8-13-84
Vol. 49 No. 157
Pages 32171-32322

federal register

Monday
August 13, 1984

Selected Subjects

Administrative Practice and Procedure
Food and Drug Administration

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Drug Enforcement Administration

Aviation Safety
Federal Aviation Administration

Consumer Protection
National Highway Traffic Safety Administration

Disaster Assistance
Small Business Administration

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Labeling
Food and Drug Administration

Government Procurement
General Services Administration

Marine Safety
Coast Guard

CONTINUED INSIDE

Selected Subjects

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

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

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

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

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

Contents

Federal Register
Vol. 49, No. 157
Monday, August 13, 1984

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 49, No. 157
Monday, August 13, 1984

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 476]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 227,000 cartons during the period August 12–18, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 12, 1984.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on August 7, 1984, at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is easier.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.776 is added as follows:

§ 910.776 Lemon Regulation 476.

The quantity of lemons grown in California and Arizona which may be handled during the period August 12, 1984, through August 18, 1984, is established at 227,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–647)

Dated: August 8, 1984.

Thomas R. Clark,

Deputy Director Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 84–21468 Filed 8–10–84; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 25

Revised Access Authorization Fees for Licensee Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise the access authorization fees charged to licensee personnel who require access to National Security Information and/or Restricted Data. The revised fees will reflect the current access authorization investigation cost charged to the NRC by the Office of Personnel Management plus part of NRC's overhead associated with the processing of access authorization requests.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Chief, Policy and Operational Support Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 427–4549.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) conducts access authorization background investigations for the NRC under an interagency agreement and sets the basic cost for these investigations. Since the access authorization fee schedule was last published in the **Federal Register** on August 3, 1983 (48 FR 35069), OPM has notified the NRC of a decrease to the basic cost of the full field investigation. This OPM-conducted full field investigation is used by the NRC as a basis in granting a "Q" access authorization. Effective February 19, 1984, the full field investigation charge to NRC by OPM was lowered from $1,450.00 to $1,375.00 and is due to various cost efficiencies implemented by OPM. Therefore, the new NRC fee, applicable immediately, recovers this $1,375.00 OPM-cost plus a part of NRC's overhead associated with the processing of these "Q" access authorizations. The NRC overhead cost equals approximately 15% of the OPM investigative cost resulting in a revised NRC "Q" access authorization fee of

$1,580.00, which is $85.00 lower than the fees implemented last year. The collection of these fees is authorized by 31 U.S.C. 9701. The fees associated with the processing of an "L" access authorization are not changed.

When the original Part 25 fee schedule was developed, it was recognized that the actual amount charged to NRC by OPM for conducting investigations would be the decisive factor governing future fees charged by NRC. This relationship between the amounts charged by OPM and the resulting fees charged by NRC continues and, therefore, has been affected by the February 19, 1984 decrease by OPM. Because NRC is authorized to recover the costs incurred in processing access authorization requests pursuant to this Part, the NRC's amendatory action in this notice is merely ministerial.

This action is being taken in order to inform NRC licensees of the reduction in the access authorization fees charged to licensees and others. These amendments relate solely to minor matters of agency management and do not alter the rights or adversely affect the interests of licensees. Accordingly, the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable and the amendments may be made effective on publication in the **Federal Register.**

Environmental Impact: Categorical Exclusion

The NRC has determined that this final regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget Approval Number 3150–0046.

List of Subjects in 10 CFR Part 25

Classified information, Investigations, Penalty, Reporting and recordkeeping requirements, Security measures.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, 31 U.S.C. 9701 and 5 U.S.C. 553 the following amendment to 10 CFR Part 25 is published as a document subject to codification.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are also issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Appendix A to 10 CFR Part 25 is revised to read as follows:

APPENDIX A—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	$15
Reinstatement of "L" Access Authorization	[1] 15
Extension or Transfer of "L" Access Authorization	[1] 15
Initial "Q" Access Authorization	1,580
Reinstatement of "Q" Access Authorization	[1] 1,580
Extension or Transfer of "Q"	[1] 1,580

[1] Full fee will only be charged if investigation is required.

Dated at Bethesda, Maryland, this 31st day of July 1984.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 84–21410 Filed 8–10–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 389

[Docket No. RM83–71–000]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

Issued: August 7, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of effective date and OMB control number.

SUMMARY: On May 25, 1984, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM83–71–000, 49 FR 22,778 (June 1, 1984), requiring elimination from natural gas pipeline tariffs of any minimum commodity bill provisions that operate to recover variable costs. This notice states the OMB control number for § 154.111 promulgated in that docket and the effective date of the filing requirement in paragraph (a)(3) of that rule.

EFFECTIVE DATE: August 15, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Kendall, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1983), require that OMB approve certain information collection requirements imposed by agency rule. On July 12, 1984, OMB approved the information collection requirements of § 154.111 and issued Control Number 1902–0070 for that section. Therefore, the filing requirement of paragraph (a)(3) of § 154.111, promulgated by the final rule issued in Docket No. RM83–71–000, will become effective on August 15, 1984, as scheduled.

PART 389—[AMENDED]

Accordingly, Part 389, Chapter 1, Title 18, Code of Federal Regulations is amended as set forth below.

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by inserting "§ 154.111(a)(3)" in numerical order in the Section column, and "0070" in the corresponding position in the OMB Control Number column.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–21346 Filed 8–10–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 16

[Docket No. 83D–0256]

Regulatory Hearings; Electronic Media Coverage

AGENCY: Food and Drug Administration.

ACTION: Final rule; cross-reference to a codified guideline.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations governing regulatory hearings to add a cross-reference to the agency's guideline on electronic media coverage of public administrative proceedings.

The purpose of the reference is to ensure that all parties to a proceeding have notice that the proceeding may be recorded electronically, and that any person interested in videotaping or otherwise recording the proceeding has notice that FDA has established procedures that are to be followed.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Ruth Sherman, Office of Legislation and Information (HFW–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3150.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 13, 1984 (49 FR 14723), FDA published a guideline that sets forth the agency's policy and procedure for videotaping and other electronic media coverage of the agency's public administrative proceedings. The guideline is codified at 21 CFR Part 10, Subpart C.

Among the proceedings subject to the guideline are regulatory hearings under 21 CFR Part 16. Regulatory hearings are informal adjudicatory hearings. Certain statutory and regulatory provisions listed in § 16.1(b) require FDA to provide an opportunity for a regulatory hearing.

Section 10.204 (21 CFR 10.204) of the electronic media coverage guideline states that the agency intends to refer to the guideline in its notices of hearings, including notices of advisory committee meetings, when these notices are published in the **Federal Register**. The purpose of the reference is to ensure that all parties to a proceeding have notice that the proceeding may be recorded electronically, and that any person interested in videotaping or otherwise recording the proceeding has notice that FDA has established procedures that are to be followed.

Regulatory hearings under 21 CFR Part 16 differ from other FDA proceedings subject to the electronic media coverage guideline in that notices concerning regulatory hearings generally are in the form of letters to the persons involved rather than **Federal Register** documents. It is necessary, therefore, to add to FDA's regulatory hearing procedures a provision stating when a person given an opportunity for a regulatory hearing is to be informed of FDA's guideline on electronic media coverage.

FDA is including this provision in § 16.22, as new paragraph (a)(5). In the **Federal Register** of July 31, 1984 (49 FR 30462), FDA published a final rule revoking the previous paragraph (a)(5) which required FDA to state, in a notice of opportunity for regulatory hearing, that reimbursement for participation in the hearing is available under Subpart C of Part 10. The reimbursement provisions referred to, formerly found in Part 10, Subpart C, were revoked in the **Federal Register** of March 26, 1982 (47 FR 12951).

List of Subjects in 21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91–513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91–513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679(b)); sec. 24(b), Pub. L. 85–172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 et seq., Pub. L. 91–597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); secs. 1 through 9, Pub. L. 625, 44 Stat. 1101–1103 as amended (21 U.S.C. 141–149); secs. 1 through 10, Chapter 358, 29 Stat. 604–607 as amended (21 U.S.C 41–50); sec. 2 et seq., Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 1451 et seq.)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 16 is amended in § 16.22 by adding new paragraph (a)(5) to read as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

§ 16.22 Initiation of regulatory hearing.

(a) * * *

(5) Refer to FDA's guideline on electronic media coverage of its administrative proceedings (21 CFR Part 10, Subpart C).

* * * * *

Effective date. This rule becomes effective September 12, 1984.

(Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91–513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91–513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679(b)); sec. 24(b), Pub. L. 85–172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 et seq., Pub. L. 91–597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); secs. 1 through 9, Pub. L. 625, 44 Stat. 1101–1103 as amended (21 U.S.C. 141–149); secs. 1 through 10, Chapter 358, 29 Stat. 604–607 as amended (21 U.S.C 41–50); sec. 2 et seq., Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 1451 et seq.))

Dated: August 6, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–21343 Filed 8–10–84; 8:45 am]

BILLING CODE 4160–01–M

---

21 CFR Part 105

[Docket No. 80N–0314]

Food Labeling; Declaration of Sodium Content of Foods and Label Claims for Foods on the Basis of Sodium Content; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for revisions made in 21 CFR 105.69 to eliminate the dual declaration requirements for sodium content. This action is part of FDA's overall sodium labeling initiative.

DATE: Effective date confirmed: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0180.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 18, 1984 (49 FR 15510), FDA published its final regulation on the overall sodium labeling program. As part of these initiatives, the regulation amended 21 CFR 105.69 by deleting the existing dual declaration requirements for sodium content of special dietary foods that purport to be or are represented for use as a means of regulating the intake of sodium or salt. Formerly, the regulation required that any food purporting to be or represented as useful as a means of regulating sodium intake bear a label statement setting forth the amount of sodium per serving and the amount of sodium per 100 grams of food. The amended regulation now requires only that sodium content be listed on the label in terms of milligrams of sodium per serving.

The agency received one letter purporting to be an objection to the revision made in 21 CFR 105.69. This letter was one of three documents submitted by the Church and Dwight

Co., Inc., regarding FDA's actions on sodium labeling. These documents are on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, under Docket No. 80N–0314/PRC.

The agency has concluded that the purported "objections" filed by the Church and Dwight Co., Inc., are not actually objections within the meaning of 21 U.S.C. 371(e) and 21 CFR 12.22 because they do not pertain to the revisions made in 21 CFR 105.69. Thus, the "objections" are not material and do not "state with particularity the provision of the regulation objected to" (21 CFR 12.22(a)(3)). The Church and Dwight Co., Inc., based its "objections" to the revisions in 21 CFR 105.69 on an argument that sodium from sodium bicarbonate should not be included in sodium content calculations. Because the revisions in 21 CFR 105.69 were limited to deleting the dual declaration requirements and did not concern how sodium content is calculated, the purported "objections" are not material to the question involved; that is the change in the labeling requirements. No hearing is required where there are no objections raising material issues for resolution at a hearing. Thus, FDA rejects the request for a hearing.

Church and Dwight Co., Inc., also petitioned for reconsideration of the sodium labeling regulation published in the **Federal Register** of April 18, 1984 (49 FR 15510) and requested a stay of that regulation. FDA will respond to these petitions by letters.

List of Subjects in 21 CFR Part 105

Dietary foods, Food labeling, Infant foods, Nutrition, Vitamins and minerals.

PART 105—FOODS AND SPECIAL DIETARY USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701, 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055–1056 as amended (21 U.S.C. 321, 343, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that there were no other objections addressing the revision in 21 CFR 105.69. Therefore, the agency finds that no valid objections or requests for a hearing were received in response to the revision of 21 CFR 105.69. This document confirms the effective date as July 1, 1985, for the revision in 21 CFR 105.69 requiring sodium content information on food labels in terms of milligrams of sodium per serving, so that this revision will be effective at the same time as the other provisions of the sodium labeling rule.

Dated: August 7, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–21342 Filed 8–10–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

Delegation of Authority to DEA Officials

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The DEA is amending its judicial forfeiture regulations to recognize the delegation of authority to the Forfeiture Counsel of DEA to make applications to the U.S. District Courts to place seized property in official use when forfeited by the courts.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Associate Chief Counsel, Drug Enforcement Administration, Department of Justice 20537, (202) 633–1404.

SUPPLEMENTARY INFORMATION: The provisions of 21 U.S.C. 881(e) contain authority for the Attorney General to retain property for official use when forfeited for controlled substances violations. The provisions of 28 CFR 0.100 assign to the Administrator of DEA all functions vested in the Attorney General by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (which includes 21 U.S.C. 881(e)). In addition, 28 CFR 0.104 provides that the Administrator of DEA is authorized to redelegate to his subordinates any of the powers vested in him by 28 CFR Subpart R. This final rule amends the applicable regulations to recognize that the Forfeiture Counsel of DEA has been authorized to make applications to the U.S. District Courts, through the concerned U.S. Attorney, to place seized property in DEA official use when forfeited by the courts.

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, I hereby certify that this matter will have no impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq.

By virtue of the authority vested in me as Administrator of DEA by 28 CFR 0.100 and 0.104 and 21 U.S.C. 871(b) and 881(e) the following amendment is made to Title 21, § 1316.78 of the Code of Federal Regulations.

List of Subjects in 21 CFR Part 1316

Administrative practice and procedure, Authority delegation (government agencies), Drug traffic control and research.

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart E—Seizure, Forfeiture, and Disposition of Property

§ 1316.78 [Amended]

Section 1316.78, *Judicial Forfeiture*, is amended by adding the following sentence at the end of the section: " * * * The Forfeiture Counsel of DEA shall make applications to the U.S. District Courts to place property in official DEA use."

