exhibited to the head of the field office. The U.S. Coast Guard Auxiliary (USCG), American Red Cross and U.S. Power Squadrons teach public courses in some locations which are applicable to small boat operations (non-commercial watercraft up to 65' overall length).

(b) Before a watercraft is put underway, the operator shall check the vessel to ensure that the necessary equipment, including personal flotation devices and lights, as required by laws applicable to the area of operation, are present, properly stowed and in proper working order. Optional equipment recommended by USCG or other competent authority shall also be included when determined to be necessary by the responsible field office.

(c) Operators shall comply with all applicable Federal, state and local laws pertaining to the operation of watercraft. Where no state boating law exists, the requirements of the Federal Boating Act of 1958, as amended, shall apply.

(d) Operators shall not use watercraft or carry passengers except in the performance of official Departmental assignments.

§ 109-38.5305 Watercraft identification and numbers.

(a) Watercraft in the custody of DOE or DOE contractors shall display identifying numbers, whether issued by the U.S. Coast Guard, state or local field office. The numbers will be in addition to Departmental property control or other identification. Numbers shall be in block form affixed to the bow section, on both sides. Numbers and/or letters shall read from left to right in

contrasting color to background not less than three (3) inches in height. When a watercraft is not registered by either the U.S. Coast Guard or state, the field organization shall assign an alpha-numeric designation, which will reflect Departmental and field office issue. Example—DOE–4560–SR. (Note: Some states specify the arrangement of numbers and letters which shall be used by Federal small boats home posted in the state's waters. Compliance with such a requirement is appropriate.)

(b) DOE is not required to have DOE-owned watercraft inspected and registered by the U.S. Coast Guard, but these services may be provided upon request.

§ 109–38.5306 Display of flags and seal.

Watercraft with overall length of twenty (20) feet or more, except barges, shall display the U.S. Ensign (National Flag). The display of the Departmental flag is optional. Location and times of display of flags shall be in accordance with accepted practice. A facsimile of the Departmental seal may also be displayed. When the seal is used it shall be placed on the superstructure in a prominent place and a size appropriate to the superstructure; except that if there is no superstructure, the seal shall be placed above the water line in the midship section of watercraft.

Subpart 109–38.54—Official Use of Motor Vehicles and Aircraft

§ 109–38.5400 Scope of subpart.

This subpart supplements FPMR Part 101–38, implements the provisions of statutes concerning the use of Government-owned, -rented or -leased motor vehicles and aircraft for official purposes and prescribes policies and procedures governing the use of such vehicles and aircraft acquired for official purposes.

§ 109–38.5401 Statutory requirement.

(a) 31 U.S.C. 1344(a) provides that, unless otherwise specifically provided, no appropriation available for any department shall be expended for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes. Official purposes shall not normally include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical service, and where officers and employees are performing field work which makes such transportation necessary and which has been approved by the head of the department concerned.

(b) In accordance with 31 U.S.C. 1349(b), any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned motor vehicle or aircraft or any motor vehicle or aircraft leased by the Government, for other than official purposes, shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant.

(c) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (which includes Government motor vehicles) is subject to criminal prosecution and, upon conviction, to fines up to $10,000 and/or imprisonment for up to 10 years.

(d) In addition to the potential administrative sanctions and criminal prosecution cited above, 31 U.S.C. 1344 is interpreted to preclude reimbursement to Government contractors for the maintenance, operation or repair of Government-owned, -rented, or -leased passenger motor vehicles or aircraft which are used by contractor personnel for other than official purposes.

§ 109–38.5402 Policy.

All Government-owned, -rented or -leased motor vehicles and aircraft operated by DOE and its contractors shall be utilized for official purposes only, and officers, employees and contractors of the Department shall not use or authorize others to use any Government-owned, -rented or -leased motor vehicle or aircraft for other than official purposes. It should be understood that use of Government-owned, -rented or -leased motor vehicles between an employee's domicile and place of employment when adequately justified may be authorized only as an exceptional action but not as a routine occurrence.

§ 109–38.5403 Official purposes.

(a) The term "official purposes" means those purposes required to carry out authorized programs, including program work carried out under contracts made pursuant to authority vested in the Department. "Official purpose" largely is a matter of administrative discretion and determination based on the particular facts of the case and the Government interest in the proposed use of the Government motor vehicle. It is the responsibility of the person authorizing or approving the use to examine the circumstances surrounding such use and assure that the facts sufficiently justify a conclusion of "official purpose."

(b) The term "field work" as used in 31 U.S.C. 1344a quoted above refers to the nature of the work performance; it is not restricted to "field service" as distinguished from "Headquarters service."

§ 109.38.5404 Approval of authorizations.

(a) The Director of Administration and heads of field offices for their respective organizations may approve the use of a Government-owned, -rented, or -leased motor vehicle between a DOE employee's domicile and place of employment. This authority may be redelegated but not below the chief administrative officer level.

(b) Heads of field offices and contracting officers shall require:

(1) Contracting officer approval for all contractor authorizations over 10 days;

(2) That contractors prescribe and issue, subject to approval by the head of the field organization or contracting officer, such local written guidelines regarding the official use of motor vehicles or aircraft and the penalties for unauthorized use as may be necessary and appropriate for particular operating situations; and

(3) That the use of Government-owned, -rented, or -leased motor vehicles or aircraft by contractor employees for transportation between places of employment and domiciles, including storage at or near such domiciles, is justified in accordance with § 109–38.5403, and that such justifications, administrative determinations, and authorizations for such use and storage by contractor employees are documented and approved at appropriate supervisory levels within the contractor's organization and by the contracting officer when required by § 109–38.5404(b)(1).

(c) The approving official shall determine whether the official duties of the employees justify a conclusion of official purpose in accordance with § 109–38.5403. All approvals and supporting documentation shall be in writing and retained for three calendar years.

§ 109–38.5405 Duration of authorizations.

An authorization to use a motor vehicle for transportation between a domicile and place of employment shall be limited to the period of actual need or 60 days, whichever is less. Requests for renewals of such authorizations shall be subject to the same justification and document retention procedures as original requests, and must also indicate what attempts were made during the

original period to eliminate the necessity for such use.

§ 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.

The use of a Government motor vehicle by an officer or employee to drive to his/her residence when it is in the interest of the Government that the employee start on official travel in the vehicle from that point, rather than from his/her place of business, is not regarded as prohibited by 31 USC 1344(a), (25. Comp. Gen. 844) or by Departmental policy.

§ 109-38.5407 Use of Government-owned or Government-furnished motor vehicles in travel status.

The use of Government-owned or Government-furnished motor vehicles by Government employees while in travel is governed by the Federal Travel Regulations (FTR 1-2.6a) and Chapter III-3 of DOE Order 1500.2 (DOE Travel Policy and Procedures Manual).

§ 109-38.5408 Use of Government-owned or-leased bus systems.

The provisions of this subpart do not affect passenger use of Government-owned or -leased bus systems (regardless of type of vehicle used in such system) established under the provisions of section 161e of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201e).

§ 109-38.5409 Use of Government motor vehicles in emergencies.

In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property (see § 109-1.5102). Such use shall be documented.

§ 109-38.5410 Use of motor vehicles by the Postal Service.

(a) Section 411 of the Postal Reorganization Act provides that executive agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property , as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) Pursuant to the authority in 39 U.S.C. 411, motor vehicles may be made available to the Postal Service for temporary use. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar motor vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

§ 109-38.5411 Instructions to motor vehicle operators.

Procedures shall be established to inform motor vehicle operators concerning—

(a) The statutory requirement that motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of motor vehicles, and for compliance with Federal, State, and local laws and regulations, and all accident reporting requirements;

(c) Protection for DOE employees under the Federal Tort Claims Act (28 U.S.C. 2671) when acting within the scope of their employment;

(d) The penalties for unauthorized use of motor vehicles;

(e) The prohibition against picking up strangers or hitchhikers, and the transportation of non-official passengers:

(f) The proper care, control and use of credit cards; and

(g) Any other duties and responsibilities assigned to motor vehicle operators with regard to use, care, operation, and maintenance of motor vehicles.

PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS

Sec.

109-39.000 Scope of part.

Subpart 109-39.3—Motor Vehicle Exemptions

109-39.302 Unlimited exemptions.
109-39.303 Limited exemptions.

Subpart 109-39.4—Establishment, Modification, and Discontinuance of Motor Pools

109-39.404-3 Problems involving service or cost.
109-39.404-4 Agency requests to withdraw participation.

Subpart 109-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

109-39.602-1 Government vehicles.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-39.000 Scope of part.

This part implements and supplements FPMR Part 101-39 concerning the establishment and operation of interagency motor vehicle pools and systems.

Subpart 109-39.3—Motor Vehicle Exemptions

§ 109-39.302 Unlimited exemptions.

In those instances where it is determined that an unlimited exemption from inclusion of a vehicle in a motor pool system is warranted under the criteria set forth in FPMR § 101-39.302, full particulars shall be forwarded to the Property and Equipment Management Division (MA-422) for consideration and possible referral to the Administrator of General Services.

§ 109-39.303 Limited exemptions.

The procedure established in § 101-39.302 shall be followed in seeking limited exemptions under the criteria set forth in FPMR § 101-39.303.

Subpart 109-39.4—Establishment, Modification, and Discontinuance of Motor Pools

§ 109-39.404-3 Problems involving service or cost.

To resolve problems involving motor pool service or cost, the affected field or Headquarters organization shall bring the matter to the attention of the chief of the motor pool providing the vehicles. In the event a satisfactory solution does not result, full particulars shall be forwarded to the Property and Equipment Management Division (MA-422) for consideration and possible referral to the Administrator of General Services.

§ 109-39.404-4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation by a DOE organization, as contemplated in FPMR § 101-39.404-4, the participating organization should forward complete details to the Property and Equipment Management Division (MA-422) for consideration and possible referral to the Administrator of General Services.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 109-39.602-1 Government vehicles.

(a) Subpart 109-38.54, Official Use of Motor Vehicles and Aircraft, prescribes DOE policies and procedures governing the official use of Government motor vehicles.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Sec.
109-42.000 Scope of part.
109-42.000-50 Applicability.

Subpart 109-42.3—Recovery of Precious Metals and Strategic and Critical Materials

109-42.301 General.
109-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.
109-42.302 Recovery of silver from used hypo solution and scrap film.
109-42.350 Excess precious metals.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-42.000 Scope of part.

This part implements and supplements FPMR Part 101-42, Property Rehabilitation Services and Facilities.

§ 109-42.000-50 Applicability.

The provisions of FPMR 101-42 and this part apply to contractors which generate used hypo solution, scrap film, other precious metals scrap and other recoverable scrap materials.

Subpart 109-42.3—Recovery of Precious Metals and Strategic and Critical Materials

§ 109-42.301 General.

The Director of Administration and heads of field offices for their respective organizations are responsible for establishing a program for the recovery of precious metals and strategic and critical materials in accordance with FPMR 101-42.3 and this subpart.

§ 109-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.

Each DOE organization and contractor generating silver or other precious metals shall prepare the report on precious metals recovery in accordance with FPMR § 101-42.301-1, except that the reports shall be prepared on an annual basis for the fiscal year. Negative reports are required. Contractors shall submit reports to the DOE contracting office for review and approval. DOE organizations shall submit reports, including contractor reports, to the Property and Equipment Management Division (MA-422) not later than 30 days after the end of the fiscal year.

§ 109-42.302 Recovery of silver from used hypo solution and scrap film.