Dated: August 8, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84–21392 Filed 8–10–84; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 52, 207, 255, 811, and 850

[Docket No. R–84–1166; FR–1902]

Housing Development Grant Program; Extension of Comment Period

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule; extension of comment period.

SUMMARY: The Department published an interim rule on June 14, 1984 (see 49 FR 24634), which announced the Housing Development Grant Program authorized by section 17 of the United States Housing Act of 1937. This interim rule invited comments until August 13, 1984. This notice announces an extension of the comment period until September 12, 1984. This extension is necessary because many potential commenters have been involved in developing applications which are due August 14, 1984 (see Invitation for Applications, published on June 20, 1984, 49 FR 25397, 25399) and, therefore, may not have had sufficient time to develop comments.

DATE: Comment due date: The new comment due date is September 12, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Frank D. Brown, Acting Director, Housing Department Grants Division, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone, (202) 755–5720. (This is not a toll-free number.)

Dated: August 9, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84–21457 Filed 8–10–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7961]

Income Tax; Taxable Years Beginning After December 31, 1953; Limitation on Foreign Tax Credit for Foreign Oil and Gas Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 49 FR 26208 of the final regulations which were the subject of Treasury Decision 7961 relating to the limitation on the foreign tax credit with respect to taxes paid on foreign oil related income.

EFFECTIVE DATE: The final regulations that are the subject of these corrections are effective for taxable years ending after December 31, 1974, and beginning before January 1, 1983. The corrections are to be effective with respect to the same dates.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1984, the **Federal Register** published amendments to the Income Tax Regulations (26 CFR Part 1) under section 907 of the Internal Revenue Code of 1954. These amendments were made to conform the regulations to section 601(a) of the Tax Reduction Act of 1975 (89 Stat. 54), section 1035 of the Tax Reform Act of 1976 (90 Stat. 1630), and section 301(b)(14) of the Revenue Act of 1978 (92 Stat. 2822).

Need for Correction

As published, Treasury Decision 7961 cites two references incorrectly. In § 1.907(c)–1(d)(3), right-hand column, page 26216, the last sentence includes a reference to "section 970(c)(2) (B) and (E)" that should read "section 907(c)(2) (B) and (E)". In example (3) of § 1.907(e)–1 (a)(5), page 26222, in the third sentence, the reference to "§ 1.904–2(c)(2)(f)" should read "§ 1.904–2(c)(2)(i)".

Correction of Publication

Accordingly, the publication of Treasury Decision 7961 which was the subject of FR Doc. 84–16773 is amended by the following correction:

Paragraph 1. On page 26216, right-hand column in the last sentence of § 1.907 (c)–1(d)(3), the language "section 970(c)(2) (B) and (E)" is removed and the language "section 907(c)(2) (B) and (E)" is added in its place.

Par. 2. On page 26222 in the left-hand column under example (3) of § 1.907(e)–1 (a)(5), the language "§ 1.904–2(c)(2)(f)" is removed and the language "§ 1.904–2(c)(2)(i)" is added in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–21433 Filed 8–10–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–84–15]

Special Local Regulations; Annual Labor Day Fireworks Display, Maumee River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Annual Labor Day Fireworks Display. This event will be held on the Maumee River on 03 September 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective and terminate on 03 September 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 this rule and it is being made effective in less than 30 days. Following normal rule making procedures would be contrary to the public interest as immediate action is needed to safeguard life and property from the hazards associated with this event. Therefore, good cause exists to make this rule effective in less than 30 days in accord with 5 U.S.C. 553(d)(3).

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 Annual Labor Day Fireworks Display will be conducted on the Maumee River on 03 September 1984. This event will have falling debris and ash and 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 Station, Toledo, OH).

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 § 100.35–0915 to read as follows:

§ 100.35–0915 Annual Labor Day Fireworks.

(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 9:00 p.m. (local time) until 11:00 p.m. on 03 September 1984:

That portion of the Maumee River from the Cherry Street Bridge to the Anthony Wayne Bridge.

(2) The following portion of the Maumee River will be closed to all vessel traffic, from 9:00 p.m. (local time) until 11:00 p.m. on 03 September 1984:

That portion of the Maumee River within a 500 foot radius of the fireworks barges.

(b) *Special Local Regulations:* (1) Vessels under 65 feet shall begin clearing the shipping channels at 10:30 p.m. local or when the fireworks display ends, whichever comes first.

(2) Two 60 foot fireworks barges will be moored at the City of Toledo Division of Streets, Harbor and Bridges Building Dock. Vessel masters shall pass with caution.

(3) If the weather on 03 September 1984 is inclement, the fireworks display and the river closure will be postponed until 9:00 p.m. to 11:00 p.m. on 08 September 1984. Should another postponement occur, the display and closure will be moved to the same time period on 09 September 1984. If postponed, notice will be given on 03 September 1984, and if required again on 08 September 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: August 3, 1984.

B.K. Schaeffer,

Captain, U.S. Coast Guard, Chief of Staff, Ninth Coast Guard District.

[FR Doc. 84-21381 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 100

[CGD 09-84-16]

Special Local Regulations: Bud Light Formula I Grand Prix Series

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Bud Light Formula I Grand Prix Series. This event will be held on the Maumee River on 01 September 1984 from 0800 AM (EDT) until 4:30 PM on 02 September 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 01 September 1984 and terminate on 02 September 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 this regulation and it is being made effective in less than 30 days. Following normal rule making procedures would be contrary to the public interest since immediate action is necessary to adequately safeguard persons and property from the hazards associated with this event. Therefore the Coast Guard has determined that good cause exists to make this regulation effective in less than 30 days in accord with 5 U.S.C. 553(d)(3).

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 Arts Commission of Greater Toledo will sponsor the Bud Light Formula I Grand Prix Series to be conducted on the Maumee River on 01 and 02 September 1984. This event will have an estimated 15-20 Formula I outboard racers 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, U.S. Coast Guard Station, Toledo, OH).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35—0916 to read as follows:

§ 100.35-0916 Bud Light Formula I Grand Prix.

(a) *Regulated Area:* That portion of the Maumee River lying between the Cherry Street Bridge and the Anthony Wayne Bridge.

(b) *Special Local Regulations:* (1) The above area will be closed to all vessel navigation or anchorage from 8:00 AM (EDT) until 4:00 PM on 01 September 1984 and from 11:00 AM to 4:30 PM on 02 September 1984.

(2) 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.

(3) 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.

(4) This section is effective from 8:00 AM (EDT) on 01 September 1984 until 4:30 PM on 02 September 1984.

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

Dated: August 3, 1984.

B. K. Schaeffer

Captain, U.S. Coast Guard, Chief of Staff, Ninth Coast Guard District.

[FR Doc. 84-21382 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 100

[CGD1-84-9R]

Special Local Regulations; Peaks Island to Portland Swim

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the PEAKS ISLAND TO PORTLAND SWIM. This event will be held on August 26, 1984 at 8:00 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective at 8:00 a.m., August 26, 1984 and terminate at 12:05 p.m., August 26, 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Thomas E. Hobaica, USCG, Chief, Boating Standards/Affairs Branch (bc), Room 1102, First Coast Guard District, 150 Causeway Street, Boston, MA 02114, (617) 223–3607.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable due to time constraints. Since these regulations are necessary to protect life and property during the event, good cause exists to make these regulations effective in less than 30 days in accord with 5 U.S.C. 553(d)(3).

Drafting Information

The drafters of this regulation are LTJG Thomas E. Hobaica, project officer, First Coast Guard District Boating Standards/Affairs Branch and LT S. M. Krupanski, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The participants in this marine event, sponsored by the Portland, Maine YMCA, include approximately 100 swimmers, each accompanied by a small rowboat.

The participants enter the water at Peaks Island, Portland Harbor, and swim to East End Beach, Portland. The purpose of this regulation is to augment the safety precautions taken by the sponsor to insure the safety of the swimmers and escort rowboats involved in this event. Severe injury to swimmers by boats in the area and swamping the small escort rowboats by wakes generated by power driven vessels in the area of this event constitute the primary threats to participants. This regulation limits the distance to which nonparticipating vessels may approach participants and limits the speed at which vessels may pass through the area of this marine event in order to provide for the safety of life on navigable waters during this marine event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–1–05 to read as follows:

§ 100.35–1–9R Peaks Island to Portland Swim.

(a) *Regulated Area:* All areas within 300 yards of a line drawn from the Ferry Wharf, located on the southwest side of Peaks Island, Portland Harbor, to Diamond Island Ledge Light 6, Portland Harbor, thence to Pomroy Rock, located off East End Beach, Portland, Maine.

(b) *Special Local Regulations:* All vessels operating in this area in the vicinity of participants in this event shall:

(1) Approach no closer than 200 yards from any participant in this event. Participants will be swimming from Peaks Island, Portland Harbor, to East End Beach, Portland, Maine. Each swimmer will be accompanied by a rowboat.

(2) Observe a maximum speed limit of five (5) knots, or "No Wake Speed", whichever is less.

(3) Exercise extreme caution when operating in this area.

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

Dated: July 27, 1984.

R. I. Rybacki,

Capt. USCG, Commander, First Coast Guard District, Acting.

[FR Doc. 84–21383 Filed 8–10–84; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[COTP Honolulu Regulation 84–03]

Safety Zone Regulations; Oahu, HI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing two safety zones; one for areas offshore of Bellows Air Force Station, and one offshore of Honolulu, Oahu, Hawaii. Each zone is a 3,000 ft wide and 24,000 ft long rectangle.

These zones are needed to protect USAF Thunderbird personnel and aircraft, as well as spectators, from a safety hazard associated with the U.S. Air Force "Thunderbird" Air Show. Surfers and swimmers may enter the zones but are prohibited from entering or remaining in the center half of the zones, within 6,000 feet either side of the show centers. Otherwise, entry into the zone is prohibited unless authorized by the Captain of the Port, Honolulu, Hawaii.

EFFECTIVE DATES: This regulation becomes effective on 18 August 1984 at 1400 (2 p.m.) offshore Bellows Air Force Station and on 19 August 1984 at 1400 (2 p.m.) offshore of Honolulu. It terminates at 1530 (3:30 p.m.) on 18 August 1984 for the zone offshore of Bellows Air Force Station and at 1530 (3:30 p.m.) on 19 August 1984 for the zone offshore of Honolulu unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant C. A. Crampton, Chief, Port Operations Department, (808) 546–7146, Marine Safety Office, Honolulu, HI.

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 after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the Thunderbird team and to vessels and personnel in the vicinity of the air shows. Therefore the Coast Guard has determined that good cause exists to make this rule effective in less than 30 days in accord with 5 U.S.C. 553(d)(3).

Drafting Information

The drafters of this regulation are Lieutenant C. A. Crampton, project officer for the Captain of the Port, and Commander R. B. Cole, project attorney, Fourteenth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is the U.S. Air Force Thunderbird Air Shows which will occur between 1400 (2:00 p.m.) and 1530 (3:30 p.m.) offshore of Bellows Air Force Station on 18 August 1984 and offshore of Honolulu on 19 August 1984. These zones are necessary because Federal Aviation Administration regulations require unauthorized persons, aircraft and vessels to remain clear of these zones. The low altitude required by the aircraft and associated manuevers performed during the shows create this requirement.

The intended impact of this regulation is to minimize the hazards to personnel, vessels and aircraft participating in, and in the the vicinity of the air shows. It is anticipated that establishment of these zones will restrict watersports and normal recreational and commercial vessel operations during the one and one-half hour duration of the shows. The zones have been selected so that public viewing of the show and the safety of persons, aircraft and vessels are maximized.

List of Subjects in 33 CFR Part 165

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

Regulation

PART 165—[AMENDED]

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

§ 165.T1403 Safety zones: Offshore of Honolulu and Bellows Air Force Station, Oahu, Hawaii.

(a) *Locations.* The following areas are safety zones:

All navigable waters included within a rectangle offshore of Bellows Air Force Station enclosed by the following positions: 21–20–11N, 157–41–51W; 21–20–9N, 157–42–23W; 21–24–5N, 157–42–34W; and 21–24–8N, 157–42–3W. The show center for this area is 21–22–9N, 157–42–12W.

All navigable waters included within a rectangle offshore of Honolulu enclosed by the following positions: 21–15–32N, 157–48–4W; 21–15–8N, 157–49–4W; 21–17–31N, 157–52–28W; and 21–17–55N, 157–52–8W. The show center for this area is 21–16–32N, 157–50–36W.

(b) *Regulations:*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or remaining within these zones is prohibited unless authorized by the Captain of the Port for all watercraft. In addition, all persons are prohibited from entering or remaining within the center half of each zone, i.e. within 6,000 ft either side of show centers, unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 160.5)

Dated: July 31, 1984.

C.W. Gray,

Capt, USCG, Captain of the Port, Honolulu, Hawaii.

[FR Doc. 84–21384 Filed 8–10–84; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD13 83–12]

Regulated Navigation Area; Puget Sound, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area in Puget Sound and all adjacent Northwestern Washington waters to enhance navigation safety during periods of vessel traffic congestion. Such congestion has historically resulted when heavy concentrations of vessels engaged in gill net fishing have come into conflict with deep-draft and other vessels navigating within the Puget Sound Traffic Separation Scheme (TSS). These regulations will also provide a more orderly flow of vessel traffic and enhance safety during all periods of vessel traffic congestion, including boat races and similar marine events. This Final Rule culminates over three years of rulemaking effort which has included two Public Hearings and an innovative "Open Conference."

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: CDR T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Telephone (206) 442–5537.

SUPPLEMENTARY INFORMATION: On May 10, 1984, the Coast Guard published a supplemental notice of proposed rulemaking in the **Federal Register** for these regulations (49 FR 19850). Interested persons were requested to submit comments and eight letters containing comments were received.