The Director of Administration and heads of field offices for their respective organizations are responsible for the establishment and maintenance of a program for silver recovery from used hypo solution and scrap film in accordance with FPMR § 101-42.302.

§ 109-42.350 Excess precious metals.

See § 109-43.313-54 for procedures for reporting excess precious metals to the DOE precious metals pool for recovery and subsequent redistribution within DOE.

PART 109-43—UTILIZATION OF PERSONAL PROPERTY

Sec.
109-43.000 Scope of part.
109-43.000-50 Applicability.
109-43.001-14 Personal property.

Subpart 109-43.1—General Provisions

109-43.101 Surveys.
109-43.102 Reassignment of property within executive agencies.
109-43.103 Agency utilization officials.

Subpart 109-43.3—Utilization of Excess

109-43.301-50 Policy.
109-43.302-50 Utilization and disposal by contractors.
109-43.303-1 Acquisition of mercury.
109-43.306 Property not required to be reported.
109-43.311-1-50 DOE utilization screening.
109-43.311-1-51 Procedures for effecting transfers within DOE.
109-43.311-5 Property at installations due to be discontinued.
109-43.312 Exceptions to reporting.
109-43.313-2 Printing, binding, and blankbook equipment and supplies.
109-43.313-50 Radioactively and chemically contaminated property.
109-43.313-51 Automatic data processing equipment.
109-43.313-52 Classified property.
109-43.313-53 Naval gun mounts.
109-43.313-54 Precious metals.
109-43.313-55 Shielding material.
109-43.313-56 Property in which the Government has an interest.
109-43.313-57 Lead.
109-43.315-5 Procedure for effecting transfers.
109-43.317-1 Cost of care and handling.
109-43.317-2 Proceeds.
109-43.319 Use of excess property on cost-reimbursement type contracts.
109-43.321 Certification of non-Federal agency screeners

Subpart 109-43.5—Utilization of Foreign Excess Personal Property.

109-43.503 Holding agency responsibilities.
109-43.504-50 Disposition of property not selected for return to the United States.

Subpart 109-43.47—Reports

109-43.4701 Performance reports.

Subpart 109-43.51—Utilization of Personal Property Held for Facilities in Standby

109-43.5100 Scope of subpart.
109-43.5101 Definition.
109-43.5102 Policy.
109-43.5103 Reviews to determine need for retaining items.
109-43.5104 Utilization of property in facilities in standby status.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-43.000 Scope of part.

This part implements and supplements FPMR Part 101-43, Utilization of Personal Property.

§ 109-43.000-50 Applicability.

The provisions of FPMR Part 101-43 and this part are applicable to contractors unless otherwise provided herein.

§ 109-43.001-14 Personal property.

For the purposes of this part personal property means property of any kind or type except real and related personal property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Order 5630.2 "Control and Accountability of Nuclear Materials, Basic Principles" apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in Section 11 of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

Subpart 109-43.1—General Provisions

§ 109-43.101 Surveys.

The Director of Administration and heads of field offices are responsible for continuously surveying property under their control to assure efficient use and shall promptly identify and report excess property available for use elsewhere. See 109-25.109-1 for DOE policy on the conduct of management walk-through inspection tours to identify idle and unneeded equipment.

§ 109-43.102 Reassignment of property within executive agencies.

See Chapter XI of the DOE Accounting Practices and Procedures Handbook for preparation of the feeder reports upon which the consolidated DOE report of internal property reassignments is based.

§ 109-43.103 Agency utilization officials.

The Director, Property and Equipment Management Division, Headquarters, is designated as the DOE National Utilization Officer.

Subpart 109-43.3—Utilization of Excess

§ 109-43.301-50 Policy.

It is the policy of DOE to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as—

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economical operating condition;

(b) Duration of the job on which the equipment will be used;

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition; and

(d) Handling and transportation costs involved in acquisition of excess property.

§ 109-43.302-50 Utilization and disposal by contractors.

Heads of field offices may authorize contractors to perform the functions pertaining to utilization and disposal of excess property, provided such activities are in accordance with written policies and procedures which they have approved as being consistent with this part and those contained in FPMR Part 101-45 and Part 109-45.

§ 109-43.303-1 Acquisition of mercury.

Requests for 76 pound flasks of mercury, for use by DOE or its contractors, shall be forwarded to the Director, Supply Division, Oak Ridge Operations Office, Oak Ridge, Tennessee.

§ 109-43.306 Property not required to be reported.

To the extent practicable and economical, notification of availability of nonreportable excess property (See FPMR § 101-43.312) shall be made on an informal basis to other DOE installations in the area known to use such property. If no requirement is established within a reasonable time, usually not more than 30 days after the availability of the property is announced, the property will be considered excess to the needs of the DOE and made available to GSA as provided for in FPMR Part 101-43.306.

§ 109-43.311-1-50 DOE utilization screening.

(a) Prior to reporting excess personal property to GSA as required by FPMR § 101-43.311-1, reportable property, as identified in FPMR § 101-43.4801, shall be reported to the Property and Equipment Management Division (MA-422) through the DOE Reportable Excess Automated Property System (REAPS) for completion of the 30-day DOE screening period. Information regarding REAPS reporting and screening procedures are provided in instructions and directives issued by MA-422.

(b) In exceptional cases where time does not permit formal DOE utilization screening through REAPS, notification of the availability of excess property may be made by telegram, teletype or telephone, with due consideration to the additional costs involved.

(c) Concurrent utilization screening within DOE and to other Federal agencies generally shall not be permitted.

(d) If, after DOE circularization, reportable property is desired by another Federal agency, it may be transferred as provided in FPMR § 101-43.315-5(a).

§ 109-43.311-1-51 Procedures for effecting transfers within DOE.

In accordance with instructions provided for the operation of the REAPS program, transfers between DOE organizations and contractors shall be effected by completion of an SF-122, Transfer Order Excess Personal Property. Except for those contractors authorized by the DOE contracting office to execute transfer orders, transfers to DOE contractors must be approved by the cognizant DOE contracting officer for the contractors receiving the property.

§ 109-43.311-5 Property at installations due to be discontinued.

(a) In closing out installations or any activities where it is important that upon completion of the work the personnel be released and activities ended as quickly as possible in order to avoid large expenditures, arrangements may be made for expediting the utilization and disposal of excess inventories and other excess property.

(b) Personal and real property staffs of DOE field organizations shall work with appropriate GSA regional offices to develop a utilization and disposal program which takes into consideration all the factors involved, is expedited to the maximum degree, and is mutually satisfactory and in the best overall interest of the Government. When closeout involves an activity which is not located geographically in a DOE installation, information concerning the situation shall be given to the appropriate regional administrator of GSA, as early as possible, by letter (copy to the Property and Equipment Management Division (MA-422)). The information should include the types of property available and indicate that the activity is to be discontinued, the scheduled date for the removal of personnel from the location, and the last dates when the property will be needed. The following guidelines are furnished for possible use, although variations may be used as long as agreement is reached with GSA and there is no conflict with DOE requirements except as noted in (1) below:

(1) If a proposed expedited program provides for deviation from the DOE policy or procedural requirements, approval of the Director of Procurement and Assistance Management shall be obtained.

(2) Approval of the proposed program by the appropriate GSA regional office, when deviation from existing GSA regulations is involved, will be sufficient to validate the program. A copy of the approved program should be forwarded for information to the Property and Equipment Management Division (MA-422).

(3) In developing an expedited disposal program, property shall be determined to be excess to DOE before it is reported to GSA. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally is not permitted.

(4) Summary catalog listings of certain categories of excess property, such as property in classes 48, 51, 55, 56, etc., showing estimated release dates, might be furnished GSA with good utilization results. Excess property in such classes as 23, 24, 32, 34 and 38 shall normally be listed by individual item with sufficient description for ready identification.

(5) In order to obtain maximum utilization of the property by other Federal agencies, the disposal program shall provide that the field organization will furnish assistance to GSA, upon request, to arrange for invitational inspections by Federal agency representatives.

(6) Upon request, DOE can provide assistance to GSA in its circularization of reportable items to other Federal agencies or in locating potential users within the government.

(7) Care should be exercised to be sure that orders from other Federal agencies for excess property are processed through GSA, as may be

required by the GSA regional office concerned.

(8) Although it may be possible to arrange for expediting donations for educational, public health, or civil defense purposes, adequate time must be allowed for the screening of all donable property.

(9) Provisions should be made for accelerated release by GSA of excess property for disposal as surplus, particularly where there is little or no potential use by other Federal Agencies.

(10) Methods should be developed whereby last minute requests for surplus property, cataloged for an auction sale or listed in a sealed bid invitation and inspected by prospective bidders, can be kept to a minimum.

§ 109–43.312 Exceptions to reporting.

In addition to the categories of nonreportable property identified in FPMR § 101–43.312 (a) through (g), the following property, when determined excess to a DOE installation, is not reportable and shall not be formally circularized within DOE or reported to GSA—

(h) Asphalt products in less than carload (LCL) quantities (roofing tile, paving materials);

(i) Cement and fabricated cement products in LCL quantities (concrete block, pumic block, cinder block, pipe and fittings);

(j) Fabricated clay products in LCL quantities (brick, tile, pipe and fittings);

(k) Fuels in LCL quantities (gasoline, diesel fuels, coal, coke and kerosene);

(l) Special purpose or site fabricated shelving, cabinets, shop tables, etc., of limited adaptability or with high cost of disassembly or transportation;

(m) Uncrated window glass; and

(n) Equipment, parts, accessories, jigs and components, which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations, such as spare parts for equipment used in atomic processes.

§ 109–43.313–2 Printing, binding, and blankbook equipment and supplies.

DOE organizations shall report excess printing, binding and blankbook equipment to the Office of Administrative Services, Headquarters, for processing in accordance with the Joint Committee on Printing Regulations.

§ 109–43.313–50 Radioactively and chemically contaminated property.

Radioactively and chemically contaminated property should be handled in accordance with § 109–45.50.

§ 109–43.313–51 Automatic data processing equipment.

Automatic data processing equipment should be handled in accordance with FPMR §§ 101–36.3 and 109–36.3.

§ 109–43.313–52 Classified property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to be classified, or otherwise rendered unclassified prior to disposal, in accordance with instructions of the head of the field organization concerned. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the property.

§ 109–43.313–53 Naval gun mounts.

When a naval gun mount obtained from the Naval Sea Systems Command, Department of the Navy, becomes excess, it may be listed, circularized, and transferred within DOE in the same manner as other excess property. However, when a naval gun mount is determined to be excess to DOE, it shall be reported to the Department of the Navy, Naval Sea Systems Command, Washington, D.C. 20360, and shall be disposed of in accordance with instructions of that Department.

§ 109–43.313–54 Precious metals.

All precious metals which become excess to current or foreseeable requirements shall be reported to the Oak Ridge Operations Office. With the exception of silver, this includes precious metals in any form, including shapes, scrap or radioactively contaminated. Only high grade nonradioactively contaminated silver should be reported, i.e., silver-bearing photo solutions, scrap film, or other low grade silver scrap should not be reported. (See § 109–27.53)

§ 109–43.313–55 Shielding material.

All excess movable shielding material of any type will be circularized within DOE using normal excessing procedures. However, prior to disposal outside DOE, the Property and Equipment Management Division (MA–422) shall be advised concerning the types and quantities which remain available.

§ 109–43.313–56 Property in which the Government has an interest.

Personal property in which the Government has an interest means: (a) Government-owned property which is available for exchange or sale, and (b) property leased with an option to purchase. Such property shall be circularized within DOE in accordance with § 109–43.311–1–50 for possible utilization whenever it is practicable to do so, considering the contract terms, cost in relation to remaining useful life, location of item, purchase option time remaining, etc.

§ 109–43.313–57 Lead.

Excess lead and lead bearing scrap, such as batteries, with the exception of radioactively contaminated lead, should be reported to the Idaho Operations Office for reclaiming and subsequent redistribution within DOE from the DOE lead bank. Only quantities of 40,000 pounds or more should be reported. The Idaho Operations Office will furnish shipping instructions upon request.

§ 109–43.315–5 Procedure for effecting transfers.

In accordance with a DOE agreement with GSA, execution of transfer orders by a DOE official is not required in those cases where heads of field offices have authorized contractors to perform this function, and GSA has been notified of such authorization. GSA regional offices will furnish the cognizant DOE field organization a copy of each transfer ordered received from contractors. This copy of the transfer order will be reviewed by the cognizant DOE field organization to determine if the contractor has been authorized to submit orders for excess property. If the contractor submitting the transfer order to the GSA regional office has not been authorized in writing to submit such orders, GSA will not honor such requests unless they are subsequently executed by an appropriate DOE official.

§ 109–43.317–1 Cost of care and handling.

DOE field organizations and contractors shall comply with the provisions of Chapter III of the DOE Accounting Practices and Procedures Handbook as they relate to billings for direct costs incurred in the transfer of excess property.

§ 109–43.317–2 Proceeds.

For DOE procedures on the handling of proceeds from transfer of excess property to another Government agency with reimbursement, see Chapter III of the DOE Accounting Practices and Procedures Handbook.

§ 109–43.319 Use of excess property on cost-reimbursement type contracts.

(b) It is DOE policy for contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in FPMR § 101–43.319(b) does not apply to such contracts and the acquisitions of

Government excess personal property by these contractors are not subject to the annual reporting requirements of FPMR § 101–43.4701(c). The procedures prescribed in § 109–43.315–5 for execution of transfer orders apply.

§ 109–43.321 Certification of non-Federal agency screeners.

Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109–43.5—Utilization of Foreign Excess Personal Property

§ 109–43.503 Holding agency responsibilities.

(a) Property which remains excess after utilization screening within the general foreign geographical area where the property is located should be reported by the accountable field office or Headquarters program organization to the Property and Equipment Management Division (MA–422) for consideration for return to the U.S. for further utilization within DOE, by other Government agencies, or for donation, based on such factors as cost, residual value, usefulness in ongoing or future programs, condition, and cost of transportation.

§ 109–43.504–50 Disposition of property not selected for return to the United States.

Property not selected for return to the United States for utilization within DOE or the Government or for donation in accordance with FPMR § 101–44.7 shall be disposed of in accordance with 109–45.5105.

Subpart 109–43.47—Reports

§ 109–43.4701 Performance reports.

(a) The DOE report of the utilization of domestic excess personal property as required in FPMR § 101–43.4701(a) is submitted to GSA by the Property and Equipment Management Division (MA–422). DOE field organizations and contractors reporting under the DOE financial reporting system should furnish this information to the Office of Controller in accordance with Chapter III of the DOE Accounting Practices and Procedures Handbook. Those activities which do not report under the DOE financial reporting system shall submit an SF 121 directly to MA–422 by November 15.

(c) The report required in FPMR § 101–43.4701(c) shall be submitted to the Property and Equipment Management Division (MA–422) within 45 days after the close of each fiscal year, in the format illustrated below. This reporting requirement does not apply to excess property acquired by management and operating contractors.

Name and address of recipient	Recipient's status	Original cost of property	Federal supply classification group

Subpart 109–43.51—Utilization of Personal Property Held for Facilities in Standby

§ 109–43.5100 Scope of subpart.

This subpart supplements FPMR Part 101–43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109–43.5101 Definition.

"Facility in standby" is a significant segment of plant and equipment, such as a complete plant or section of a plant, which is neither "in service" or declared "excess".

§ 109–43.5102 Policy.

Procedures and practices shall assure economical and efficient utilization of property associated with facilities placed in standby status as provided for in this subpart.

§ 109–43.5103 Reviews to determine need for retaining items.

Procedures and practices shall require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established startup criteria, periodic reviews (no less than biennially) to determine need for continued retention of property, and special reviews when a change in startup time is made or when circumstances warrant. Such procedures should recognize that: (a) Generally, equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant, (b) where practicable, common-use stores should be removed and used elsewhere, and (c) uninstalled equipment and other personal property not required should be utilized elsewhere onsite or be disposed of as excess.

§ 109–43.5104 Utilization of property in facilities in standby status.

(a) Procedures and practices shall require that property comprising the plant in standby, to the extent consistent with program requirements reflected by the startup criteria, be considered as a source of supply prior to procurement. Such procedures should provide for: (1) Furnishing potential users and procurement officers or some other responsible screening office with listings of equipment and other significant property holdings available for loan or transfer, and (2) removal and use elsewhere of installed equipment which can be replaced or returned within the established startup criteria.

(b) In addition to the above procedures, DOE organizations and contractors should encourage informal contacts between their technical staffs and those engaged in similar work at other DOE locations for the purpose of ascertaining the availability of Government property to meet their program requirements.

PART 109–44—DONATION OF PERSONAL PROPERTY

Sec.

109–44.000 Scope of part.

Subpart 109–44.7—Donations of Property to Public Bodies

109–44.701 Findings justifying donation to public bodies

Subpart 109–44.47—Reports

109–44.4701 Reports.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–44.000 Scope of part.

This part implements and supplements FPMR Part 101–44, Donation of Personal Property. For donation of surplus personal property in foreign areas, see § 109–45.51.

Subpart 109–44.7—Donations of Property to Public Bodies

§ 109–44.701 Findings justifying donation to public bodies.

The Director of Administration and heads of field offices for their respective organizations shall appoint officials to make findings and reviews as required in FPMR § 101–44.7.

Subpart 109–44.47—Reports

§ 109–44.4701 Reports.

The report of the donation of surplus personal property is furnished to GSA in combination with the report of the utilization of domestic excess personal property required in FPMR § 101–43.4701. See § 109–43.4701 for DOE reporting requirements.

PART 109–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.
109–45.000 Scope of part.

Subpart 109–45.1—General

109–45.101–50 Applicability.
109–45.103–1 Responsibilities of the General Services Administration.
109–45.103–2 Responsibilities of holding agencies.
109–45.105–3 Exemptions.

Subpart 109–45.3—Sale of Personal Property

109–45.301–50 Sales by DOE contractors.
109–45.302–50 Sales to DOE and contractor employees.
109–45.303–50 Contractor reporting of property for sale.
109–45.304–2–50 Negotiated sales and negotiated sales at fixed prices.
109–45.304–6 Reviewing authority.
109–45.304–50 Processing bids and award of contract.
109–45.304–51 Documentation.
109–45.307 Proceeds from sales.
109–45.309–50 Unserviceable property (salvage and scrap).
109–45.310 Antitrust laws.
109–45.316 Report on identical bids.

Subpart 109–45.5—Abandonment or Destruction of Surplus Property

109–45.501–1 General.
109–45.502–1 Reviewing authority.

Subpart 109–45.47—Reports

109–45.4701 Performance reports.

Subpart 109–45.50—Excess and Surplus Radioactively and Chemically Contaminated Personal Property

109–45.5001 Scope of subpart.
109–45.5002 Policy.
109–45.5003 Responsibilities.
109–45.5003–1 Development of criteria for utilization and disposal outside DOE.
109–45.5003–2 Approval of requests for utilization and disposal outside DOE.
109–45.5004 Procedures.
109–45.5004–1 Suspect personal property.
109–45.5004–2 Handled as uncontaminated equipment.

Subpart 109–45.51—Disposal of Excess Personal Property in Foreign Areas

109–45.5100 Scope of subpart.
109–45.5101 Authority.
109–45.5102 General.
109–45.5103 Definitions.
109–45.5104 Responsibilities.
109–45.5104–1 Director of Procurement and Assistance Management.
109–45.5104–2 Heads of offices in foreign areas.
109–45.5105 Disposal.
109–45.5105–1 General.
109–45.5105–2 Methods of disposal.
109–45.5106 Reports.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–45.000 Scope of part.

This part implements and supplements FPMR 101–45, Sale, Abandonment, or Destruction of Personal Property, but does not apply to (a) properties which are sold or otherwise disposed of pursuant to special statutes, or (b) disposal of personal property in foreign areas (see § 101–45.51).

Subpart 109–45.1—General

§ 109–45.101–50 Applicability.

The provisions of FPMR 101–45 and this part are applicable to contractors authorized to dispose of surplus personal property.

§ 109–45.103–1 Responsibilities of the General Services Administration.

GSA regional offices are responsible for the conduct of sales of surplus and replacement property in the custody of DOE direct operations, except that DOE will continue to sell replacement property where trade-in offers are also involved in the transaction.

§ 109–45.103–2 Responsibilities of holding agencies.

See §§ 109–45.105–3 and 109–45.3 for policy and procedures governing the sale of personal property by DOE contractors.

§ 109–45.105–3 Exemptions.

The General Services Administration, by letter dated May 28, 1965, authorized DOE contractors to sell contractor inventory, including replacement property. This exemption is for sales of contractor inventory only. All surplus property in the custody of DOE direct operations (except replacement property where trade-in offers are involved) will be reported to GSA in accordance with FPMR § 101–45.303.

Subpart 109–45.3—Sale of Personal Property

§ 109–45.301–50 Sales by DOE contractors.

Sales of surplus contractor inventory will be made by DOE contractors when heads of field offices determine that it is in the best interests of the Government to do so.

§ 109–45.302–50 Sales to DOE and contractor employees.

(a) Employees of DOE and DOE contractors shall be afforded the same opportunity to acquire Government-owned property as is afforded the general public, provided the employees warrant in writing prior to award that they have not either directly or indirectly—

(1) Participated in the determination to dispose of the property;

(2) Participated in the preparation of the property for sale;

(3) Participated in determining the method of sale; or

(4) Obtained information not otherwise available to the general public regarding usage, condition, quality, or value of the property.

(b) Special clothing and other articles of personal property acquired for the exclusive use of and fitted to an individual employee, when not otherwise usable by, and in all respects excess to the needs of, the holding organization, may be sold to DOE or contractor employees at the best price obtainable in the event of termination of their employment or their permanent assignment to duties not requiring such clothing or property.

§ 109–45.303–50 Contractor reporting of property for sale.

GSA normally initiates sales action from the items remaining as surplus after utilization and donation screening. In order to assure no misunderstanding at GSA regional offices as to who is to perform the sales function for contractor inventory, each Standard Form 120 report forwarded to GSA shall bear a capitalized notation in a prominent place reading either "TO BE SOLD BY GSA" or "NOT TO BE SOLD BY GSA" as appropriate.

§ 109–45.304–2–50 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases or retentions at less than cost by the contractor, may be made when the contracting officer determines and documents that the use of this method of sale is essential to expeditious contract closeout, or is otherwise justified on the basis of circumstances enumerated below, provided that the Government's interests are adequately protected. Negotiated sales, including purchases or retentions at less than cost by the contractor, shall be at prices which are fair and reasonable and not less than the proceeds which could reasonably be expected to be obtained if the property was offered for competitive sale. Specific conditions justifying negotiated sales are when—

(1) No acceptable bids have been received as a result of competitive bidding under a suitably advertised sale;

(2) Property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to States, territories, possessions, political

subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(4) The specialized nature and limited use potential of the property would create negligible bidder interest;

(5) Removal of the property would result in a significant reduction in value, or the accrual of disproportionate expense in handling; or

(6) It can be clearly established that such action is in the best interests of the Government.