Drafting Information

The drafters of these regulations are CDR T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, and LT Aubrey W. Bogle, USCGR, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Comments

Five of the comments received were of a general nature in support of this rulemaking effort and in support of the general concept of the proposed regulations. In addition, there were seven comments which were not directly related to or which were beyond the scope of this rulemaking, or which were not within the Coast Guard's area of authority. These comments will be reviewed separately by the Coast Guard or passed on to an appropriate government agency.

One commenter proposed extending the Temporary Special Traffic Lane into Commencement Bay, while a second commenter proposed eventually establishing Temporary Special Traffic Lanes in Haro and Rosario Straits if these lanes proved successful in the Puget Sound TSS. While both recommendations may have merit, such an extension of the Temporary Special Traffic Lane has not been a part of this rulemaking and, consequently, has not been exposed to public review and comment. To insert such changes at this point would require an additional comment period and would further delay publication of a final rule. As a result, the Coast Guard has decided to evaluate the Temporary Special Traffic Lane within the general area of the Puget Sound TSS before deciding on the advisability of undertaking additional rulemaking to extend this traffic routing concept into other waters.

With regard to the language contained in paragraph 1301(b) of the regulation regarding hourly broadcasts by PSVTS, one commenter proposed that the word "may" be changed to "will" so that PSVTS would be required to make these broadcasts whenever it deemed them to be "necessary." Although PSVTS would normally make any broadcast it considered "necessary" or even "highly desirable," there are possible situations in which it could not make those broadcasts, e.g., due to other pressing operational or communications commitments or equipment outages. Nevertheless, the language in this paragraph has been amended to strengthen it somewhat.

One commenter proposed that PSVTS make special hourly broadcasts anytime gill net fishing reaches heavy concentrations, regardless of whether the Temporary Special Traffic Lanes have been placed into effect. No change in regulation is necessary to allow this since PSVTS already has legal authority to make such broadcasts at any time and for any purpose it deems them appropriate. To make such broadcasts mandatory would reduce the flexibility of PSVTS to establish its vessel traffic advisory priorities based upon the wide range of traffic conditions which must be taken into consideration at any given time.

Two comments were received regarding the "clearing" of the Temporary Special Traffic Lanes, with one of those comments indicating the lanes should be free of fishing vessels any time vessel traffic is "expected." This again raises the question of "how soon is soon enough." The language arrived at in paragraph 1301(d)(3) (i.e., "* * * no later than 15 minutes before the estimated time of arrival at their location * * *"), grew out of comments received in writing and at the Public Hearing held subsequent to the original notice of proposed rulemaking (48 FR 49660). There has been no specific input received to recommend a greater or lesser period of time than 15 minutes.

Two comments were received concerning the "blast of at least 10 seconds" required in paragraph 1301(c)(1). The 72 COLREGS define a "prolonged blast" as being of four to six seconds duration, and this paragraph has been changed to conform to the 72 COLREGS definition.

One commenter proposed that vessels be "required" to use the Temporary

Special Traffic Lanes when they are in effect. Throughout this rulemaking, the Temporary Special Traffic Lane has been envisioned as a deviation from the Traffic Separation Scheme and, therefore, would be used in much the same way as the TSS. In general, a vessel is not required to use a TSS, but if that vessel is being navigated within an area included in a TSS, then the requirements peculiar to that TSS must be followed. In fact, a vast majority of the vessels participating in PSVTS use the TSS. If vessels were required to use the Temporary Special Traffic Lane, then they would be denied the use of all other waters, even though those waters might be free of congestion. The intent of the Temporary Special Traffic Lane is to promote safety by providing clear passage through an area of congestion, but not to preclude the possibility of a vessel finding clear passage around that congestion. This flexibility could become particularly important to a vessel's master in selecting the safest routing should congesting vessels fail to clear the Temporary Special Traffic Lane. In addition, since such a requirement has not been a part of this rulemaking to this point, public review and comment would be required for so significant a change, and would further delay publishing a final rule.

One commenter proposed that the circumstances under which the Temporary Special Traffic Lane would be established should be more specifically defined. The conditions which might require the establishment of this lane are quite diverse. In addition, the distribution of congesting vessels within the lane is constantly shifting. Consequently, it would be extremely difficult if not impossible to prescribe specific conditions under which the lane will be placed into effect. This is a decision which is best based upon PSVTS radar observations and reports from transiting vessels.

A final comment was received indicating that the Coast Guard does not have authority to regulate Treaty Indian fishing activities. As was stated in the supplemental notice of proposed rulemaking, it is not the intent of this regulation to regulate fishing but to enhance navigation and safety during periods when concentrations of vessels engaged in fishing or other activities create conditions which lead to user conflicts.

Economic Assessment and Certification

These regulations are 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. Fishing and other operations will be affected only in a very small area in comparison to the total area of Puget Sound which is involved, and the Temporary Special Traffic Lane would be implemented only if and when concentrations of vessels in the traffic lanes create a safety hazard. Possible impact on deep draft vessels, towing vessels, and vessels engaged in fishing has been taken into consideration.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they 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 Regulations

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.1301 to read as follows:

§ 165.1301 Puget Sound, Washington—Regulated Navigation Area.

(a) The following is a regulated navigation area—All of the following northwestern Washington waters under the jurisdiction of the Captain of the Port Puget Sound: Puget Sound, Hood Canal, Possession Sound, Elliott Bay, Commencement Bay, the Strait of Juan de Fuca, the San Juan Archipelago, Georgia Strait, Rosario Strait, and all waters adjacent to the above.

(b) This regulation is intended to enhance vessel traffic safety during periods of congestion and consists of *genereal regulations* which are continuously in effect and *Temporary Special Traffic Lanes* which may be established by the Coast Guard in response to specific conditions. When the Coast Guard determines that the various competing uses of the above waters have resulted in or may result in such concentrations of vessels as to constitute a hazard to navigation, the Puget Sound Vessel Traffic Service (PSVTS) under authority of § 161.107 of this Title may implement the regulations provided in this Section for Temporary Special Traffic Lanes and will, when it judges such action to be necessary, and when other operational requirements and conditions permit, provide hourly broadcasts on the PSVTS operating frequencies advising of known or expected vessel traffic.

(c) *General regulations.* (1) Vessels without a tow transiting areas occupied by concentrations of vessels engaged in fishing or other operations shall indicate their approach by sounding one blast of 4 to 6 seconds. Vessels with a tow shall indicate their approach by sounding one blast of 4 to 6 seconds, followed by two short blasts. At night, and after sounding the appropriate signal, approaching vessels shall direct a beam of light in the direction of their intended course.

(2) Vessels engaged in fishing or other operations along the intended course of any vessel, upon becoming aware of the approach of that vessel or hearing its signal, shall at night show a quick flash of light and, if it has nets or other gear in the water, shine a light in the direction of that gear. (For daylight hours, no specific indications of activity or position of gear are required beyond those contained in Part 81, Appendix A of this Title (72 COLREGS).) The vessel engaged in fishing or other operation shall then draw in its gear, maneuver, or otherwise cooperate with the approaching vessel to permit passage. The use of bridge-to-bridge radiotelephone communications is encouraged in arranging for safe passage and to reduce the possibility of damage to vessels and gear.

(3) During periods of heavy vessel concentrations in the waters south of Lopez Island, deep-draft vessels, and tugs with tows entering and leaving Rosario Strait shall, when directed by PSVTS, transit by such route as to avoid those concentrations.

(4) To the maximum extent feasible, all vessels shall adjust sailing times to reduce traffic through areas of heavy concentrations of vessels engaged in fishing or other operations.

(5) Vessels engaged in gill net fishing at any time between sunset and sunrise in any of the above-listed waters shall, in addition to the navigation lights and shapes required by the Part 81 of this Title (72 COLREGS), display at the end of the net most distant from the vessel an all-round (32-point) white light visible for a minimum of two nautical miles and displayed from at least three feet above the surface of the water.

(6) A vessel engaged in gill net fishing shall be crewed by at least one person capable of controlling the net. Such person shall be in constant attendance upon each gill net while it is laid out.

(d) *Temporary Special Traffic Lanes.* (1) During periods of congestion or when otherwise deemed appropriate, PSVTS may exercise its authority under § 161.107 of this Title and establish a

Temporary Special Traffic Lane, as described below, for use as an alternative to the Traffic Separation Scheme (TSS) described in Part 161 of this Title. When fishing or other operations have reached or may reach such concentrations as to significantly impede navigation or to create a hazard, the PSVTS may establish this Temporary Special Traffic Lane and announce that fact through a Broadcast Notice to Mariners and on the PSVTS operating frequencies. PSVTS may then grant deviations for vessels to use the Temporary Special Traffic Lane in lieu of the TSS.

(2) When established, the Temporary Special Traffic Lane may be all or any part of a lane commencing east of Pt. Wilson at the mid-point of the TSS Separation Zone on a line connecting the eastern tip of Pt. Wilson and the southern tip of Admiralty Head (said mid-point being located at 48°08'53" N, 122°43'27" W) and extending southerly to the center of Precautionary Area "TC" off Browns Point. (For a description of these Separation Zones, Traffic Lanes, and Precautionary Areas, see §§ 161.183, 161.185, and 161.187 of this Title.) One boundary of the Temporary Special Traffic Lane shall be the center line of the TSS. The other boundary shall be parallel to and one half nautical mile east of this line, or parallel to and one half nautical mile west of this line, depending upon which configuration would be most advantageous in avoiding concentrations of vessels during the period the Temporary Special Traffic Lane is to be in place. This determination shall be made by PSVTS and shall determine the description of the lane announced on the Broadcast Notice to Mariners and on the PSVTS operating frequencies. Similar Temporary Special Traffic Lanes consisting of the area within one quarter nautical mile on each side of a straight line connecting the Edmonds and Kingston ferry landings, and one quarter nautical mile on each side of a straight line connecting the Mukilteo and Columbia Beach ferry landings, may be established and administered in a similar fashion by PSVTS when deemed appropriate.

(3) During the period when the Temporary Special Traffic Lanes have been established, vessels engaged in fishing or other operations within these Temporary Special Traffic Lanes (other than merely crossing or transitting the area) shall continuously monitor the PSVTS operating frequency for the area in which they are located. Such vessels shall draw in their gear, maneuver, or otherwise clear the Temporary Special Traffic Lanes so that the required action is complete no later than 15 minutes before the estimated time of arrival at their location of any vessels transitting the Temporary Special Traffic Lanes to enable that traffic to pass with safety and without delay.

(33 U.S.C. 1231; 49 CFR 1.46(n)(4); 33 CFR 1.05-1(g)(4))

Dated: July 12, 1984.

R.R. Garrett,

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

[FR Doc. 84-21385 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-6-FRL-2652-7]

Approval and Promulgation of Implementation Plans; Texas Revisions to the General Rules and Regulation VI for New Source Review

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice approves revisions to the Texas State Implementation Plan (SIP) pertaining to new source review (NSR) for nonattainment areas. Specifically, the State revised the General Rules, and Regulation VI of the Texas Air Control Board (TACB) Regulations. The approval is based on the review of revisions which were adopted by the Board on March 20, 1981, and June 10, 1983, and submitted to EPA by the Governor December 22, 1983.

Portions of the revisions were submitted by the State to satisfy conditions placed on its Part D plan revision (at 45 FR 19231, March 25, 1980). The purpose of this action is the approval of those portions of the revisions so that conditions on the Part D SIP may be removed, and the approval of the remaining portions of the State's submittal.

EFFECTIVE DATE: September 12, 1984.

ADDRESSES: Copies of the incorporation by reference materials may be examined during normal business hours at the following locations:

EPA, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723

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

The Office of the Federal Register, 1100 L St., NW., Rm. 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: John Hepola, State Implementation Plan Section, Air Branch EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On March 25, 1980, EPA conditionally approved portions of the Texas SIP with regard to the requirements of Part D of the Clean Air Act, as amended. In order to comply with one of the conditions, pertaining to the State's NSR program, the State was required to revise its definitions of "major source" and "major modification" to be equivalent to EPA's definitions, within nine months of EPA's promulgation resulting from the ruling of the U.S. Court of Appeals for the District of Columbia Circuit in the case of *Alabama Power Company et al.* v. *Douglas Costle.*

On March 20, 1981, the TACB adopted, among other things, revisions to the General Rules which consisted of revisions to the definitions of "potential to emit," "major facility/stationary source" and "major modification." However, based on EPA's proposal of March 12, 1981 (at 46 FR 16280) to revise the definition of "source," the State reassessed their revised definitions.

As a result of this reassessment, the State decided to revise its definition of "major modification," and to maintain its adopted definitions of "major facility/stationary source," and "potential to emit." Public hearings on the revision to the definition of "major modification," and revisions to Regulation VI were held on February 22, 24, and 28, 1983. These revisions were adopted by the Board on June 10, 1983, and submitted to EPA on December 22, 1983.

On December 13, 1983, EPA proposed approval of the revisions adopted by the Board in 48 FR 55483. That proposal was made on the understanding that revisions which the State adopted would not contain substantial changes when submitted by the Governor, and the State would submit a letter clarifying how they would apply their definitions of "Major facility/Stationary source," "Major Modification," and "potential to emit," and enforceable limitations.

No comments were received on the proposed EPA action, the submitted revisions were identical to the adopted revisions, and the State on March 27, 1984, submitted a clarification letter which stated their definitions will apply

in a manner at least as stringent as required under the Federal Clean Air Act and 40 CFR 51.18(j). The revisions to the General Rules and Regulation VI are therefore approved.

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 (60 days from today). 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 Texas has been approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7520.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

Dated: August 7, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart SS—Texas

1. Section 52.2270 is amended by adding new paragraph (c)(59) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(59) Revisions to TACB Regulation VI and definitions in the General Rules as adopted on June 10, 1983 and submitted by the Governor on December 22, 1983, including a letter of clarification on their definitions submitted by the Texas Air Control Board on March 27, 1984.

§ 52.2299 [Removed and reserved]

2. Section 52.2299 is removed and reserved.

[FR Doc. 84-21372 Filed 8-10-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-2649-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPS).

ACTION: Final rulemaking.

SUMMARY: USEPA announces a revision to the Ohio State Implementation Plan (SIP) for the rule pertaining to Air Pollution Nuisances. The State of Ohio modified these rules by including an exemption for sources of odor which are not currently regulated under other applicable portions of the SIP. In addition, references to "comfort" and related terms and phrases were deleted from the rules.

The purpose of today's action is to approve this modified rule as part of the Ohio SIP. Because this revision does not pertain to the criteria pollutants currently regulated by USEPA, it will not impact the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

DATE: This action will be effective October 12, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

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

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio, at (312) 886-6088, before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Anaylsis Section, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, the Administrator approved, with specific exceptions, the Ohio State Implementation Plan. The approval was vacated by the U.S. Court of Appeals for the Sixth Circuit in *Buckeye Power, Inc. v. USEPA*, 481 F.d 62 (6th Cir. 1973), *Cert. denied*, 425 U.S. 934 (1976). The plan was reapproved on April 15, 1974 (39 FR 13542). Included in that approval was Ohio's Nuisance Rule AP-2-07, now codified as Ohio Administrative Code 3745-15-07.

On January 3, 1984, Ohio EPA submitted a revision to OAC 3745-15-07, Air Pollution Nuisance Prohibited. The State modified these rules by including an exemption for sources of odor which are not currently regulated under other portions of the SIP. In addition, references to "comfort" and related terms and phrases were deleted from the rule.

The revised nuisance rule as contained in OAC 3745-15-07 now reads:

(A) Except as provided in paragraph (B) of this rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

(B) Those sources of odor not subject to regulation under Chapters 3745-17, 3745-18, 3745-21, or 3745-31 of the Administrative Code shall not be subject to this rule.

Because odors do not constitute one of the criteria pollutants currently regulated by USEPA, this revision will not impact the attainment and maintenance of the NAAQS. Therefore, this revision to the Ohio SIP is approvable.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on (60 days from the date of this notice). However, if we receive notice by (30 days from the date of this notice) that someone wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a

new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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 (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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

This notice is issued under authority of section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: August 2, 1984.

Alvin L. Alm,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

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

1. Section 52.1870 is amended by adding paragraph (c)(63) as follows:

§ 52.1870 Identification of the plan.

* * * * *

(c) * * *

(63) On January 3, 1984, the Ohio Environmental Protection Agency submitted a revision to the Ohio Administrative Code 3745–15–07, Air Pollution Nuisance Prohibited.

* * * * *

[FR Doc. 84–21380 Filed 8–10–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–6–FRL–2651–7]

Approval and Promulgation of Implementation Plans; New Mexico Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: As required by section 110(a) of the Clean Air Act and the October 5, 1978 (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of New Mexico submitted its State Implementation Plan (SIP) for lead which demonstrated attainment throughout the State except for the Anapra area, which is across the State border from El Paso, Texas. Attainment in the Anapra, N.M. area was dependent on the Texas lead control plan for the El Paso County area. Texas has submitted a final lead control plan for the El Paso area which will provide for attainment of the lead NAAQS in Anapra, N.M. This action is a final action which fully approves the New Mexico lead SIP. The rest of the New Mexico lead SIP was previously approved by EPA (except for the Anapra part of the SIP) in a **Federal Register** notice published on May 5, 1982 (47 FR 19333).

DATES: Effective on August 13, 1984.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Air Quality Bureau, State of New Mexico, Environmental Improvement Division, P.O. Box 968, Santa Fe, New Mexico 87503.

EPA, Region 6, Library, 28th floor, Interfirst Two Bldg., 1201 Elm Street, Dallas, Texas 75270.

EPA, Public Information Reference Unit, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

The Office of the Federal Register, Rm. 8401, 1100 L Street, NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, State Implementation Plan Section, Air Branch, EPA, Region 6, at (214) 767–9859 or FTS 729–9859.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (μg lead/m^3) averaged over a calendar quarter. As required by section 110 of the Clean Air Act (CAA), and the October 5, 1978 promulgation of the NAAQS for lead, all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS.

The general requirements for a SIP are outlined in section 110 of the Clean Air Act and EPA regulations 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for ensuring maintenance of the NAAQS. In reference to the needs of the Anapra, N.M. area, EPA has evaluated the Texas lead SIP for El Paso County by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations.

On May 19, 1980, the Governor of New Mexico submitted to EPA the State's SIP for attainment and maintenance of the NAAQS for lead.

On May 5, 1982 (47 FR 19333), EPA approved the general New Mexico lead SIP except for the part of the SIP concerning the Anapra area. As explained in that notice and in EPA's March 1982 Evaluation Report, attainment of the lead NAAQS in Anapra was dependent on development by the Texas Air Control Board (TACB) of a lead control plan for the El Paso area, specifically for the area in El Paso around a primary lead, copper, and zinc smelter which is near the Anapra area of New Mexico. The State of Texas submitted a draft final lead control plan for the El Paso area, submitted in a letter dated September 8, 1983. EPA reviewed the Texas lead control plan for the El Paso area and found the control plan to be fully adequate to attain and maintain the lead NAAQS in the Anapra area of New Mexico. On December 29, 1983 (48 FR 57333), EPA published a proposed approval of the Anapra part of the New Mexico lead SIP, in conjunction with a proposed approval of the Texas lead control plan for the El Paso area which was published on the same date (48 FR 57336). No public comments were received concerning EPA's proposed action on the Anapra part of the New Mexico lead SIP.

Texas has developed a final lead control plan (SIP) for the El Paso area and has submitted the plan to EPA. Appropriate parts of the Texas final lead control plan for El Paso which affect the Anapra area are described below, along with EPA's final action on the Anapra part of the New Mexico lead

SIP. A separate rulemaking will announce EPA's final action on the El Paso part of the Texas lead SIP.

II. Description of the Lead Control Plan for the El Paso-Anapra Area

In A September 8, 1983, letter to the Regional Office, Texas submitted to EPA a draft final control plan for the ASARCO primary lead smelter in El Paso County. The draft plan also included proposed Texas Air Control Board (TACB) regulations for El Paso County applicable to lead smelters, including the ASARCO facility. The ASARCO draft lead control plan, and the El Paso County draft lead smelter regulations were discussed in detail in EPA's December 29 proposal notices and in EPA's "Evaluation Report for the Texas Lead SIP for the El Paso Area," dated November 1983, which is available for review at the addresses listed in the **ADDRESSES** section of this notice. In order to parallel process the State's lead control plan, EPA proposed approval of the draft El Paso lead SIP and TACB regulations for El Paso County on December 29, 1983 (48 FR 57336).

On February 17, 1984, the TACB approved the Texas lead SIP for El Paso, and approved revisions to the TACB Regulation III, Chapter 113, Subchapter B, "Lead from Stationary Sources—Nonferrous Smelters in El Paso County." As adopted by TACB, the final regulations for the control of lead pollution include three changes from the proposed TACB Regulation III which will be discussed below as to the effect, if any, on the maintenance of the lead NAAQS in the Anapra area. The final TACB lead SIP for the El Paso area was submitted to EPA on June 20, 1984, and included the final TACB regulations for the control of lead pollution in El Paso County. EPA's action on the TACB lead SIP for El Paso is discussed in a separate rulemaking in today's **Federal Register**. Appropriate parts of the Texas final lead SIP for El Paso which affect the Anapra area in New Mexico are discussed below, along with EPA's final action on the Anapra section of the New Mexico lead SIP.

A. Control Plan for ASARCO in El Paso

As described in a separate rulemaking published in today's **Federal Register**, Texas has submitted a final lead control plan for the ASARCO primary lead and copper smelter facility in El Paso, and has submitted regulations for the control of lead emissions from nonferrous smelters in El Paso County. The submitted control plan for ASARCO and the smelter regulations for El Paso County provide for the implementation of reasonably available control technology (RACT) at the smelter to control lead emissions from both point sources and fugitive sources at ASARCO. In general, the RACT control measures can be described as: (1) Requiring specific lead emission rate limitations for the 9 stacks at the ASARCO facility; (2) requiring installation of secondary hoods for the copper converter operations with the routing of emissions to baghouses; (3) use of enclosed containers for transport of lead materials (4) installation of additional hoods over the lead dross kettles, improvement in existing hoods on lead dross reverberatory furnaces (5) installation of automatic air control systems on all lead blast furnaces; (6) requiring paving or covering with vegetation of portions of ASARCO property; and (7) automatic water sprinkling on vehicular traffic ways and on outside raw material storage areas. Texas has demonstrated that the required control measures and lead emission limitations are adequate to demonstrate attainmemt in most parts of El Paso, including the areas along the El Paso-Anapra border. With full implementation of the control measures and lead emission limitations, the lead NAAQS will continue to be maintained in Anapra even if the ASARCO, El Paso facility operates under maximum production conditions. Specific details of the lead control measures and emission limitations are provided in EPA's June 1984 Evaluation Report of the final Texas lead control plan for the El Paso area (available at addresses listed in **ADDRESSES** section).

The Texas final lead control plan and smelter regulations for El Paso which were submitted to EPA in July of 1984 provide for the implementation of the above controls at the ASARCO smelter. The final lead control plan for El Paso is essentially the same as the proposed lead control plan (which EPA proposed to approve on Dec. 29. 1983) except for three changes.

(1) The first change is that total building enclosure of the copper converter building is not required of the ASARCO smelter as previously proposed; nor is the complete enclosure of baghouse dust handling operations in the copper building required (local hooding for the dust handling operations are required). This change from the proposed control plan results in an estimated 2.2 tons of lead per year not being controlled as previously proposed.

(2) The second change deleted the requirement that the smelter would have to raise four main stacks at the plant. The State of Texas had predicted by the use of modeling that the raising of four stacks at the ASARCO smelter would decrease slightly the lead concentration at ground level near the plant, and would cause a very minimal reduction in lead concentration in elevated terrain further away from the plant (but still in El Paso, Tx). Since all of the public comments were against the requirement of raising stacks, and since no reductions in lead emissions from the smelter would be achieved by raising stacks, the TACB deleted from the El Paso Regulations the requirement to raise stack heights at the smelter.

(3) The third change concerns revisions to the El Paso Regulations which deleted the wording of "no visible emissions" from several sections of the Regulations and replaced the wording with the requirement that the smelter adopt control measures to "minimize visible emissions." TACB also changed the Regulations to require that non-specific control measures be applied for certain areas at the smelter, namely for the lead furnaces, and for plant roads, outdoor storage areas and open unpaved areas. The specific control measures developed by the smelter are required to be submitted to and approved by the TACB Executive Director. EPA has had concerns with the current Regulation's term, "minimizing visible emissions," and the wording which requires non-specific control measures for certain smelter areas.

As explained in a related but separate rulemaking concerning the Texas-El Paso lead SIP and Regulations, EPA has been working with TACB and has obtained from TACB information which clarifies the meaning of the "minimize visible emissions" term. TACB has received from ASARCO specific, detailed control plans which outline each control measure which is to be installed by ASARCO for the control of lead emissions from each area at the smelter. EPA has reviewed the control plans and EPA believes the control plans will obtain all of the lead emission reductions required by the Texas lead SIP for EL Paso which EPA is approving in a separate **Federal Register** notice. Having clarified the specific control measures to be installed, EPA's concerns with the term "minimize visible emissions," have been resolved.

B. Attainment in Anapra

Regardless of the differences (1, 2, 3) listed above between the proposed Regulations and the final TACB approved Regulations, EPA believes that the Texas El Paso lead SIP and Regulations will provide for continued attainment of the lead NAAQS in all

areas in New Mexico, including the Anapra area. Modeling done by Texas has predicted attainment of the lead NAAQS at all receptor points in Anapra after implementation of the control measures required by the Texas-El Paso Regulations, and during maximum lead and copper production rates at the ASARCO smelter. Continued attainment was also predicted by the Texas modeling for the lead monitoring site in Anapra that is nearest the smelter. To fully validate that the lead NAAQS will be attained and maintained as predicted by Texas modeling, New Mexico plans to continue operating the two lead monitors located in Anapra (which have not exceeded the lead NAAQS in 1982 or 1983), and TACB has agreed to continue the currently operating lead monitoring network around the ASARCO, El Paso facility. In a letter dated December 20, 1982 to the State, the two lead monitoring sites in Anapra were approved by EPA as part of New Mexico's State and Local Air Monitoring Station (SLAMS) System. The Texas lead monitoring sites in El Paso have been approved previously by EPA also.

The lead control measures to be implemented at the ASARCO, El Paso facility are required by Texas Regulations, section 113, on which EPA is taking action today in a separate **Federal Register** notice. By today's action, the Anapra area is listed as attaining the lead NAAQS, since monitoring data for the Anapra area has been below the lead NAAQS since 1982, and since the additional control measures required at the ASARCO smelter nearby in Texas will provide for continued maintenance of the lead NAAQS in New Mexico. A discussion of the final Texas lead control plan for ASARCO, and the Texas Regulations for El Paso County is provided in EPA's June 1984 Evaluation Report of the Texas-El Paso lead control plan, which is available for public review at the addresses listed in the **ADDRESSES** section of this notice.