(b) Negotiated sales at fixed prices. When determined to be in the best interests of the Government, heads of field offices may authorize fixed-price sale of contractor inventory by DOE contractors provided (1) the reasonable recovery value of the property to be sold to any one purchaser at any one time does not exceed $1000, (2) adequate procedures for publicizing such sales have been established, (3) the sales prices are not less than could reasonably be expected if competitive bid sales were employed and the prices have been approved by a reviewing authority designated by the heads of field offices, and (4) the warranty prescribed in § 109–45.302–50(a) is obtained when sales are made to employees.

§ 109–45.304–6 Reviewing authority.

The reviewing authority required under FPMR § 101–45.304–6 may consist of one or more persons designated by the head of the field office who will be responsible for providing an adequate and independent review of proposed sales for the purpose of determining whether—

(a) The method of sale is in accordance with established policies and procedures; and

(b) Proceeds constitute a reasonable return for the property sold.

§ 109–45.304–50 Processing bids and award of contract.

The procedures established in Federal Acquisition Regulation 14.4 and DEAR 914.4 shall be made applicable to execution, receipt, safeguarding, opening, abstracting, and evaluation of bids and awarding contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor. For mistakes in bids, see FPMR 101–45.8.

§ 109–45.304–51 Documentation.

Files pertaining to sales shall contain copies of all documents necessary to provide a complete record of the transaction and as a minimum shall include the following:

(a) A copy of request for proposals if written proposals are employed.

(b) A list of prospective bidders contacted.

(c) An abstract of proposals received, whether oral or written.

(d) Copies of written proposals or confirming proposals received, including Standard Forms 119 (see FPMR § 101–45.313–9) which have been received from prospective bidders, together with other relevant information.

(e) A notation concerning basis for determination that proceeds constitute a reasonable return for property sold.

(f) Full and adequate justification for not advertising for competitive bids when the fair market value of property sold in this manner in any one case exceeds $1,000.

(g) A notation concerning any award made to other than the high bidder.

(h) The approval of reviewing authority when required.

(i) A copy of notice of award.

(j) All related correspondence.

(k) In the case of auction or spot bid sales, the following additional information should be included:

(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

(2) A copy of advertising literature distributed to prospective bidders.

(3) A summary listing of advertising by means of newspapers, radio, television, public posting, etc.

(4) The names of prospective bidders who attended sale if list was made.

(5) A copy of any pertinent contract for auctioneering services and related documents or appropriate reference to files containing such documents.

(6) A record of deposits and payments made or appropriate reference to files containing such records.

§ 109–45.307 Proceeds from sales.

DOE installations shall comply with the provisions of Chapter IV of the DOE Accounting Practices and Procedures Handbook.

§ 109–45.309–50 Unserviceable property (salvage and scrap).

(a) A continuous cleanup program shall be maintained at all DOE installations to locate, efficiently handle, and promptly dispose of unserviceable property (salvage and scrap). Property inventories and construction, wrecking, dismantling and other projects which might produce scrap, should be regularly reviewed, particularly for metals and other items which offer potential as marketable materials and for economic returns to the Government. (See FPMR Part 101–42 and Part 109–42 for recovery of precious metals and reporting requirements.)

(b) Scrap metals shall be segregated to the maximum economical extent consistent with good industrial practice.

(c) Scrap metal which is contaminated with radioactive material and/or chemically hazardous materials shall be segregated and appropriately marked at the source as to type and degree of contamination and shall be controlled and disposed of in accordance with application regulations. (See Subpart 109–45.50).

§ 109–45.310 Antitrust laws.

Selling organizations shall submit to the Office of the General Counsel, with a copy to the Director of Procurement and Assistance Management, the report on proposed sales of surplus personal property with an acquisition cost of $3,000,000 or more, or a patent, process, technique, or invention, regardless of cost. Information to be included is contained in FPMR § 101–45.310.

§ 109–45.316 Report of identical bids.

Selling organizations shall forward the report on identical bids required by FPMR § 101–45.316 to the Office of the General Counsel, with a copy to the Director of Procurement and Assistance Management.

Subpart 109–45.5—Abandonment or Destruction of Surplus Property

§ 109–45.501–1 General.

(a) The finding required by FPMR § 101–45.501–1(a) that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale shall be in writing and shall be made by an official designated by the head of the field office concerned.

§ 109–45.501–2 Reviewing authority.

The head of the field office concerned will be the reviewing authority for approval to abandon or destroy property with an acquisition cost of more than $1,000.

Subpart 109–45.47—Reports

§ 109–45.4701 Performance reports.

The report of the sale or other disposition of surplus personal property is furnished to GSA in combination with the report of the utilization of domestic excess personal property required in FPMR § 101–43.4701. See § 109–43.4701 for DOE reporting requirements.

Subpart 109-45.50—Excess and Surplus Radioactively and Chemically Contaminated Personal Property

§ 109-45.5001 Scope of subpart.

This subpart sets forth policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively or chemically contaminated.

§ 109-45.5002 Policy.

When the holding organization determines it is appropriate to dispose of contaminated personal property, such contaminated personal property shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation/chemical exposure to the public and contamination in the environment. In special cases where Federal regulations do not exist or apply, appropriate national consensus standards shall be used.

§ 109-45.5003 Responsibilities.

§ 109-45.5003-1 Development of criteria for utilization and disposal outside DOE.

The Assistant Secretary for Policy, Safety and Environment (PE-1) has responsibility for the development of criteria for utilization and disposal of excess and surplus radioactively and chemically contaminated personal property outside of DOE.

§ 109-45.5003-2 Implementation of policy.

Heads of field offices shall overview the implementation of policy as set forth in § 109-45.5002 and approve or disapprove requests for utilization and disposal outside of DOE.

§ 109-45.5004 Procedures.

§ 109-45.5004-1 Suspect personal property.

(a) Each excess item of personal property (including scrap), having a history of use in an area where exposure to radioactively or chemically contaminated materials may occur, shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every effort shall be made to reduce the level of contamination of items of excess or surplus property to the lowest practicable level.

(c) If contamination is suspect and the property is of such size, construction, or location as to make the contamination inaccessible for the purpose of measurement, such property shall not be utilized or disposed of outside DOE through normal channels.

§ 109-45.5004-2 Handled as uncontamination equipment.

If monitoring of suspect equipment indicates that the contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated equipment, provided the guidance in § 109-45.5004-1(b) has been considered. However, recipients shall be advised where levels of radioactive contamination require specific controls for shipment as provided in Department of Transportation Regulations for shipment of radioactive materials (49 CFR Parts 171-179, inclusive). In addition, when any contaminated equipment is circularized within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

§ 109-45.5100 Scope of subpart.

This subpart sets forth policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109-45.5101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471). Title IV of that Act entitled "Foreign Excess Property" provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency, and directs that the head of such agency conform to the foreign policy of the United States in making such disposals.

§ 109-45.5102 General.

Disposal of Government-owned property in the custody of DOE organizations or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109-45.5103 Definitions.

As used in this subpart, the following definitions apply:

(a) "Foreign" means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) "Foreign service post" means the local diplomatic or consular post in the area where the excess property is located.

§ 109-45.5104 Responsibilities.

§ 109-45.5104-1 Director of Procurement and Assistance Management.

The Director of Procurement and Assistance Management develops and interprets policies, principles, and general procedures for the disposal of excess property in foreign areas.

§ 109-45.5104-2 Heads of offices in foreign areas.

Heads of DOE foreign offices—

(a) Are authorized to handle foreign excess disposal matters in accordance with Title IV, "Foreign Excess Property" of the Federal Property and Administrative Services Act of 1949, as amended and this subpart;

(b) Shall refer to the Property and Equipment Management Division (MA-422), any requests for advice or approval of the State Department on proposed disposals of excess property in foreign areas for review, coordination and handling through appropriate channels; and

(c) Shall approve the exchange or lease of foreign excess property when in their opinion such action is clearly in the best interest of the Government as provided in § 109-45.5105-2(b).

§ 109-45.5105 Disposal.

§ 109-45.5105-1 General.

(a) Foreign excess property which is not required for transfer within DOE or to other U.S. Government agencies shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such property may also be donated, abandoned, or destroyed under the conditions specified in § 109-45.5105-2(c). Most foreign governments have indicated to the State Department that they wish to be consulted before U.S. Government property is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these problems. Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in

Washington, D.C. If the problem is to be presented to the State Department in Washington, D.C., it shall be referred through appropriate administrative channels to the Director of Procurement and Assistance Management, for review, coordination and handling.

(b) Foreign excess property which is not transferred for use may be transferred to other U.S. Government agencies for disposal. This procedure may often prove advantageous, particularly when only small amounts of property are involved or when personnel of the other agencies are generally engaged in disposal activities.

§ 109-45.5105-2 Methods of disposal.

(a) Sales of foreign excess shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of surplus foreign excess property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any property be sold in foreign areas without a condition which states that its importation into the United States is forbidden unless the U.S. Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), determines or has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipt prior to the release of the property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of property, including small arms and machine guns; artillary and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire control equipment and range finders; tanks and ordnance vehicles; chemical and biological agents, propellents and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is classified from the standpoint of military security (United States Munitions List, 22 CFR 121.01), are subject to restrictions as to disposal. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of property which had a total acquisition cost of $250,000 or more, plans for such sale shall be reported to the Property and Equipment Management Division (MA-422) in ample time to allow considerations of possible foreign policy aspects and advice thereon from the State Department. (See § 109-45.5106(a)). All proposed sales, regardless of the total acquisition cost of the property involved, which the head of the DOE foreign office believes might have a significant effect on the economic or political situation in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a).

(c) Foreign excess or surplus property (including waste, salvage, and scrap) may be donated, abandoned, or destroyed provided (1) the property has no commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale, and (2) a written finding to that effect is made and approved by the head of the DOE foreign office. No property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational, public health or charitable nonprofit organizations of governments. Foreign excess property may also be abandoned or destroyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by this means and approval by the head of the DOE foreign office is required. Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109-45.5106 Reports.

(a) Proposed sales of foreign excess property having an acquisition cost of $250,000 or more reported to the Property and Equipment Management Division (MA-422) should present all pertinent data, including the following:

(1) The description of property to be sold, including—

(i) Identification of property (description should be in terms understandable to persons not expert in technical nomenclature); property covered by the Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly indicated;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (i.e., bid, negotiated sale, etc.).

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of proposed agreement).

(4) Any restrictions on use of property to be sold (such as retransfer of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc. will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in Chapter III of the DOE Accounting Practices and Procedures Handbook.

PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.

109-46.000 Scope of part.
109-46.000-50 Applicability.

Subpart 109-46.4—Disposal

Sec.
109-46.406 Records.
109-46.407 Records.

Authority: Sec. 644, Pub. L. 95-91, Stat. 599 (42 U.S.C. 7254).

§ 109-46.000 Scope of part.

This part implements and supplements FPMR Part 101-46.

§ 109-46.000-50 Applicability.

Except as set forth below, the requirements of FPMR Part 101-46 and this part are not applicable to DOE contractors. Contractors shall comply with the following requirements:

FRMR § 101-46.201
FPMR § 101-46.202(a)
FPMR § 101-46.202(d) (1), (2), (4), (5), (6), (7), and (10)
FPMR § 101-46.202(e)
FPMR § 101-46.401
DOE-PMR § 109-46.406

Subpart 109-46.4—Disposal

§ 109-46.406 Records.