The attainment date for the El Paso area in Texas will be listed as August 1, 1987. Most of the additional RACT lead control measures required by TACB have been installed at the ASARCO smelter, but a few of the projects are not planned to be completed at the smelter until 1987. For one project, the installation of secondary hooding on the copper converters at the smelter, Texas had requested in its SIP that a date of February 1989 be the latest date for installation of the secondary hoods (or sooner if practicable), but EPA does not agree since the technology for secondary hoods is available for installation sooner. In a related EPA action on the Texas-El Paso lead SIP, EPA has disapproved the February 1989 date, and EPA intends to propose to promulgate a date of August 1, 1987 for the installation of secondary hoods on the copper converters at the ASARCO-El Paso facility, therefore all RACT controls are to be installed by August 1, 1987. EPA agrees with the Texas analyses which demonstrate that the lead NAAQS will be attained in most areas of El Paso, will be attained along the Texas and New Mexico border (to the west of the ASARCO smelter), and will continue to be maintained in the Anapra area of New Mexico (to the west of the TX-N.M. border).

EPA's Action

EPA has evaluated the El Paso part of the Texas lead SIP and has determined that it demonstrates attainment of the lead NAAQS in Anapra, N.M. EPA believes that the El Paso part of the Texas lead SIP is adequate to attain and maintain the lead NAAQS's throughout Anapra, N.M. with the implementation of the control measures at the ASARCO facility required by the El Paso County smelter regulations applicable to the ASARCO, El Paso facility. EPA is approving the Anapra part of the New Mexico lead SIP since Texas has submitted to EPA a final lead control plan and regulations for EL Paso County, and Texas has submitted to EPA detailed lead control measures and implementation schedules which Texas has developed for the control of specific parts of the ASARCO smelter which is in Texas, but is adjacent to the Anapra area of New Mexico. With today's action, the New Mexico lead SIP is fully approved by EPA.

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 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 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 New Mexico was approved by the Director of the Federal Register Office on July 1, 1982.

This notice of final rulemaking is issued under the authority of section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: July 25, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart GG—New Mexico

Title 40, Part 52, Subpart GG—New Mexico, of the Code of Federal Regulations is amended to include the following:

§ 52.1620 [Amended]

1. Section 52.1620(c)(27) is amended by adding the words "for lead" following the words "New Mexico Plan".

[FR Doc. 84-21114 Filed 8-10-84; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-6-FRL-2651-4]

Approval/Disapproval and Promulgation of Implementation Plans; Texas Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: As required by section 110(a) of the Clean Air Act and the October 5, 1978 (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of Texas has submitted revisions to its State Implementation Plan (SIP) for lead for the El Paso area of the State. This action takes final approval on the part of the lead SIP which provides for implementation of reasonable available control technology (RACT) and provides for additional studies in the El Paso County area of the State and also disapproves one compliance date which was included in the lead SIP. The rest of the Texas lead SIP was previously approved by EPA (except for the Dallas and El Paso part of the SIP) in a Federal Register notice published on October 4, 1983 (48 FR 45246). The Dallas area lead SIP will be addressed in a separate rulemaking.

DATES: This action will be effective on September 12, 1984.

ADDRESSES: Copies of the SIP, EPA's Evaluation Report, and Incorporation by Reference material are available for public review during normal business hours at the following locations:

EPA, Public Information Reference Unit, EPA Library, 401 M St., SW., Washington, D.C.,
EPA, Region 6, Library, 28th Floor, Interfirst Two Bldg., 1201 Elm Street, Dallas, Texas,
The Office of the Federal Register, Rm. 8401, 1100 L St., Washington, D.C.,
and at the Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, State Implementation Plan Section, Air Branch, EPA, Region 6, at (214) 767–9859 or FTS 729–9859.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (μg lead/m^3) averaged over a calendar quarter. As required by section 110 of the Clean Air Act (CAA), and the October 5, 1978 promulgation of the NAAQS for lead, all States must submit a SIP which will provide for attainment and maintenance of the lead NAAQS.

The general requirements for a SIP are outlined in section 110 of the Clean Air Act and EPA regulations 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for ensuring maintenance of the NAAQS. EPA has evaluated the Texas lead SIP for El Paso County by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations.

On June 12, 1980, the Governor of Texas submitted to EPA the State's SIP for attainment and maintenance of the NAAQS for lead. Additional information concerning the lead SIP was submitted to EPA in letters dated January 29, 1982, March 15, 1982, June 3, 1982, June 15, 1982, August 23, 1982, October 14, 1982, and December 3, 1982. On October 4, 1983 (48 FR 45246), EPA approved the Texas lead SIP except for the part of the SIP concerning the Dallas and El Paso areas. As explained in that notice and in EPA's September 1983 Evaluation Report, a revised control plan for the El Paso area, specifically for the area in El Paso around a primary lead, copper, and zinc smelter, was requested from the State before EPA could take action on the El Paso part of the Texas lead SIP.

TACB developed a draft lead SIP for El Paso which required the implementation of RACT measures at the ASARCO–El Paso smelter. After review of the draft lead control plan and Regulations for El Paso which TACB submitted to EPA on September 8, 1983, EPA proposed approval of the draft SIP and Regulations on December 29, 1983 (48 FR 57336). The State has submitted a final lead control plan for the El Paso area, submitted in a letter dated June 20, 1984. The final lead control plan is described below, along with EPA's action.

II. Description of the Lead Control Plan for El Paso County

In the State's June 20, 1984 letter to the Regional Office, Texas submitted to EPA a final control plan for the ASARCO primary lead smelter in El Paso County. The plan also included Texas Air Control Board (TACB) regulations for El Paso County applicable to lead smelters, including the ASARCO facility. The ASARCO lead control plan, the El Paso County lead smelter regulations, and the public comments on EPA's December 1983 **Federal Register** proposal, are discussed in EPA's "Evaluation Report for the Texas Lead SIP for the EL Paso Area," dated June 1984, which is available for review at the addresses listed in the **ADDRESSES** section of this notice. This section will discuss in general the State's lead control plan for the ASARCO facility and the El Paso area, and will outline EPA's action concerning the El Paso County part of the Texas lead SIP.

A. Control Plan for ASARCO in El Paso

The Texas final lead SIP revision for El Paso was submitted to EPA as a SIP revision on June 20, 1984, and was an addition to the Texas lead SIP and superseded the previously submitted modeling analyses and demonstration of attainment which TACB has submitted to EPA for El Paso. The submittal includes:

(1) A demonstration of attainment for most of the El Paso area, except for an area immediately around the ASARCO smelter,

(2) Lead monitoring data for eighteen monitors operated throughout El Paso for the years 1980–1982,

(3) A lead emission inventory for 1982 for the ASARCO facility.

(4) A lead emission inventory for maximum operations for the facility.

(5) Estimates of mobile source emissions of lead for the El Paso area.

(6) A description of additional control measures and emission limitations required for the ASARCO facility.

(7) A lead emission inventory for maximum operations with additional control measure applied for the facility.

(8) A summary of the predicted maximum ambient air quarterly lead concentrations around ASARCO after additional controls are implemented, as predicted by modeling.

(9) A map of the El Paso area.

(10) Modified rollback calculations for the monitoring sites in El Paso which have exceeded the lead NAAQS, and

(11) Final regulations for nonferrous smelters in El Paso County.

(12) A letter dated June 11, 1984 from TACB which commits to the development of additional studies in the next two years to determine what additional lead control measures are possible for implementation at the ASARCO smelter, along with the commitment to adopt and implement such lead control measures so that the lead NAAQS can be fully attained in all areas around the ASARCO smelter in El Paso, and

(13) A request by the Governor of Texas for the granting by EPA of a two year extension of the attainment date to allow for the development and implementation of the additional control measures commited to in (12) above.

A supplement to the final lead SIP revision was submitted to EPA on June 28, 1984, and included additional control plans approved by the TACB Executive Director under Regulation III.

The previous draft SIP revision and control plan for El Paso had been reviewed by the TACB Regulations Committee, and a public hearing was held in El Paso concerning the draft control plan on October 11 and 12, 1983. The Texas Air Control Board approved on February 17, 1984, the final lead SIP revision and Regulations for El Paso County. EPA has been parallel processing the El Paso lead control plan to allow EPA's final action on the lead final control plan to be published by August 1, 1984 (as required by the U.S. District Court for the District of Columbia's July 26, 1983 Order concerning EPA's action on the approval/disapproval and promulgation of lead SIPs, *NRDC* v. *Ruckelshaus*, No. 82–2137).

The TACB final lead control plan for ASARCO and the smelter regulations for El Paso County provide for the implementation of reasonably available control technology (RACT) that Texas believes is feasible at the smelter to

control lead emissions from both point sources and fugitive sources at ASARCO. In general, the control measures can be described as: (1) Requiring specific lead emission rate limitations for the 9 stacks at the ASARCO facility; (2) requiring installation of secondary hoods for the copper converter operations with the routing of emissions to baghouses; (3) use of enclosed containers for transport of dry lead materials; (4) installation of additional hoods over the lead dross kettles; (5) improvement in existing hoods on lead dross reverberatory furnaces; (6) installation of automatic air control system on all lead blast furnaces; (7) requiring paving or covering with vegetation of portions of ASARCO property; and (8) requiring automatic water sprinkling on vehicular trafficways and on outside raw material storage areas. The lead control measures which Texas is requiring for the ASARCO facility will provide for up to a 80% reduction in lead concentrations at the monitoring sites near the smelter facility. The lead emission reductions will provide for attainment and maintenance of the lead NAAQS throughout El Paso except for an area in complex terrain immediately north, east, and southeast of the smelter, as predicted by Texas' modeling analyses. Texas is in the process of reviewing what additional lead emission reductions can be obtained by the application of additional control measures.

Texas has committed to EPA, in a letter dated June 11, 1984, that the State will do additional studies in the El Paso area, including receptor modeling for the smelter area, over the next two years to determine what additional lead control measures can be developed for the smelter. The State has also committed to the adoption and implementation of each additional lead control measure for the ASARCO—El Paso smelter which is determined to be feasible and effective in obtaining additional lead emission reductions so that the State can eventually demonstrate full attainment of the lead NAAQS in all areas around the ASARCO smelter in El Paso.

The State has requested EPA to grant a two-year extension of the attainment date for lead to allow for the development, adoption, and implementation of the additional lead control measures at the smelter. EPA and the State consider the additional control measures that will be needed to further demonstrate attainment may require technology that is not currently available. The RACT control measures which are included in the final lead SIP for El Paso are required by EPA to be implemented and operational by August 1, 1987. With the granting of the two-year extension, the deadline date for the additional control measures to be implemented and operational will be August 1, 1989. EPA's actions on the attainment dates for El Paso, including the granting of the two-year extension, are discussed below.

B. Changes in the Final SIP and Regulations

The final lead SIP for El Paso (the final Regulations for El Paso will be discussed separately below) which the Texas Air Control Board approved on February 17, 1984, was basically the same as the draft SIP which EPA proposed approval of in December 1983, except for two significant changes.

(1) The first change is that total building enclosure of the copper converter building is not required of the ASARCO smelter as previously proposed; nor is the complete enclosure of electrostatic precipitator (ESP)/ baghouse dust handling operations in the copper building required (local hooding for the dust handling operations are required). This change from the proposed control plan results in an estimated 2.2 tons of lead per year not being controlled as previously proposed.

(2) The second change deleted the requirement that the smelter would raise four stacks at the plant. The State of Texas had predicted by the use of modeling that the raising of four stacks at the ASARCO smelter would decrease slightly the lead concentrations at ground level near the plant, and would cause a very minimal reduction in lead concentrations in elevated terrain further away from the plant (but still in El Paso, TX). Since all of the public comments were against the requirement of raising stacks, and since no reductions in lead emissions from the smelter would be achieved by raising stacks, the TACB deleted from the El Paso Regulations the requirement to raise stack heights at the smelter.

Compared to the draft lead SIP for El Paso, the changes listed in #1 and 2 above result in approximately 2.2 additional tons of lead per year which will not be controlled by the current Texas lead SIP for El Paso. Texas deleted these two control measures due to the numerous adverse public comments received. EPA believes that the raising of stacks and the full enclosure of the copper converter building were measures which were beyond RACT, therefore EPA does not disagree with Texas deleting those measures from the SIP for El Paso. As explained elsewhere in this notice, Texas has committed to completing additional studies to determine what additional control measures, beyond RACT, will be necessary to implement at the smelter to demonstrate full attainment of the lead NAAQS.

Also on February 17, 1984, the Texas Air Control Board approved revised Regulations for the control of lead from nonferrous smelters in El Paso County. The revised Regulations, Chapter 113, Subchapter B, included sections 41, 42, 43, 51, 52, 53, 71, 111, 112, 121, 122, 123 and 124. Significant revisions were made and approved by the Board for sections 43—Control of Fugitive Dust, 51—Materials Handling and Transfer, 52—Smelting of Lead, and 122—Dates for Compliance. The major changes from the draft regulations concerned the deletion of the term, "no visible emissions," from several sections of the Regulations with the replacement of that term with the requirement that the smelter adopt control measures to "minimize visible emissions." TACB also changed the Regulations to require that non-specific control measures be applied for certain areas at the smelter, namely for the lead furnaces, and for plant roads, outdoor storage areas and open unpaved areas. The revised Regulations require that specific control measures be developed by the smelter and be submitted to and approved by the TACB Executive Director. EPA has had reservations concerning the implementation of the Regulation term, "minimizing visible emissions," and the wording which requires the development and application of control measures for certain smelter areas. Those smelter areas include the lead furnaces, the plant roads, outdoor storage areas and open unpaved areas at the ASARCO smelter.

ASARCO has developed and submitted to TACB specific, detailed descriptions of the control measures which will be implemented for each area for which the Texas Regulations require control. TACB has reviewed the submitted control plans, revisions have been made, and the control plans have been finalized and approved by TACB Executive Director and were submitted to EPA on June 28, 1984. EPA has determined that the final control plans which have been developed to meet the requirements of the Texas Regulations for El Paso County are consistent with and will obtain the necessary lead emission reductions required by the Texas lead SIP for El Paso. Also, EPA has determined that the final control plans are essentially the same and will provide for lead emission reductions consistent with reductions required by

the Texas draft Regulations which EPA proposed approval of in December 1983 (except for the previously proposed reductions due to the copper converter building enclosure, as explained earlier in this section). Therefore, EPA concerns with the wording of "minimize visible emissions" in the final Texas Regulations for El Paso County have been resolved due to the fact that detailed control plans and lead control measures for ASARCO have been developed and approved by TACB, which will obtain the needed lead emission reductions at the smelter, and those TACB approved control plans are being incorporated into the Texas lead SIP for El Paso. Copies of the TACB approved control plans for the ASARCO smelter and EPA's description of the lead control measures are provided in EPA's June 1984 Evaluation Report, which is available for public review at the addresses listed in the **ADDRESSES** section of this notice.

C. Texas Commitments for Additional Studies

As requested by EPA in the proposed approval of December 1983, Texas has submitted a letter of commitments dated June 11, 1984, to EPA for inclusion in the TACB lead SIP for El Paso. The letter commits TACB to do additional studies at the ASARCO-El Paso smelter which will include specific sampling at and around the smelter, will include receptor modeling analyses, and will be designed to determine what additional lead control measures are possible and which parts of the smelter are most crucial for the application of additional lead control measures. The studies are scheduled to be completed in late 1986, with TACB committed to decisions in early 1987 as to what additional lead control measures will be adopted by Texas so that a demonstration of attainment of the lead NAAQS in all areas around the smelter can be finalized. The compliance plan for the installation of additional lead control measures is scheduled to be accomplished by late July 1989. EPA believes that the additional studies committed to by TACB, plus the implementation of the additional lead control measures at the ASARCO-El Paso smelter provides for progress as expeditiously as practicable for full attainment and maintenance of the lead NAAQS by August 1989 for all areas around the El Paso smelter.

When the additional lead control measures developed by PACB are submitted to EPA for review and approval as a SIP revision, EPA will propose and entertain public comments on them. At that time, EPA will base its final approval of the additional lead control measures on whether attainment of the lead standard has been demonstrated in all areas around the El Paso smelter utilizing both receptor and dispersion modeling. In the interim, the RACT lead control measures required by the Texas lead SIP and Regulations for El Paso County will provide for attainment and maintenance of the lead NAAQS in most areas of El Paso County by August 1987. Specifically, the area in El Paso where compliance with the lead NAAQS is not assured is immediately around the ASARCO-El Paso smelter, approximately 0.5 Km to the West and South of the smelter, 2.0 Km to the North and East of the smelter, and 1.5 Km to the Southeast of the smelter.

D. Public Comments on EPA's Proposed Action

Concerning EPA's proposed approval notice of December 29, 1983, public comments were received from four organizations: the Texas Air Control Board, the State of New Mexico, the El Paso City-County Health Unit, and ASARCO Incorporated. Specific descriptions of each organization's comments and EPA's responses are included in EPA's June 1984 Evaluation Report. General descriptions of the comments and EPA responses are provided below.

Comments were received concerning EPA's reference in the proposal notice that one monitoring site in El Paso, the International Boundary Water Commission (IBWC) site, was considered by EPA to be a "maximum concentration, high population exposure site" for measuring ambient air levels of lead. The comments explained that no residential areas are in the vicinity of the monitor, therefore it should not be listed as a high population site. The comments did not question the listing of the site as a maximum concentration site since the monitor is located very near the smelter. But, since there are no residential areas within ¼ to ½ mile from the site, EPA intends to refer to the site as a "middle-scale, maximum concentration site" for measuring lead concentrations for areas near the smelter to which the public has access.

A comment was received concerning the changes made to the Texas Regulations, and the adequacy of the TACB approved final Regulations for obtaining the lead emission control reductions required by the Texas lead SIP for El Paso. As explained in section (B) above, EPA has reviewed the final TACB Regulations and EPA has determined that the final control plans for the ASARCO smelter which have been developed, as required by the TACB Regulations, are adequate to obtain the necessary lead emission reductions required by the Texas lead SIP for El Paso.

A comment was received which expressed the belief that the final compliance date of February 1989, for the section of the TACB Regulations which required the installation of secondary hoods on the copper converters at ASARCO was past EPA's statutory deadline required by the Clean Air Act. EPA agrees with the comment and, as explained in section (E) of this notice, EPA is taking a disapproval action concerning the February 1989 date, and EPA intends to promulgate a date of August 1987, three years from EPA approval of the Texas lead SIP, for the deadline date for installation of secondary hoods on the copper converters at ASARCO-El Paso.

A comment was received which expressed the belief that sections of the final TACB Regulations should be disapproved by EPA, or, if EPA approves the final Regulations, EPA should call for an additional public comment period. As explained in section (E), EPA is disapproving the February 1989 compliance date in the TACB Regulations and will be proposing to promulgate an August 1987 date in a separate rulemaking action, for which public comments will be requested. EPA is approving the rest of the Texas SIP and Regulations for El Paso since they are either identical to what EPA proposed approval of, or the differences have been reconciled due to the submittal to TACB and in turn to EPA of control plans which will obtain the same emission reductions consistent with the control measures as contained in the SIP and Regulations which EPA proposed to approve. Therefore, since EPA believes the final SIP and Regulations are consistent with the draft SIP and Regulations, and some of the comments on the proposed approval, EPA believes another public comment period is not appropriate, except for the two year extension date request, for which EPA will allow a public comment period.

Comments were received from the affected smelter in El Paso which requested that EPA approve the TACB final SIP and Regulations, and that expressed the opinion that the lead SIP for El Paso was a reasonable and workable plan. The comments included the endorsement of the February 1989 date for the installation of secondary hoods on the copper converters, and requested that as a minimum, the deadline date should allow time for designing and installation of the secondary hoods after EPA's final action

on the National Emission Standard for Hazardous Air Pollutants for Arsenic. EPA's actions on the TACB final SIP and Regulations are discussed in section (B) of this notice, and EPA's action on the February 1989 date is discussed in section (E) of this notice.

Additional comments from the smelter were received which explained that the original proposed TACB requirements of "no visible emissions" were technically and economically infeasible to comply with, and that the requirements of "minimize visible emissions" were reasonable and legally enforceable. The public comments concerning the limitations on visible emissions are discussed in EPA's June 1984 Evaluation Report. In general, EPA is approving the TACB Regulations with the "minimize visible emissions" wording due to the fact that Texas has approved and submitted to EPA specific control plans which explain in detail the control measures which will be implemented at the smelter to meet the intent of the Regulations, and which will provide for the lead emission reductions required by the Texas lead SIP.

Finally, numerous comments were received from the smelter concerning the modeling which was done by TACB for the smelter. In general, the opinion was expressed that the modeling was conservative, imprecise, and demonstrated attainment of the lead NAAQS. Detailed discussions of the comments on modeling are provided in EPA's Evaluation Report. EPA has reviewed the Texas modeling and believes that Texas did a competent job of applying diffusion modeling techniques to a situation where a large lead and copper smelter is located in complex terrain. The State modeling demonstrated that after RACT controls are implemented at the smelter, exceedances of the lead NAAQS were only predicted in the area immediately around the smelters. The State has committed to doing additional studies, including receptor modeling, to determine what additional lead controls will be implemented to demonstrated full attainment around the smelter. EPA intends to continue to work with the State and the smelter to resolve any modeling issues and to assure that all additional modeling is done according to EPA approved guidance for modeling. An extensive monitoring network will continue to be operated around the smelter to provide additional information for comparison and support of the modeling analyses of the El Paso smelter complex.

E. Disapproval of Compliance Date

EPA is disapproving a compliance date listed in the TACB approved Regulations for El Paso County, the date being the final compliance date of § 113.53, concerning installation of secondary hoods on the copper converters at the ASARCO-El Paso smelter. In the September 1983, draft Texas regulations which EPA proposed approval of in December 1983, the final compliance date was December 31, 1984, which was a date with which EPA agreed. At that time, EPA explained that both the State and EPA believed that secondary hoods were necessary for the control of lead emissions at the smelter, were considered necessary for the attainment of the lead standard in El Paso and were currently available for installation. EPA had previously proposed on July 20, 1983 (48 FR 33112), to require secondary hoods be installed at smelters emitting Arsenic emissions, which included the ASARCO-El Paso smelter. The deadline for installation of the hooding to meet the Arsenic regulations is 2 years after promulgation of the standard, *or sooner* if feasible, as required by section 112 of the CAA. The deadline in Texas' proposed lead regulations was well within the deadline which will be required by EPA's Arsenic Standard, which is expected to be promulgated by late 1984.

On February 17, 1984, the Texas Air Control Board approved revised Regulations which required the installation of secondary hoods on the copper converters by February 28, 1989 *or* by two years from EPA final action on the Arsenic NESHAP for low-arsenic throughput copper smelters, *whichever date is sooner.* EPA agrees with the "two years from final action" requirement, but EPA can not approve the February 1989 date for the installation of RACT control measures such as secondary hoods. Section 110 of the CAA requires installation of the control equipment and attainment by three years from EPA's final approval of a lead SIP which will be August 1, 1987 for the Texas-El Paso lead SIP. Even though Texas has not demonstrated full attainment around the ASARCO smelter by implementation of RACT lead controls, but has committed to develop and implement additional lead control measures in the upcoming three years so that attainment can be demonstrated, EPA is approving the current Texas-El Paso SIP as allowed by EPA policy, announced in July 1983, concerning attainment around lead stationary sources (see Evaluation Report). Therefore, due to the February 1989 date being different than what EPA proposed approval of, and due to the fact that the 1989 date is past the 1987 deadline for installation of RACT lead control measures, EPA is disapproving the February 28, 1989 date. Before October 1, 1984, EPA intends to propose a federal promulgation of the August 1, 1987 deadline date for installation of secondary hoods. The deadline date for installation of RACT lead control measures at the ASARCO-El Paso lead smelter will be August 1, 1987, or two years after EPA final action on the Arsenic NESHAP for low-arsenic throughput copper smelters, *whichever is sooner.*

F. Request for Two-Year Extension

In the June 20, 1984 submittal, the Governor of Texas requested for EPA to grant a two-year extension of the attainment date for the lead NAAQS for El Paso, as allowed by section 110(e) of the Clean Air Act. In a separate rulemaking to be proposed in the **Federal Register,** EPA explains its proposed approval action of allowing a two-year extension, to August 1, 1989, for a limited area immediately around the ASARCO smelter in El Paso. The two-year extension is to be allowed for development and implementation of the additional control measures that will be necessary to fully demonstrate attainment and that may require technology that is not currently available. TACB has committed to study, adopt, and implement those measures in a letter to EPA dated June 11, 1984 (as explained earlier, the installation of secondary hoods on copper converters is considered RACT). More details and explanation of EPA proposed action which requests public comments on the subject of the two-year extension will appear in a future Federal **Register** notice. To emphasize, the deadline for installation of all RACT controls at the ASARCO smelter, as approved in this notice, is August 1, 1987, or sooner as specified in Texas Regulation III.

G. SIP for the Remainder of El Paso County

The State has submitted all available monitoring information for El Paso County which has shown that the lead NAAQS has been exceeded throughout the County numerous times during 1980-1982. TACB has validated that no other significant lead point sources are operating in EL Paso County except for the ASARCO lead smelter and mobile sources. TACB has demonstrated that the anticipated reductions in lead emissions at ASARCO, along with reductions due to EPA's lead

phasedown-in-gas program will provide for attainment and maintenance of the lead NAAQS at each of the current monitoring sites throughout El Paso County after August 1, 1987. A new industrial source of lead seeking to locate in El Paso County will be required to undergo TACB new source review, which requires that new sources must demonstrate that the NAAQS's will be maintained if the source is allowed to operate in an area. Implementation of the lead control plan for the ASARCO facility will ensure that the lead NAAQS, once it is attained, will continue to be maintained throughout El Paso County.

In addition to the past monitoring information for El Paso County which the State has submitted to EPA, the TACB has agreed with EPA to operate a number of lead monitoring sites throughout El Paso County. In a letter dated November 9, 1983, EPA approved TACB's State and Local Air Monitoring Stations (SLAMS) in El Paso for lead. EPA has previously approved the National Air Monitoring Stations (NAMS) in El Paso for lead. There are two lead NAMS sites and 9 lead SLAMS sites located in El Paso County plus 4 more monitors operated by TACB which are within 1½ miles of the ASARCO complex. The monitoring sites were discussed in EPA's proposed notice of December 29, 1983, and have not been changed and TACB and the El Paso City-County Health Unit continue to operate the monitors. The Texas SLAMS, NAMS, and special purpose monitoring sites for lead in El Paso County are adequate to fully monitor the attainment and maintenance of the lead NAAQS throughout the County.

EPA's Action

EPA has evaluated the El Paso part of the Texas lead SIP and has determined that it meets the requirements of section 110(a) of the Clean Air Act and 40 CFR Part 51, Subparts B and E except for one compliance date which EPA is disapproving. The State submittal provides for the implementation of RACT control measures at the ASARCO smelter, provides for attainment at each of the monitors located in El Paso, and includes modeling analysis which demonstrate attainment in all areas of El Paso except for a small area immediately around the smelter facility.

EPA is approving the El Paso part of the State's lead SIP, since the State has submitted to EPA a final lead control plan which requires at the minimum that RACT measures for lead pollution control will be implemented at the ASARCO facility, and has submitted final smelter regulations for El Paso County to EPA. The State has also submitted specific control plans for the ASARCO facility, and has committed to continue operating the lead monitoring network in El Paso. In addition, the State has submitted a commitment letter which included a detailed schedule for study, adoption, and implementation of additional lead control measures for the El Paso area so that a demonstration of attainment for all areas around the ASARCO-El Paso smelter will be accomplished.