Contractor shall prepare and maintain such records as will show full compliance with the applicable provisions of FPMR Part 101-46.

§ 109-46.407 Reports.

The report of exchange/sale transactions required by FPMR§ 101-46.407 shall be submitted through normal administrative channels to the Property and Equipment Management Division (MA-422) within 60 days after the close of the fiscal year. Negative reports are required.

PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.
109-48.000 Scope of part.
109-48.001-50 Applicability.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

109-48.101-6 Transfer to other Federal agencies.
109-48.102-4 Proceeds.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-48.000 Scope of part.

This part implements and supplements FPMR Part 101-48, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

§ 109-48.001-50 Applicability.

The provisions of FPMR 101-48 and this part are applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109-48.101-6 Transfer to other Federal agencies.

(d) Transfer orders covering requests for transfers of forfeited or voluntarily abandoned distilled spirits, wine and malt beverages for medicinal, scientific or mechanical purposes shall be forwarded through normal administrative channels for signature by the Property and Equipment Management Division (MA-422) and for subsequent forwarding to GSA for release.

§ 109-48.102-4 Proceeds.

After retention of any monies received from disposal of abandoned or forfeited property for the three-year period specified in FPMR § 101-48.102-4 with no claim being filed, such monies shall be deposited as provided in Chapter IV of the DOE Accounting Practices and Procedures Handbook.

PART 109-50—PROGRAMMATIC DISPOSAL OF DOE PROPERTY

Sec.
190-50.000 Scope of part.
190-50.001 Applicability.

Subpart 109-50.1—General

190-50.101 Authority.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

109-50.300 Scope of part.
109-50.301 Applicability.
109-50.302 General.
109-50.303 Authority.
109-50.304 Definitions.
109-50.305 Responsibilities and authorities.
109-50.305-1 Director of Procurement and Assistance Management.
109-50.305-2 Director, Office of Field Operations Management, Office of Energy Research.
109-50.305-3 Heads of field offices.
109-50.305-4 Contracting officers.
109-50.305-5 Excess used energy-related laboratory equipment holding organizations.
109-50.305-6 Screening locations.
109-50.306 Types of equipment which may be granted.
109-50.307 Types of equipment which may not be granted.
109-50.308 Procedure.
109-50.309 Reports.
109-50.310 Screening locations.

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

109-50.400 Scope of subpart.
109-50.401 Definitions.
109-50.402 Responsibilities and authorities.
Sec.
109-50.402-1 Director of Procurement and Assistance Management.
109-50.402-2 Heads of Headquarters program organizations.
109-50.402-3 Heads of field offices and contracting officers.
109-50.403 Programmatic disposal of DOE property in mixed facilities.
109-50.403-1 Submission of proposals.
109-50.403-2 Need to establish DOE program benefit.
109-50.404 Notification.

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109-50.000 Scope of part.

This part provides guidance on the authorities, policies, and procedures for the disposal of DOE property for programmatic purposes.

§ 109-50.001 Applicability.

The provisions of this Part 109-50 apply to direct DOE operations, but do not apply to contractors unless specifically provided in the appropriate subpart.

Subpart 109-50.1—General

§ 109-50.101 Authority.

Programmatic disposals of DOE property generally are made under the authority and subject to the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), the Energy Reorganization Act of 1974 (42 U.S.C. 5801), the Department of Energy Organization Act (42 U.S.C. 7101), and other special laws which provide authority for DOE program activities.

Subpart 109-50.3—Used Energy-Related Equipment Grant Program

§ 109-50.300 Scope of subpart.

This subpart provides guidance on the granting of used, energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109-50.301 Applicability.

This subpart is applicable to direct operations and to contractors.

§ 109-50.302 General.

DOE, to encourage research in the field of energy, awards grants of used energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the Used Energy-Related Laboratory Equipment Grant Program, grants of used energy-related equipment excess to the requirements of DOE offices and contractors may be made to eligible

institutions prior to reporting the equipment to GSA for utilization.

§ 109–50.303 Authority.

The used Energy-Related Laboratory Equipment Grant Program is conducted under the authority of Article 31 of the Atomic Energy Act of 1954, as amended, section 103, paragraph 10, of the Energy Reorganization Act of 1974, and Title III of the Department of Energy Organization Act.

§ 109–50.304 Definitions.

As used in this subpart the following definitions apply:

(a) "Book value" means acquisition cost less depreciation.

(b) "Eligible institution" means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented educational programs.

(c) "Energy-oriented education program" means one that deals partially or entirely in energy or energy-related topics.

(d) "DOE Financial Assistance Rules" (10 CFR Part 600) is the Department of Energy directive which establishes a uniform administrative system for application, awards, and administration of assistance awards, including grants and cooperative agreements.

§ 109–50.305 Responsibilities and authorities.

§ 109–50.305–1 Director of Procurement and Assistance Management.

The Director of Procurement and Assistance Management establishes policies and procedures for the award and administration of grants.

§ 109–50.305–2 Director, Office of Field Operations Management, Office of Energy Research.

The Director, Office of Field Operations Management, Office of Energy Research—

(a) Has program responsibility for the Used Energy-Related Laboratory Equipment Grant Program;

(b) Issues general instructions and information on the program to institutions;

(c) Reviews and, where appropriate, approves requests from institutions for used equipment where the book value of an item of equipment exceeds $100,000 or where the cumulative book value of used equipment grants to any one institution exceeds $100,000; and

(d) Issues annual summary reports of equipment granted under this program to field and Headquarters organizations. Advises when grants to individual institutions approach the $100,000 book value cumulative limit.

§ 109–50.305–3 Heads of field offices.

Heads of field offices shall establish procedures for review and evaluation of equipment grant proposals in accordance with this subpart.

§ 109.50.305–4 Contracting officers.

Contracting Officers—

(a) Award energy-related laboratory equipment grants under this program in accordance with the DOE Financial Assistance Rules and program instructions issued by the Director, Office of Energy Research and this subpart;

(b) Forward a copy of each approved and accepted grant to the Office of Energy Research; and

(c) Forward to the Office of Field Operations Management, Office of Energy Research, for approval prior to award of grant, requests from institutions for used equipment where the book value of the equipment exceeds $100,000 or where the cumulative book value of grants to an institution exceeds $100,000.

§ 109–50.305–5 Excess used energy-related laboratory equipment holding organizations.

Each DOE and contractor organization holding excess used energy-related laboratory equipment shall forward copies of excess reports (SF–120) to screening locations cited in § 109–50.310 after DOE screening through the REAPS program (See § 109–43.311–1–50).

§ 109–50.305–6 Screening locations.

Organizations designated in § 109–50.310 shall retain current files of reports of excess used energy-related laboratory equipment for review by eligible institutions.

§ 109–50.306 Types of equipment which may be granted.

Examples of types of equipment which may be granted under the Used Energy-Related Laboratory Equipment Grant Program are listed below. These examples are merely illustrative and not inclusive.

—Radiation detectors, monitors, scalers, and counters
—Nuclear reactors and accelerators
—Neutron howitzers and generators
—Critical and subcritical assemblies
—Bubble and cloud chambers
—Dosimeters, survey meters, radiometers, and spectroscopes
—Radiation shields and reactor associate components
—Mass spectrometers, infrared spectrometers, and ultraviolet spectrometers
—Gas and liquid chromatographs
—Ammeters, voltmeters, electrometers
—Linear and pulse-height analyzers
—Power supplies
—Catalyst test units
—Distillation columns
—Temperature and pressure recorders
—Ion control gauges
—Gas tracers and analyzers
—Solar collectors and heliometers

§ 109–50.307 Types of equipment which may not be granted.

Types of equipment which will not be granted include—

(a) Any equipment determined to be required by DOE direct operations or DOE contractors;

(b) General supplies, such as Bunsen burners, hoods and work benches; furniture; office equipment, such as typewriters, adding machines, and duplicating machines; drafting and office supplies; refrigerators; tools; presses, lathes, furnaces, hydraulic and mechanical jacks, cranes and hoists; and computing equipment; or

(c) Any equipment which has been obtained as excess from another Federal agency.

§ 109–50.308 Procedure.

(a) After completion of DOE utilization screening, copies of excess reports (SF 120) of used energy-related laboratory equipment will be forwarded by each holding organization to the sites listed in § 109–50.310 for use by eligible institutions in reviewing and earmarking specific equipment. These reports will be separately prepared and identified with the caption "Used Energy-Related Laboratory Equipment."

(b) The following periods have been established during which time equipment will remain available to this program prior to reporting it to the General Services Administration for utilization by other Federal agencies:

(1) Sixty days from the date DOE utilization screening is completed and the report is issued to screening locations, to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional sixty days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(c) Upon approval of the proposal, the issuance of the grant instrument and acceptance by the institution are deemed to constitute transfer of title.

(d) A Standard Form 120, accompanied by a copy of the completed grant, shall be used to drop accountability of the granted equipment from the financial records.

(e) The cost of care and handling of property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the recipient institution.

§ 109-50.309 Reports.

(a) In addition to the copy of the awarded grant required to be forwarded in accordance with § 109-50.305-4(b), each awarded grant shall be reported in the Procurement Assistance Data System.

(b) Heads of field offices shall include grants made under this program in the annual report of property transferred to non-Federal recipients, as required by FPMR § 101-43-4701(c).

§ 109-50.310 Screening locations.

The locations shown on the following pages shall retain current files of SF-120s, reports of excess used energy-related laboratory equipment, for review by eligible institutions. After completion of DOE utilization screening through REAPS, DOE activities shall forward copies of SF 120s covering used energy-related laboratory equipment to these locations.

California

Property Management Office, Atomics International Division, Rockwell International Corporation, 8900 DeSoto Avenue, Canoga Park, California 91305

Property Manager, Lawrence Livermore Laboratory, University of California, Livermore, California 94720

Business Services, L-53, Lawrence Livermore Laboratory, University of California, Livermore, California 94550

Colorado

Department of Energy, P.O. Box 26247, Belmar Branch, 1075 S. Yukon, Lakewood, Colorado 89226

Department of Energy, Rocky Flats Area Office, P.O. Box 928, Golden, Colorado 80401

District of Columbia

Department of Energy, ER-44 Room 3F-053, 1000 Independence Avenue., SE. Washington, DC 20585. Attn: Dr. Larry L. Barker, (202) 252-6512

Department of Energy, MA-422, Room 8H-089, 1000 Independence Avenue., SE. Washington, DC 20585. Attn: Mr. J. H. Mackey, (202) 252-8261

Georgia

Department of Energy, 1655 Peachtree Street, NE., 8th Floor, Atlanta, Georgia 30309

Idaho

EG & G, Property Management Branch, 539 Second Street, Idaho Falls, Idaho 83401

Department of Energy, Idaho Operations Office, Property Management and Administrative Services Branch, 550 Second Street, Idaho Falls, Idaho 83401

Illinois

Argonne National Laboratory, Plant Operations, Plant Management, 9700 South Cass Avenue, Argonne, Illinois 60439

Iowa

Ames Laboratory, Iowa State University, Materials Handling and Property Office, Room 152, Research Building, Ames, Iowa 50010

Missouri

Department of Energy, 23rd Floor, 324 E. 11th St., Kansas City, Missouri 64106

Department of Energy, Kansas City Area Office, P.O. Box 202, Kansas City, Missouri 64141

Nevada

Department of Energy, Nevada Operations Office, Contract and Property Division, Property Management Branch, P.O. Box 14100, Las Vegas, Nevada 89114

New Mexico

Sandia Laboratories, Office of University Relations, P.O. Box 5800, Albuquerque, New Mexico 87115

New York

Brookhaven National Laboratory, Supply and Materials Office, Upton, Long Island, New York 11973

Ohio

Monsanto Research Corporation, Mound Laboratory, Property Management, P.O. Box 32, Miamisburg, Ohio 45342

Pennsylvania

Department of Energy, 1421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 10102

South Carolina

E. I. Dupont de Nemours & Co., Savannah River Laboratory, University Relations Office, Aiken, South Carolina 29801

Tennessee

Oak Ridge National Laboratory, Material and Services, P.O. Box X, Oak Ridge, Tennessee 37830

Texas

Department of Energy, P.O. Box 5800, 2626 Mockingbird Lane, Dallas, Texas 75235

Washington

Rockwell Hanford, Excess Utilization, Building 1167-A, P.O. Box 250, Richland, Washington 99352

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

§ 109-50.400 Scope of subpart.

This subpart contains guidance to be followed when it is proposed to sell or otherwise transfer DOE personal property located in a mixed facility to the contractor who is the operator of that facility.

§ 109-50.401 Definitions.

As used in this subpart, the following definitions apply:

(a) "DOE property" is the DOE-owned personal property in a mixed facility.

(b) "Contractor" is the operator of the mixed facility.

(c) "Mixed facility" is a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109-50.402 Responsibilities and authorities.

§ 109-50.402-1 Director of Procurement and Assistance Management.

The Director of Procurement and Assistance Management is authorized to approve proposals for the programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-2 Heads of Headquarters program organizations.

Heads of Headquarters program organizations shall review and forward to the Property and Equipment Management Division (MA-422) for approval, proposals for programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-3 Heads of field offices and contracting officers.

Heads of field offices and contracting officers shall submit proposals involving programmatic disposals of DOE property in mixed facilities through appropriate administrative channels to the cognizant Headquarters program organization for review and forwarding for approval.

§ 109-50.403 Programmatic disposal of DOE property in mixed facilities.

§ 109-50.403-1 Submission of proposals.

Proposals involving programmatic disposals for DOE personal property in mixed facilities to contractors operating the facility shall be forwarded through

the appropriate program organization to the Property and Equipment Management Division (MA–422) for review and processing for approval. Each such request for review and approval shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum—

(a) The purpose of the mixed facility;

(b) The character, condition and present use of the DOE property involved, as well as its acquisition cost, accumulated depreciation, and net book value;

(c) The programmatic benefits which would acrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal (covering for example, (1) price, (2) priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items, (3) recapture of the property if DOE foresees a possible future urgent need, and (4) delivery of the property, whether "as is-where is," etc.).

§ 109–50.403–2 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE personal property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on a showing that—

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage his entry into the field.

§ 109–50.404 Notification.

The Under Secretary will be advised prior to any disposal which is considered sensitive.

SUBCHAPTER I—INDUSTRIAL PLANT EQUIPMENT

PART 109–51—LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER

Sec.

109–51.000 Scope of part.
109–51.001 Policy.
109–51.002 Memorandum of Agreement.
109–51.003 General provisions.
109–51.004 DIPEC Handbook.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–51.000 Scope of part.

This part prescribes the policy and conditions for loans of industrial plant equipment (IPE) from the Department of Defense General Reserve under the management of the Defense Industrial Plant Equipment Center (DIPEC) and makes reference to the DOE DIPEC Handbook which prescribes procedures for arranging loans of IPE from DIPEC.

§ 109–51.001 Policy.

Since loan of DIPEC equipment is at no cost, except for packing, crating, handling, and transportation charges, DOE field organizations and contractors are encouraged to use DIPEC as a source of industrial plant equipment in lieu of purchasing such equipment.

§ 109–51.002 Memorandum of Agreement.

An agreement between DOE and the Defense Logistics Agency establishes the policies, procedures and conditions by which DOE may obtain loans of IPE from DIPEC. (Exhibit A of the DIPEC Handbook).

§ 109–51.003 General provisions.

(a) DOE field organizations and contractors may requisition IPE on a loan basis for periods up to five years. The IPE loan period may be extended on mutual agreement between DIPEC and the DOE field office involved.

(b) DOE has a 30-day period to accept or reject IPE placed on hold by DIPEC.

(c) DOE field organizations or contractors will pay costs of transportation, dismantling, crating and handling of IPE from and to DOD.

(d) On completion of the loan period, the DOE field organization or contractor shall return the DIPEC–IPE in the same condition as received except for fair wear and tear.

(e) DOE is required under terms of the agreement to decontaminate IPE prior to return or replace the equipment with an equivalent item.

§ 109–51.004 DIPEC Handbook.

The DIPEC Handbook is available through field organizations or by request to the Property and Equipment Management Division (MA–422). The Handbook cites the procedures for arranging loan of IPE, illustrates the forms used and provides a bibliography of DIPEC publications which list the available IPE by type of equipment and by DIPEC control numbers.

SUBCHAPTER K—GOVERNMENT PROPERTY IN THE POSSESSION OF OFF-SITE CONTRACTORS

PART 109–60—MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF OFF-SITE CONTRACTORS

Sec.

109–60.000 Scope and applicability of part.
109–60.001 Definitions.

Subpart 109–60.1—Contractor's Responsibility

109–60.100 General.
109–60.101 Assumption of responsibility.
109–60.102 Contractor's liability.
109–60.103 Segregation of Government property.
109–60.104 Physical protection of property.
109–60.105 Control of sensitive items of property.
109–60.106 Disposition.
109–60.107 Relief from responsibility.

Subpart 109–60.2—Records and Financial Reports

109–60.200 General.
109–60.201 Unit Cost.
109–60.202 Records of plant and capital equipment.
109–60.203 Records of material maintained in stores.
109–60.204 Records of material issued upon receipt.
109–60.205 Financial property control reports.
109–60.206 DOE plant and equipment asset types.

Subpart 109–60.3—Identification

109.60.300 General

Subpart 109–60.4—Physical Inventories

109–60.400 General.
109–60.401 Frequency.
109–60.402 Reporting results of inventories.
109–60.403 Records of inventories.
109–60.404 Inventories upon termination or completion.

Subpart 109–60.5—Care and Maintenance

109–60.500 General.
109–60.501 Contractor's maintenance program.

Subpart 109–60.6—Utilization, Disposal, and Retirement

109–60.600 General.
109–60.601 Maximum use of property.
109–60.602 Disposal.
109–60.603 Retirement of property.

Subpart 109–60.7—Motor Vehicle and Aircraft Management

109–60.700 Scope of subpart.
109–60.701 Definition.
109–60.702 Policy.
109–60.703 Classification of motor vehicles.
109–60.704 Acquisition of motor vehicles.
109–60.705 Identification of motor vehicles.
109–60.706 Use of the GSA Interagency Motor Pool System.
109–60.707 Official use of motor vehicles.
109–60.708 Maintenance.

Sec.

109–60.709 Disposition of motor vehicles.
109–60.710 Required motor vehicle reports.
109–60.711 Aircraft.

Subpart 109–60.8–109–60.46—[Reserved]

Subpart 109–60.47—Reports

109–60.4700 Required reports.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–60.000 Scope and applicability of part.

This part sets forth the minimum requirements to be observed by off-site contractors in establishing and maintaining control over Government property provided pursuant to a contract with DOE. This part does not apply to transportation contracts, grants, cooperative agreements, contracts with state and local governments, and to operating and on-site service contractors. To the extent of any inconsistency between this part and the terms of the contract under which the Government property is provided, the terms of the contract shall govern.

§ 109–60.001 Definitions.

As used in this part the following definitions apply:

(a) "Accessory item" means an item that facilitates or enhances the operation of capitalized equipment but which is not essential for its operation, such as remote control devices.

(b) "Auxiliary item" means an item without which the basic unit of equipment cannot operate, such as motors for pump and machine tools.

(c) "Capital equipment" means personal property items having a unit acquisition cost of generally $1,000.00 or more and an anticipated service life in excess of one (1) year, regardless of type of funding, are not properly chargeable to buildings or utilities, and having the potential for maintaining their integrity as capital items, i.e., not expendable due to use.

(d) "Government personal property" means all property provided at Goverment expense for performance of the contract, regardless of the method by which it is provided, including rented or leased equipment, except real property, records of the Federal Government, nuclear and special source materials, and atomic weapons and by-product materials.

(1) "Government-furnished property" means property in the possession of or directly acquired by the Government and subsequently made available to the contractor for use in performance of the contract.

(2) "Contractor-acquired Government property" means property acquired or otherwise provided by the contractor for performance of a contract and to which the Government has title or the right to take title under the contract terms.

(e) "Materials" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in normal use in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, or supplies.

(f) "Property administrator" means an authorized representative of the contracting officer assigned to administer the contract requirements and obligations relative to Government property. If an authorized representative has not been designated as the property administrator, the contracting officer is the property administrator.

(g) "Plant and equipment" means land, land rights, depletable resources, improvements to land, buildings and structures, utilities, and capital equipment having an anticipated service life of 1 year or more, the individual units of which satisfy the monetary and other criteria for capital charges and which therefore justify the maintenance of continuing plant and equipment records.

(h) "Salvage" means that property which has some value in excess of its basic material content but which is in such condition that it has no reasonable prospect of use for any purpose as a unit and its repair or rehabilitation for use is clearly impracticable.

(i) "Scrap" means property that has no value except for the recoverable value of its basic material content.

(j) "Sensitive items" means those items of property which are susceptible to being appropriated for personal use or which can be readily converted to cash. Examples are firearms, photographic equipment, binoculars, tape recorders, calculators, and power tools.

(k) "Special test equipment" means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in the performance of a contract. It consists of items or assemblies of equipment that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for the installation of special test equipment), and equipment items used for general testing purposes.

(l) "Special tooling" means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or the performance of particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for the installation of special tooling), general or special machine tools, or similar capital items.

Subpart 109–60.1—Contractor's Responsibility

§ 109–60.100 General.

(a) The contractor is directly responsible and accountable for all Government property in its possession or control in accordance with the provisions of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. The contractor shall establish and maintain a system, in accordance with the provisions of this part, to control, protect, preserve and maintain all Government property. If the contractor is expected to acquire and be accountable for, or does acquire Government personal property with an acquisition value of $500,000 or more, the contractor's property management system shall be in writing. Contractors holding Government personal property with an acquisition value of less than $500,000 may, at the discretion of the contracting officer, be required to have their property management system in writing. The requirement for written systems may be waived in writing by the contracting officer where the contracting officer determines that maintenance of a written system is unnecessary. The system shall be reviewed and if satisfactory, approved in writing by the contracting officer.

(b) The contractor shall maintain and make available such records as are required by Subpart 109–60.2 and shall account for all Government property until relieved of that responsibility. Liability for loss, damage, or improper use of property in a given instance will depend upon all the circumstances surrounding the particular case and will be determined in accordance with the provisions of the contract. The contractor shall furnish all data necessary to substantiate any request for discharge from responsibility.

(c) The contractor shall require subcontractors provided Government property under the prime contract to

comply with the provisions of this part. Procedures for assuring subcontractor compliance shall be included in the contractor's property control system.

(d) If any portion of the contractor's property control system is found to be inadequate upon review by the property administrator, necessary corrective action will be accomplished by the contractor prior to approval of the system. When agreement as to adequacy of control or corrective action cannot be reached between the contractor and the property administrator, the matter will be referred to the contracting officer.