Specifically EPA is approving as part of the Texas Lead SIP the following proposed TACB Regulations as approved by the Texas Air Control Board on February 18, 1984 (except where noted):

Section 113.41 Maintenance and Operation of Control Equipment
Section 113.42 Areas Accessible to the General Public
Section 113.43 Control of Fugitive Dust
Section 113.51 Materials Handling and Transfer
Section 113.52 Smelting of Lead
Section 113.53 Smelting of Copper and Zinc
Section 113.71 Lead Emission Limits for Stacks
Section 113.121 Compliance with Other Rules
Section 113.122 Dates for Control Plan Submission and for Final Compliance (except for the date for § 113.53, February 28, 1989, which is disapproved.)

EPA is also approving as part of the Texas lead SIP, specific control plans approved by the TACB Executive Director for Implementation of sections 113.43, 113.51, and 113.52, as submitted to EPA on June 28, 1984. EPA is not approving in advance any exemptions or other control plans.

EPA is taking no action on section 113.111 since the section does not require that all alternate lead control measures or exemptions approved by TACB must be submitted by Texas to EPA as a SIP revision. The TACB approved control measures or exemptions must be reviewed and approved by EPA as a part of the SIP, as required by the CAA, before the alternate control measures become part of the Texas lead SIP. EPA will announce its action on Texas Regulation section 113.111 in a future rulemaking.

No action is being taken on section 113.112, Alternate Emission Reductions in El Paso County, since the section deals with the use of the bubble concept for emissions trading and reductions, and is not specifically required in a control plan for attainment of the lead standard. EPA's final policy concerning emissions' trading regulation will be announced in the near future, and at a later date EPA will announce its action on Texas Regulation section 113.112. EPA finds that the general Texas lead SIP that has been approved previously by EPA contains regulations that satisfy general requirements not specifically mentioned in the El Paso County lead SIP, and these general regulations can be incorporated in to the El Paso County lead SIP.

As explained earlier, EPA is disapproving the compliance date in section 113.122 of February 28, 1989, applicable to section 113.53 and the deadline for installation of secondary hoods. EPA agrees with the wording in section 113.122 which requires "or two years from the date of final action by the U.S. EPA on national emission standards for hazardous air pollutants (NESHAPS) for inorganic arsenic from low-arsenic-throughput copper smelters, whichever is sooner." But, as explained in section (E.) above, EPA cannot approve a deadline date for the installation of RACT lead control measures which is more than three years from today's action approving the Texas lead SIP and Regulations for El Paso. Therefore, the outside compliance data applicable to section 113.53 is three years from today's date, or two years from EPA promulgation of the arsenic NESHAP for low-arsenic-throughput copper smelters, *whichever is sooner.* EPA is taking no action on the attainment date(s) for El Paso County. A separate **Federal Register** notice, to be published within the next two months, will propose a federal promulgation of the appropriate compliance date of August 1, 1987 for section 113.53 of the Texas Regulations for El Paso County. The attainment date for the lead NAAQS for most of El Paso County will be August 1, 1987.

A separate notice to be published shortly in the **Federal Register** will announce EPA's proposed approval of the Governor of Texas' request for EPA to grant a two-year extension of the attainment date for the lead NAAQS for a specific area in El Paso County. The extension to August 1, 1989 will be limited to a specific area immediately around the ASARCO-El Paso smelter.

This action is EPA's final approval of the El Paso County part of the Texas lead SIP and the Texas Regulations, Subchapter B, Lead from Stationary Sources, Nonferrous smelters in El Paso County, section 113, as explained above except for a disapproval of a compliance date in section 113.122 as explained above. Public comments will be reguested in an upcoming **Federal**

Register when EPA proposes to promulgate the appropriate compliance date in section 113.122, applicable to section 113.53 of the Texas Regulations.

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 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under 5 U.S.C. 605(b) the approval part of this action does not have a significant economic impact on a substantial number of small entities (See 46 FR 8709). Concerning the disapproval part of this action, the only affected entity of the disapproval is one primary lead and copper smelter in El Paso, Texas. The smelter is considered to be a large industrial facility and no detrimental economic impacts on small entities are expected to occur due to this action.

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

This notice of final rulemaking is issued under the authority of section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 1, 1984.

William D. Ruckelshaus,

Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart SS—Texas

1. Section 52.2270 is amended by adding paragraph (c)(55) as follows:

§ 52.2270 [Amended]

* * * * *

(c) * * *

(55) Revisions to the Texas State Implementation Plan for lead for El Paso County, with revisions to Regulation III, Chapter 113, Subchapter B, Nonferrous Smelters in El Paso County, were submitted to EPA on June 20, 1984, by the Governor of Texas, as adopted by Texas Air Control Board on February 17, 1984. Also, letters providing additional information were submitted by Texas on June 11 and June 28, 1984. No action is taken on Regulation III, Sections 113.111 113.112. The date of compliance listed in § 113.122 of February 28, 1989 (for section 113.53) is disapproved. EPA is taking no action on the attainment date for El Paso County.

2. Section 52.2273 is amended by adding paragraph (a) as follows:

§ 52.2273 [Amended]

* * * * *

(a) In the Texas lead SIP and the Texas Regulations for the control of lead stationary sources in El Paso County, the date of compliance in section 113.122 of February 28, 1989 (as applicable to section 113.53) is disapproved. EPA is taking no action on the attainment date for El Paso County.

3. Section 52.2279 is amended by amending the table "by revising the entry for lead for El Paso-Las Cruces-Alamogordo interstate (El Paso County only)" as follows and by revising footnote g.:

§ 52.2279 Attainment dates for national standards.

Air quality control region	Pollutant * * * * * Lead
* * * * *	
El Paso-Las Cruces-Alamogordo interstate (El Paso County only).	g
In City of El Paso, for an area immediately around ASARCO smelter, 0.5 Km to the West and South, 2.0 to the North and East, and 1.5 Km to the Southeast from the smelter's copper stack.	g
* * * * *	

* * * * *

g. No action taken.

* * * * *

[FR Doc. 84-21115 Filed 8-10-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6616]

Suspension of Community Eligibility Under the National Flood Insurance Program; Vermont et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and Administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance

pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Region I					
Vermont: Washington	Berlin, town of	500106B	Sept. 19, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Feb. 15, 1974, Sept. 13, 1977	Aug. 15, 1984.
Region II					
New York:					
Dutchess	Dover, town of	361335A	Mar. 22, 1976, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Dec. 6, 1974	Do.
Westchester	Peekskill, city of	360924B	July 7, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	May 31, 1974, Oct. 24, 1975	Do.
Rensselaer	Schodack, town of	361169A	Jan. 21, 1976, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Jan. 31, 1975	Do.
Orange	Walden, village of	360635B	Mar. 10, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Mar. 8, 1974, Sept. 19, 1975	Do.
Region IV					
Alabama:					
Coosa	Unincorporated areas	010052B	Aug. 7, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Dec. 27, 1974, June 16, 1978	Do.
Lowndes	do	010272B	Dec. 11, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Nov. 29, 1974, Feb. 3, 1978	Do.
Elmore	Millbrook, city of	010370B	Oct. 18, 1979, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Sept. 15, 1978	Do.
Florida:					
Citrus	Unincorporated areas	120063B	July 2, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Dec. 20, 1974, Nov. 4, 1977	Do.
Do	Crystal River, city of	120340B	May 28, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Mar. 26, 1976, Nov. 30, 1979	Do.
Lake	Howey in the Hills, town of	120585B	July 18, 1979, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Mar. 2, 1979	Do.
Do	Minneola, city of	120412A	Jan. 24, 1977, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	July 23, 1976	Do.
Nassau	Unincorporated areas	120170B	July 9, 1971, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Nov. 29, 1974, Feb. 4, 1977	Do.
Wakulla	Sopchoppy, city of	120620A	Feb. 4, 1982, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.		Do.
Georgia: Stephens	Unincorporated areas	130391A	May 6, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Feb. 20, 1976	Do.
Region V					
Ohio: Allen	Fort Shawnee, village of	390611C	Aug. 12, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Oct. 18, 1974, June 4, 1976, Dec. 12 1980.	Do.
Wisconsin:					
Clark	Thorp, city of	550055B	May 9, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	May 24, 1974, June 4, 1976	Do.
Dodge & Fond du Lac.	Waupun, city of	550108	Jan. 21, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Jan. 9, 1974, June 25, 1976, June 9, 1978, Feb. 23, 1979.	Do.
Region VI					
Texas: Montgomery	Woodbranch Village, city of	480694A	Feb. 19, 1974, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	July 2, 1976	Do.
Region IX					
California: Santa Cruz	Capitola, city of	060354B	July 2, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	May 17, 1974, Mar. 19, 1976	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Region X					
Oregon:					
Coos	Bandon, city of	410043B	Oct. 11, 1974., emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Dec. 28, 1973, Apr. 16, 1976	Do.
Harney	Burns, city of	410084B	Apr. 7, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Nov. 30, 1973, Jan. 30, 1976	Do.
Klamath	Chiloquin, city of	410111B	July 8, 1975, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Nov. 30, 1973, Nov. 14, 1975	Do.
Umatilla	Stanfield, city of	410213B	Oct. 2, 1974, emergency; Aug. 15, 1984, regular; Aug. 15, 1984, suspended.	Nov. 9, 1974, Jan. 2, 1976	Do.

(44 CFR 64.6)
(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

Issued: August 7, 1984.

[FR Doc. 84-21360 Filed 8-10-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 61 and 63

[CGD 80-064]

Marine Engineering; Thermal Fluid Heaters, Required Tests and Inspections

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes a separate subpart for tests and inspections of fired thermal fluid heaters. Previously thermal fluid heaters were inspected under the standards for steam boilers. Because of operational differences between thermal fluid heaters and boilers, the inspections required were more stringent than necessary to ensure safe operation. The new subpart emphasizes operational tests of safety devices and controls and minimizes mechanical tests.

DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: CDR David M. Strasser, Commandant (G-MVI-2/24), U.S. Coast Guard Headquarters, Room 2409, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-4431.

SUPPLEMENTARY INFORMATION: On October 18, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 46336). Comments were requested and three letters of comment were received. No requests for public hearings were received and none were held.

Drafting Information

The principal persons involved in drafting this rule are: Commander David M. Strasser, Project Manager, Office of Merchant Marine Safety, and Lieutenant Commander William B. Short, Project Attorney, Office of Chief Counsel.

Discussion of Rules

This final rule establishes a new subpart to specify periodic tests and inspections for fired thermal fluid heaters. The new subpart defines thermal fluid heaters as a separate class of machinery and requires tests and inspections that are specific to their construction and control system.

The new subpart places the emphasis of the tests on the automatic control system. These tests are similar to those now required for automatic heating boilers. Periodic hydrostatic tests will no longer be required. Because of the operating pressures of these heaters and the absence of a vapor phase in the heated fluid, these hydrostatic tests are of little value. Instead, the combustion chamber and surfaces exposed to the burner fires will be visually inspected to determine their condition.

Discussion of Comments

Three letters of comment were received, two letters from vessel operators and one letter from a thermal fluid heater manufacturer.

The vessel operators concurred with the proposed regulation. One recommended that the Coast Guard consider accepting an inspection performed by a manufacturers' representative as an alternative to a Coast Guard inspector witnessing the operational test of in-service thermal fluid heaters. The Coast Guard is expanding the use of inspection services by third parties, such as the American Bureau of Shipping and independent laboratories, and may consider this at some future date. However, that decision is beyond the scope of this project.

The thermal fluid heater manufacturer's comments addressed three areas: visual inspection of the combustion chamber and refractory, the requirement that test procedures duplicate actual conditions, and testing of relief valves.

On visual inspection of the combustion chamber and refractory, the commenter recommended that the term "safe and satisfactory" be defined to indicate that some deterioration such as minor cracking and spalling should not be considered unsafe. It is agreed that some deterioration is to be expected in a piece of operating machinery and normal wear does not necessarily render the equipment unsafe. If defining the limits of acceptable deterioration is necessary, such instructions to the inspector properly belong in internal directives rather than regulations.

On the testing of automatic controls, the manufacturer pointed out that the requirement that the tests duplicate actual conditions may not always be practical. A specific example is the test of the low fluid level control. In large systems, draining the system to the extent necessary to cause a low level trip would require handling of large quantities of fluid. Such draining risks contamination of the fluid and the possibility of spillage and pollution. In this case it may be more feasible to

demonstrate that the controls move freely and that, if the level sensor is artificially moved to a low level position, the system trips. This comment is concurred with and the last sentence in Part 63.05–95 has been changed to read "The tests must, to the extent practicable, duplicate actual conditions." This broad wording has been used rather than exemptions for specific tests as recommended by the commenter. This will allow alternatives to be considered for present controls and those developed in the future. Since manufacturers will be developing the vast majority of the test procedures, technically justifying such alternatives should not be an obstacle to approval.

Thermal fluid heaters were deleted as a category of boilers in 46 CFR 61.05–10 with the intent of no longer requiring periodic hydrostatic testing. This deletion also removed the requirement for periodic testing of relief valves. In his comments, the manufacturer recommended the testing of relief valves. Relief valves act to prevent overpressurizing the system as well as ensuring fluid flow through the heater in the event that flow to the distribution piping becomes blocked. It is intended that the relief valves be tested at each inspection for certification. Therefore, specific wording has been placed in 46 CFR 61.30–20 to require this test.