(e) The property records and the premises where any Government property is located shall be accessible to the property administrator or other authorized representative during contract performance, at contract completion or termination, or at all reasonable times. The contractor's property control system is subject to audit by the Government as often as circumstances warrant during the contract's performance, at its completion or termination, or at any time thereafter while the contractor is required to retain the contract records. All these records, including related correspondence, shall be made available to the auditors.

§ 109-60.101 Assumption of responsibility.

(a) The contractor becomes responsible for Government-furnished property upon its delivery into the contractor's custody or control. For contractor-acquired Government property, the contractor assumes responsibility in accordance with the property provisions of the contract.

(b) All Government-furnished property shall be inspected and checked promptly at the time of receipt. Any visible or other external evidence of damage or error in quantity should be noted on the waybill with the signature of the carrier's agent. As soon as possible, the contractor shall send the contracting officer a full report of the damage or quantity error, including extent, apparent cause, and the estimated cost of repairs. The contracting officer will advise the contractor of the action to be taken.

(c) It is the contractor's responsibility to inspect, at the time of receipt, all property not furnished by the government that is acquired in the performance of the contract, and to take any necessary action with the vendor and/or carrier if there should be any damage or error in quantity.

(d) Procedures shall be established to protect any warranty rights which accrue to the Government with the acquisition of Government property.

§ 109-60.102 Contractor's liability.

(a) Subject to the terms of the contract, the contractor may be liable for shortage, loss, damage, or destruction of Government property or when there is evidence of improper or unreasonable use or consumption of Government property.

(b) The contractor shall report promptly to the property administrator any shortage, loss, damage, or destruction of Government property in its possession or control, or in the possession or control of any subcontractor, together with all the facts and circumstances of the case.

(c) Any loss that may be due to theft shall be reported by the contractor immediately to the local police and/or Federal Bureau of Investigation and the property administrator.

§ 109-60.103 Segregation of Government property.

Ordinarily, provisions shall be made by the contractor to keep Government property segregated from contractor-owned property. Commingling of Government and contractor-owned property may be allowed only when the segregation of the property would materially hinder the progress of the work, (e.g., segregation is not feasible for reasons such as quantities, lack of space, or costs caused by additional handling), and where control procedures are adequate, i.e., the Government property is identified as being Government property. Commingling must be approved in advance by the property administrator, In case of research and development contracts with educational institutions, commingling is authorized without the requirement for advance approval unless physical segregation is otherwise required by the contracting officer.

§ 109-60.104 Physical protection of property.

(a) Controls such as property pass systems, memorandum records, marking of tools, regular or intermittent gate checks and perimeter fencing shall be implemented, recognizing the value of the property, to prevent loss, theft, or unauthorized movement of Government property from the premises on which such property is located.

(b) Classified Government property will be handled in accordance with instructions of the contracting officer.

§ 109-60.105 Control of sensitive items of property.

(a) The contractor shall assure that effective procedures and practices are established for the administrative and physical control of sensitive property items before and after issuance. Each contractor shall prepare a list of the types of property considered to be sensitive. This list, together with control procedures, shall be provided to the property administrator for review and approval.

(b) At a minimum, controls on sensitive property shall include property records, memorandum receipts, bin or tool check systems, or combinations thereof. Procedures shall provide for physical inventories at least once each year, and methods for adjustment of inventory levels due to losses, thefts and damage. More frequent inventories of sensitive property may be necessary where the value of the property, degree of security achieved, or loss experience indicates greater controls are required in order to protect the Government's interest. Such procedures and practices shall be subject to review and approval by the property administrator.

§ 109-60.106 Disposition.

The contractor is responsible for disposing of Government property as provided for in the contract or as directed by the contracting officer. The contractor shall promptly advise the property administrator of any Government property that becomes excess to requirements for contract performance and to take such action for its disposition as directed.

§ 109-60.107 Relief from responsibility.

Subject to instructions of the contracting officer and the terms of the contract, the contractor may be relieved of responsibility for Government property when the property is—

(a) Consumed or expended in contract performance—to the extent the contracting officer has determined that its consumption or expenditure was for proper purposes and in reasonable quantity for performance of the contract;

(b) Removed from contractor's possession—when removed as directed by the property administrator or contracting officer;

(c) Lost, damaged or destroyed (including property consumed or expended in excess of reasonable requirements, and non-severable Government-owned property which has been connected to contractor-owned property for the performance of the contract and cannot be removed without destroying its serviceability)—when the contracting officer has determined the contractor's liability, if any; the Government has been reimbursed to the extent required by the contracting

officer's determination; and, property disposition has been made of any property rendered unserviceable by damage; or

(d) Retained by the contractor, with approval of the contracting officer, and for which the Government has received adequate consideration.

Subpart 109-60.2—Records and Financial Reports

§ 109-60.200 General.

(a) The contractor shall establish and maintain adequate property control records, either manual or mechanized and consistent with the requirements of this subpart, for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. Unless otherwise directed by the contracting officer, records of Government property established and maintained by the contractor under the terms of the contract shall be designated and utilized as the official contract records. Duplicate records shall not be furnished to nor be maintained by the Government.

(b) If a contractor has multiple contracts with DOE, separate property records for each contract should be maintained. However, if approved by the contracting officer, a consolidated property record may be maintained if it provides the pertinent information set forth in this subpart and the property is identified to the applicable contract.

(c) Property records of the type established for components acquired separately shall be used for serviceable components removed from items of Government property as a result of modification.

(d) The contractor's property control system shall contain a system or technique to locate any item of Government property with reasonable promptness.

§ 109-60.201 Unit cost.

(a) The unit cost of each item of Government property shall consist of the acquisition cost and the cost of any additional components, and shall be contained in the contractor's property control system. Unless the contractor's quantitative inventory record contains unit cost, the supplementary records containing this information must be identified and recognized as a part of the official property records. For Government-furnished property, copies of documents needed for record purposes, including pricing, will be furnished to the contractor.

(b) For property record purposes, original transportation and installation costs are to be considered as part of the acquisition cost of an item. Subsequent costs incurred in transporting and/or installing transferred or relocated property should not be added to the original acquisition cost.

§ 109-60.202 Records of plant and capital equipment.

(a) For each item of plant and capital equipment (as defined in § 109-60.001), the contractor shall maintain an individual item record containing, at a minimum the—

(1) Contract number;
(2) Asset type (Ref. § 109-60.206);
(3) Nomenclature or description of item;
(4) U.S. Government identification tag number;
(5) Manufacturer's name;
(6) Manufacturer's model number;
(7) Serial number;
(8) Acquisition document reference and date;
(9) Location; and
(10) Unit cost (including transportation and installation).

(b) Accessory and auxiliary items that are attached to, part of, or acquired for use with a specific item of capital equipment shall be recorded on the record of the associated item of capital equipment. Useable accessory and auxiliary items that are removed from items of Government equipment shall also be separately recorded, and the cost of the basic item reduced proportionally.

§ 109-60.203 Records of material maintained in stores.

Records of Government-owned material maintained by the contractor in stores, and held under inventory control, shall contain the—

(a) Contract number;
(b) Nomenclature or description of item;
(c) Quantity received;
(d) Quantity issued;
(e) Balance on hand;
(f) Posting reference and date of transaction;
(g) Unit price;
(h) Location; and
(i) Disposition.

§ 109-60.204 Records of material issued upon receipt.

(a) The property administrator may authorize the contractor to maintain, in lieu of stock records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of Government-provided materials that is issued for immediate consumption and not entered in the inventory records as a matter of sound business practice.

(b) With respect to non-profit organizations, where material is issued directly upon receipt, Government invoices, contractor's purchase documents, or other evidence of acquisition and issue will be accepted as adequate property records for material furnished to or acquired by the contractor and issued directly so to be considered consumed under the contract.

§ 109-60.205 Financial property control reports.

The contractor shall prepare a semi-annual report, as of March 31 and September 30 of each year, for each contract and subcontract thereunder showing the dollar amount and the number of line items of plant and capital equipment, by DOE asset type (see § 109-60.206), acquired or disposed or during the period. The report will show, at a minimum, the beginning balance, acquisition, disposition, and ending balance. The report format and the DOE office to which the report will be furnished will be as directed by the property administrator. The reports are due not later than 45 days after the end of the reporting period.

§ 109-60.206 DOE plant and equipment asset types.

401 Land
410 Land Rights
430 Minerals
440 Timber
460 Site Preparation, Grading and Landscaping
470 Roads, Walks, and Paved Areas
480 Fences and Guard Towers
490 Other Improvements to Land
501 Buildings
550 Other Structures
610 Communications Systems
615 Electric Generation, Transmission and Distribution Systems
620 Fire Alarm Systems
625 Gas Production, Transmission and Distribution Systems
630 Irrigation Systems
635 Railroad Systems
640 Sewerage Systems
645 Steam Generation and Distribution Systems
650 Water Supply, Pumping, Treatment and Distribution Systems
655 Nuclear Steam and Electric Generation and Transmission Systems
660 SPR Crude Oil Piping System
665 NPR Crude Oil Extraction and Distribution System
710 Heavy Mobile Equipment
715 Hospital and Medical Equipment
720 Laboratory Equipment
725 Motor Vehicles and Aircraft
730 Office Furniture and Equipment
735 Process Equipment

740 Railroad Rolling Stock
745 Reactors and Accelerators
750 Security and Protection Equipment
755 Shop Equipment
760 Reserve Construction Equipment Pool
770 Automatic Data Processing Equipment
799 Miscellaneous Equipment
800 Improvements to Property of Others
900 Unclassified Plant and Equipment

Subpart 109-60.3—Identification

§ 109-60.300 General.

(a) The contractor shall identify, mark, and record all capital and sensitive items of equipment promptly upon receipt, except leased or rented equipment, and shall maintain this identification as long as such property remains in the custody, possession, or control of the contractor. Property identification numbers will be recorded on all applicable receiving, shipping, and disposal documents, and any other documents pertaining to the property control system where practicable. Marking and numbering shall be accomplished by etching, stamping, painting, attaching metal or plastic tags or decalcomanias. Each item shall be marked "Property of the U.S. Government, Department of Energy." Information on property numbers will be furnished by the property administrator. If practicable, such markings shall be removed or obliterated from the property involved, if and when Government ownership is relinquished. Leased or rented equipment shall be identified in such manner as will not damage the property. Property which by its nature or size cannot be marked shall not be commingled with contractor-owned property unless approved by the property administrator. When items are not susceptible to marking, they shall be subject to other specific control measures, such as custodial receipts.

(b) Where special tooling or special test equipment is utilized under a contract or subcontract, it shall be identified as required by the contracting officer.

Subpart 109-60.4—Physical Inventories

§ 109-60.400 General.

The contractor shall periodically physically inventory Government property in its possession or control and shall require such inventories of property held by subcontractors. The physical inventory shall be consistent with approved contractor procedures and generally accepted accounting principles. Procedures that are limited solely to a check-off of a listing of recorded property do not meet the requirements of a physical inventory. Personnel who perform the physical inventory shall not be the same individuals who maintain the property records or have custody of the property unless the contractor's operation is too small to do otherwise.

§ 109-60.401 Frequency.

Physical inventories of permanently affixed plant (such as fencing, buildings, other structures, utilities and systems) are to be taken not less frequently than every 10 years. Inventories of movable capital equipment are to be taken not less frequently than every 2 years. Inventories of sensitive items (capital and non-capital) shall be taken not less frequently than annually. Substantial quantities of materials (stores) held under inventory control shall be inventoried annually. Small quantities of material representing bench stock need not be inventoried.

§ 109-60.402 Reporting results of inventories.

The contractor shall, at a minimum, submit to the property administrator a listing of all discrepancies disclosed by a physical inventory, and a signed statement that the physical inventory was completed on a certain date and that the official property records were found to be in agreement with the physical inventory, except for the discrepancies reported. As a minimum, the discrepancy listing shall contain the property number, nomenclature, and unit cost. The listing and signed statement shall be furnished with a minimum of delay after completion of the physical inventory, but no later than 60 days after its completion.

§ 109-60.403 Records of inventories.

Appropriate inventory records and reports shall be maintained and will serve as a basis for (a) effecting maximum utilization of available property, (b) prompt identification and reporting of excess property, (c) effective physical protection of property, and (d) the preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

§ 109-60.404 Inventories upon termination or completion.

(a) Immediately upon termination or completion of a contract, the contractor shall submit an inventory report adequate for determining appropriate disposal of all Government property applicable to the terminated or completed contract. Further, this report shall include an inventory report of all Government property in a subcontractor's possession or control which is also applicable to the terminated or completed contract. This inventory report will be submitted to the property administrator for verification and disposition action.

(b) Exception. The requirement for physical inventory of Government property at the completion of a contract may be waived by the contracting officer when the property is authorized for use on a follow-on contract, provided that—

(1) Past experience has established the adequacy of property controls; and

(2) A statement is provided by the contractor indicating that transfer of record balances has been made in lieu of preparing a formal inventory list and the contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

Subpart 109-60.5—Care and Maintenance

§ 109-60.500 General.

The contractor shall be responsible for the proper care and maintenance of Government property in its possession or control from the time of receipt until properly relieved of responsibility. The removal of Government property to storage, or its contemplated transfer, does not relieve the contractor of these responsibilities.

§ 109-60.501 Contractor's maintenance program.

The contractor's maintenance program shall be consistent with sound economic industrial practice, the manufacturer's recommendation, and the terms of the contract, and shall include the following:

(a) Preventive maintenance. Preventive maintenance is generally performed on a regularly scheduled basis in order to detect and correct unfavorable conditions or defects before they result in breakdowns and to maximize the useful life of the equipment. An effective preventive maintenance program shall consist of, but not be limited to—

(1) Inspection of equipment at periodic intervals to detect maladjustment, wear, or impending breakdown;

(2) Regular lubrication of bearings and moving parts in accordance with a lubrication plan;

(3) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration;

(4) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time;

(5) Taking necessary precautions to prevent deterioration from contamination and corrosion; and

(6) Proper storage and preservation of accessories and special tools furnished with an item of equipment but not regularly used with it.

(b) Major repairs or rehabilitation. The maintenance program of the contractor shall provide for the disclosure and reporting to the property administrator of the need for major repairs, replacement, and other rehabilitation work on Government property in its possession or control.

(c) Records of maintenance. The contractor shall keep records sufficient to disclose the maintenance and repair performed and associated cost.

Subpart 109-60.6—Utilization, Disposal, and Retirement

§ 109-60.600 General.

It is DOE's policy that all property furnished under a contract shall be utilized to the fullest extent possible. The contractor's procedures shall be adequate to assure that Government property will be utilized only for those purposes authorized in the contract, and that the contracting officer's approval is obtained prior to noncontract use.

§ 109-60.601 Maximum use of property.

Property and supply management practices shall assure that the maximum and best possible use is made of property. Materials and equipment shall be limited to those items essential for effective execution of work performed under the contract.

§ 109-60.602 Disposal.

Unless otherwise authorized, contractors having property determined to be excess shall contact the property administrator for instruction as to the proper method of disposal. Property shall not be disposed of without prior approval of the contracting officer.

§ 109-60.603 Retirement of property.

When capital equipment is worn out, lost, stolen, destroyed, abandoned or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be made, supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, or damage. The retirement work order shall be signed by the responsible contractor administrative official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report, and the property administrator. Detailed information concerning the retention and/or submission of retirement work orders will be furnished by the property administrator.

Subpart 109-60.7—Motor Vehicle and Aircraft Management

§ 109-60.700 Scope of subpart.

This subpart prescribes basic policies and procedures for the management of Government-owned motor vehicles and aircraft in the possession of off-site contractors.

§ 109-60.701 Definition.

"Government-furnished motor vehicles" are DOE-owned vehicles, vehicles leased from the General Services Administration Interagency Motor Pool System (GSA-IMPS), and vehicles leased from commercial sources.

§ 109-60.702 Policy.

(a) Government-furnished motor vehicles and aircraft shall be provided to or acquired by off-site contractors when considered essential for the performance of the contract work and when approved by the contracting officer.

(b) Government-owned motor vehicles and aircraft shall be maintained and utilized by contractors in the most practical and economical manner consistent with DOE program requirements, safety considerations, fuel economy, and applicable laws and regulations.

(c) DOE-PMR Parts 109-38 and 109-39 (41 CFR Chapter 109) contain the requirements for management of DOE-owned motor vehicles and aircraft. DOE contracting officers shall apply the applicable provisions contained therein in their management of contractor motor vehicle and aircraft operations.

(d) Contractors shall conform fully to the average fuel economy standards established by law and these regulations in the selection of Government-furnished motor vehicles.

(e) Contractors shall maintain and operate motor vehicles in such a manner as to foster reduced fuel consumption.

(f) Normally, motor vehicles will not be furnished to fixed-price contractors.

(g) Prior approval of GSA must be obtained before—

(1) Fixed-price contractors can use the GSA-IMPS; and

(2) DOE-owned motor vehicles can be furnished to any contractor in an area served by a GSA-IMPS.

§ 109-60.703 Classification of motor vehicles.

Because of differences in controls or limitations on possession and use, Government vehicles are classified as follows:

(a) *Passenger vehicles.*

(1) Sedans and station wagons (small, subcompact, compact, mid-size, and large).

(2) Ambulances.

(3) Buses.

(b) *Trucks.*

(1) Light, less than 8,500 GVWR (Gross Vehicle Weight Rating).

(i) 4 x 2.

(ii) 4 x 4.

(2) Light, 8,500 to 12,499 GVWR.

(i) 4 x 2.

(ii) 4 x 4.

(3) Medium, 12,500 to 23,999 GVWR.

(4) Heavy, 24,000 GVWR or more.

(c) *Special purpose vehicles.*

(1) Fire trucks.

(2) Construction vehicles.

(3) Other vehicles equipped for special purposes.

§ 109-60.704 Acquisition of motor vehicles.

(a) GSA has the responsibility for procurement of motor vehicles for Government agencies.

(b) Contractors shall submit motor vehicle requirements to the contracting officer for approval.

(c) The acquisition of passenger vehicles is limited to small, subcompact, and compact vehicles which meet Government fuel economy standards.

(d) The DOE Procurement and Assistance Management Directorate, Headquarters, (MA-422), shall certify all requisitions for the following:

(1) The acquisition of small, subcompact, and compact passenger vehicles.

(2) The lease (60 continuous days or more) of light trucks less than 8,500 GVWR.

(e) Purchase requisitions for acquisition of passenger vehicles by purchase or lease must be processed in accordance with 41 CFR 109-38.1306.

(f) Purchase requisitions for other motor vehicles may be submitted to GSA as directed by the contracting officer.

(g) Contractors shall thoroughly examine motor vehicles acquired under a GSA contract for defects. Any defect shall be reported promptly to GSA, and repairs shall be made under terms of the warranty.

§ 109-60.705 Identification of motor vehicles.

(a) Except as indicated in § 109-60.705(b), DOE-owned motor vehicles will have Government license tags and the following identification, which will

be furnished and displayed as specified by the property administrator:

For Official Use Only
U.S. Government
Department of Energy

(b) Security vehicles may be exempted from the above requirements by the contracting officer. All other exemptions require approval by the DOE Director of Procurement and Assistance Management Directorate.

§ 109–60.706 Use of the GSA Interagency Motor Pool System.

Where authorized by the contracting officer, contractors may use the services of the GSA–IMPS.

§ 109–60.707 Official use of motor vehicles.

Government-owned vehicles are to be used for "Official Use Only." Contracting officers may approve home-to-work or work-to-home transportation on a one-time exceptional basis. Home-to-work or work-to-home transportation on a continuing basis requires approval of the head of the cognizant DOE field office. Records of such approval will be kept on file.

§ 109–60.708 Maintenance.

Contractors shall maintain Government-owned vehicles according to a systematic written procedure and in accordance with manufacturer's specifications and the terms of the warranty. The GSA publication "Guide for the Preventive Maintenance of Motor Vehicles" provides guidance for the maintenance of Government-owned vehicles.

§ 109–60.709 Disposition of motor vehicles.

(a) The contractor shall dispose of DOE-owned motor vehicles as directed by the contracting officer.

(b) DOE-owned motor vehicles may be disposed of as exchange/sale items when directed by the contracting officer; however, a designated DOE official must execute the Title Transfer forms.

§ 109–60.710 Required motor vehicle reports.

Contractors shall submit the following annual fiscal year-end reports of Government-furnished motor vehicles to the contracting officer. Information on preparation and submission of the reports will be furnished by the property administrator.

(a) Agency Report of Motor Vehicle Data (Standard Form 82).

(b) Special Purpose Vehicle Report.

(c) Age and Mileage Analysis.

§ 109–60.711 Aircraft.

(a) Acquisition of aircraft requires statutory authority. Contracting officers may authorize a lease, rental, hire, or loan of an aircraft if the period is less than 30 days. If longer than 30 days, approval must be obtained from the DOE Director of Procurement and Assistance Management.

(b) Aircraft shall be used for official purposes only.

Subpart 109–60.8–109–60.46—[Reserved]

Subpart 109–60.47—Reports

§ 109–60.4700 Required reports.

Following is a summary listing of those property reports required to be submitted by the contractor, along with the frequency of the reports and the subpart which describes the report:

(a) Loss, damage, or destruction of Government property (On occurrence) § 109–60.102(b).

(b) Loss due to theft (On occurrence) § 109–60.102(c).

(c) Financial property control reports (Semi-annual) § 109–60.205.

(d) Physical inventories of permanently affixed plant (Not less frequently than every 10 years) § 109–60.402.

(e) Physical inventories of capital equipment (Not less frequently than biennial) § 109–60.402.

(f) Physical inventories of sensitive items (Not less frequently than annual) § 109–60.402.

(g) Termination inventories (Termination or completion) § 109–60.404.

(h) Motor vehicle reports (Annual) § 109–60.710.

[FR Doc. 84–16526 Filed 6–20–84; 8:45 am]
BILLING CODE 6450–01–M

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Thursday, June 21, 1984

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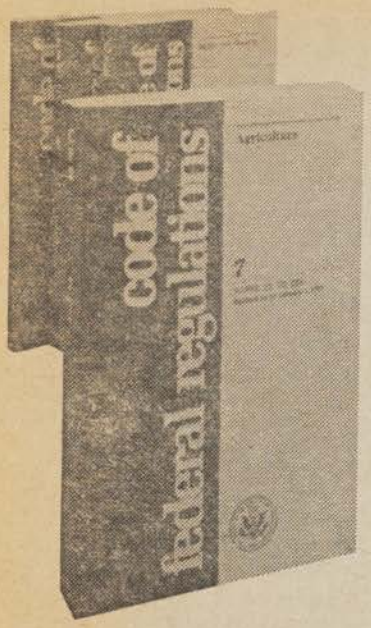
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