The authority citations in these subparts are the result of the recent codification of Title 46, U.S. Code, Pub. L. 98–89, August 26, 1983, 97 Stat. 500.

Summary of Final Evaluation

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations," (DOT Order 2100.5 of May 22, 1980). A draft evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Counsel, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

These regulations will reduce the burden of inspection requirements and will therefore result in some cost savings by the maritime industry. Hydrostatic tests often require pumps not normally available. Opening and removing mountings often requires new bolts and studs to reassemble the valves. Spilling and contamination of thermal fluid during hydrostatic tests require replacement of some fluid. It is estimated that the cost of all these tests and inspections is $750 to $1000 per vessel every two years. Since approximately 150 vessels are affected, the total annual savings which would result from the elimination of these tests and inspections would be from $56,000 to $75,000. Eliminating these tests and inspections will also benefit the Coast Guard by reducing inspection time. The time saved will be shifted to other inspections. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. Out of roughly 5000 certificated tank barges, approximately 150 would be affected by this proposal. It is estimated that possibly only 3% of those affected represent small entities. The number of small entities is not considered substantial and the biannual savings are not considered significant.

The cost to the thermal fluid heater manufacturer to develop and review the initial test procedure is estimated to be $1200. Because the test procedure can be used for subsequent heaters with identical control systems, this figure will be considerably lower per unit. This cost is not considered to be significant.

Paperwork Reduction Act

This rulemaking contains information collection and recordkeeping requirements. These items have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et seq.) and have been approved by OMB. The section numbers and the corresponding OMB approval number are as follows: 46 CFR 61.30–20 and 63.05–95, OMB Regulatory Information number 2115–0142.

List of Subjects in 46 CFR Parts 61 and 63

Vessels, Marine safety.

PART 61—[AMENDED]

Regulations

In consideration of the foregoing, the Coast Guard amends the applicable sections concerning thermal fluid heaters contained in Parts 61 and 63 of Title 46, Code of Federal Regulations, and adds Subpart 61.30 as follows:

1. The authority citation for Part 61 reads as follows:

Authority: 46 U.S.C. 2104; 46 U.S.C. 3301; 46 U.S.C. 3305; 46 U.S.C. 3306; 46 U.S.C. 3316; 49 CFR 1.46(b).

2. Section 61.05–1 is revised to read as follows:

§ 61.05–1 Scope.

The term "boiler" as used in this subpart includes power boilers subject to Part 52 and heating boilers subject to Part 53 of this subchapter.

3. Section 61.05–10 is amended by revising paragraph (a) and Table 61.05–10 Hydrostatic Tests, to read as follows:

§ 61.05–10 Boilers in service.

(a) Main boilers, including superheaters, reheaters, economizers, auxiliary boilers, low pressure heating boilers and unfired steam boilers are examined by a marine inspector during the inspection for certification and more often if necessary, to determine that the complete unit is in a safe and satisfactory condition. Where hydrostatic tests are required, an inspection is made of all accessible parts while under pressure.

* * * * *

TABLE 61.05–10—HYDROSTATIC TEST

Boiler	Passenger vessels	Cargo, tank and miscellaneous vessels
Firetube	Annual	Annual.
Watertube	do	Quadrennial.

4. Subpart 61.30 is added to Part 61 to read as follows:

PART 61—PERIODIC TESTS AND INSPECTIONS

Subpart 61.30—Tests and Inspections of Fired Thermal Fluid Heaters

Sec.

Subpart 61.30—Tests and Inspections of Fired Thermal Fluid Heaters

§ 61.30–1 Scope.

The term "thermal fluid heater" as used in this part includes any fired automatic auxiliary heating unit which uses a natural or synthetic fluid in the liquid phase as the heat exchange medium and whose operating temperature and pressure do not exceed 204°C (400°F) and 225 psig, respectively. Thermal fluid heaters having operating temperatures and pressures higher than 204°C (400°F) and 225 psig, respectively, are inspected under Subpart 61.05—Tests and Inspections of Boilers.

§ 61.30–5 Preparation of thermal fluid heater for inspection and test.

(a) The owner, chief engineer, or person in charge shall prepare the thermal fluid heater for inspection.

(b) For visual inspection, access plates and manholes shall be removed as

required by the marine inspector and the heater and combustion chambers shall be thoroughly cooled and cleaned.

§ 61.30-10 Hydrostatic test.

All new installations of thermal fluid heaters must be given a hydrostatic test of 1½ times the maximum allowable working pressure. The test must be conducted in the presence of a marine inspector. No subsequent hydrostatic tests are required unless, in the opinion of the Officer in Charge Marine Inspection, the condition of the heater warrants such a test. Where hydrostatic tests are required, an inspection is made of all accessible parts under pressure. The thermal fluid may be used as the hydrostatic test medium.

§ 61.30-15 Visual inspection.

Thermal fluid heaters are examined by a marine inspector at the inspection for certification and when directed by the Officer in Charge Marine Inspection, to determine that the complete unit is in a safe and satisfactory condition. The visual examination includes, but is not limited to, the combustion chamber, heat exchanger, refractory, exhaust stack, and associated pumps and piping.

§ 61.30-20 Automatic control and safety tests.

An operating test of all safety and limit controls, combustion controls, programming controls and safety relief valves shall be conducted by the owner, chief engineer, or person in charge at the inspection for certification, and when directed by the Officer in Charge Marine Inspection, to determine that the control components and safety devices are functioning properly and are in satisfactory operating condition. The test must be conducted in the presence of a marine inspector and the procedures in the heater instruction booklet must be followed. If an existing heater does not have a test procedure, as required in § 63.05-95 of this chapter, one must be submitted to the Officer in Charge Marine Inspection for approval. The test must include the following: proper purge, burner ignition sequence checks, operation of the combustion controls, shutdown verification of flame safeguard, limit controls, fluid level controls, fluid flow controls, and high temperature control, as required in § 63.05-90 or 63.10-90 of this chapter.

Note.—§ 63.05-90 and 63.10-90 of this chapter may be referenced concerning operating tests.

PART 63—[AMENDED]

5. The authority citation for Part 63 reads as follows:

Authority: 46 U.S.C. 2104; 46 U.S.C. 3301; 46 U.S.C. 3305; 46 U.S.C. 3306; 49 CFR 1.46.

6. Section 63.05-95 is amended by adding a new paragraph (b) to read as follows:

§ 63.05-95 Instruction booklets.

* * * * *

(b) In addition to the above, for thermal fluid heaters, the instruction booklet must provide a full description of testing procedures for tests required in § 63.05-90. The test must, to the extent practicable, duplicate actual conditions which would trip the safety or limit controls.

Dated: August 8, 1984.

Clyde T. Lusk, Jr.,

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

[FR Doc. 84-21378 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81, 83, 87, 90, and 97

[PR Docket No. 83-464; FCC 84-379]

Amendment of the Commission's Rules To Implement Changes in the Alaska Fixed Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes the rules governing use of radio frequencies between 3 and 30 MHz, in Alaska. The new rules are intended to increase monitoring of the Alaska Emergency Frequency, clarify which frequencies are available to common carriers in the Alaska Fixed Service, remove unnecessary frequency zone regulations to make more frequencies available state-wide, and create greater flexibility in station identification for Alaska Fixed and Coast licensees. These actions are intended to benefit all Alaska users by reducing regulation, creating greater flexibility, and increasing efficient use of their frequency channels.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, 202-632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Disaster assistance.

47 CFR Part 81

Alaska, Coast stations.

47 CFR Part 83

Radio.

47 CFR Part 87

Aeronautical stations, Radio.

47 CFR Part 90

Industrial radio services, Land transportation radio services, Public safety radio services.

47 CFR Part 97

Radio.

Report and Order

In the matter of amendment of Parts 2, 81, 83, 87, 90, and 97 of the Commission's Rules and Regulations to implement changes in the Alaska Fixed Service; PR Docket No. 83-464.

Adopted: July 30, 1984.

Released: August 3, 1984.

By the Commission.

Summary

1. This Report and Order revises the rules governing the Alaska Fixed Service. That service uses frequencies in the 3 to 30 MHz range or "HF" for point-to-point communications in Alaska. Many individuals in remote parts of the State rely on their HF radios as the only available form of communications. Three common carriers also operate in this service, connecting the private users into the public switched communications network.

Background

2. The Alaska Fixed Service is a direct descendent of theAir Force's Alaska Communications System (ACS). Pursuant to the Alaska Communications Disposal Act, the ACS was sold to RCA Alaska Communications, Inc., in 1969, and then to Alascom, Inc. (Alascom). Three licensees, including Alascom, continue to offer common carrier service to six locations, although Alascom has indicated it will discontinue its HF service as soon as more sophisticated technology (e.g. satellites and microwave) becomes available in its remaining locations.

3. The Alaska Fixed Service serves the unique needs of Alaska's "bush" communities which have no form of conventional telephone service available to them, and who must rely on the nearest cannery or fishing village's HF radio transceiver for communications facilities. The Alaska Fixed licensees operate on marine frequencies because most of them originally settled along the Alaskan coastlines. The typical private Alaska Fixed licensee provides a communications link from the "bush" to the nearest population center or to one

of the common carrier Alaska Fixed licensees.

4. The existing rules (contained in Subpart Q of Part 81) date back in part to the sale of the ACS in 1969, and fail to reflect present operations. Old rules and modern practices have combined to produce confusion and improper operations. Recognizing that changes were necessary, the Commission released a Notice of Proposed Rule Making (NPRM) [1] proposing changes to update the rules and unregulate the service to the maximum extent.

5. Comments were filed by the following parties:

J. J. Jones
Special Industrial Radio Services Association, Inc. (SIRSA)
Dean L. Strid on behalf of the State of Alaska Division of Telecommunications Systems (Alaska Telecommunications Division)
Communications Supply, Ltd (Communications Supply)
State of Alaska, Department of Military Affairs, Alaska Division of Emergency Services (Alaska's Emergency Services Division)
Central Committee on Telecommunications of the American Petroleum Institute (API)
Trident

Reply comments were filed by Communications Supply.

Discussion

Alaska Zones

6. For purposes of frequency coordination, the Alaska Territory was divided into six zones to which simplex frequencies were assigned. Licensees have been limited to operating on the frequencies assigned to their zone, regardless of occupancy or of propagation characteristics. In the NPRM, we proposed to delete the zone restrictions from our rules and to make all these frequencies available to private licensees throughout Alaska. This proposal was universally supported in the comments. We are therefore deleting all references to Alaska zones.

Alaska Emergency Frequency

7. The old Alaska Emergency Frequency, 4383.8 kHz, has not been an effective emergency frequency because (1) calling was prohibited and thus many licensees chose not to monitor it, but rather to monitor one of the popular calling channels; and (2) many HF radios in use were not equipped to receive and/or transmit on 4383.8 kHz. In the NPRM, we proposed to change the Alaska Emergency Frequency to 5167.5 kHz and to allow Alaska-Private Fixed licensees to continue to use that channel for calling. All of the commenters supported the proposed change, although J. J. Jones (an Amateur radio operator), Trident and Communications Supply (two of the three Alaska-Public Fixed common carriers) suggested that their radio services be eligible to call on 5167.5 kHz as well. We are attempting to create an incentive to monitor the frequency but to avoid such crowding as would prevent emergency calls from being heard. Thus we are not prepared at this time to allow Alaska-Public Fixed and amateur licensees to call on 5167.5 kHz. After experience is gained under the new arrangements, we would entertain proposals for further modifications in this regard. Therefore, we are adopting the new rules as proposed in the NPRM.[2]

Alaska Fixed Service

8. The current rules are unclear with regard to the "Alaska-Public Fixed Service". The confusion centers on the lack of distinction between public (non-common carrier) and public (common carrier) licensees. In the past, certain non-common carriers have been licensed to operate on common carrier (duplex) frequencies. Common carriers incorrectly authorized to operate on non-common carrier (simplex) frequencies have allegedly tied up a calling channel for several hours. In the NPRM, we proposed that the new Alaska Fixed Service be comprised of two distinct classes of stations: the Alaska-Private Fixed licensees who are eligible to use a pool of simplex frequencies, and the Alaska-Public Fixed licensees (common carriers) who are authorized to operate on duplex frequencies, and who may communicate with Alaska Private Fixed licensees, in accordance with § 81.711. (The rules designate the geographical location associated with the common carrier half of the pair.) The comments all expressed strong support for the separation of Alaska Fixed licensees into two distinct groups.

9. In its comments, SIRSA questioned whether making frequencies previously used by Alascom available to private fixed licensees would limit the entry of new common carriers. As mentioned above, Alascom is discontinuing its HF service as quickly as it can without leaving its customers stranded without communications. The remaining two common carriers serve Fairbanks and Anchorage. Each company has been in existence for over twelve years. No new applications have been filed, nor do we anticipate any in this narrow market. Rather than allow a number of frequencies to remain unused, we proposed to pool them with the simplex frequencies available throughout Alaska. All the other commenters supported the rationale for the change. Therefore, we are adopting the rules as proposed.

Station Identification

10. Currently, Alaska coast station and fixed station licensees need our approval in order to identify themselves over the air by approximate geographic location in lieu of call sign. The NPRM proposed to eliminate this requirement. Although most of the comments supported this proposal, Communications Supply expressed concern that some licensees might abuse the new rule. However, it appears that the existing rules are equally vulnerable to abuse. We are therefore deleting the requirement for Commission approval as proposed.

Frequencies

11. Several comments requested specific changes in the proposed frequency allotments. The Alaska Telecommunications Division and Trident suggested that in Anchorage the frequency 5370 kHz become an Alaska public station transmit frequency. Our NPRM listed that frequency as an Anchorage private station transmit frequency. The commenters point out that the Anchorage common carrier (Trident) now uses 5370 kHz, and that there are no other 5 MHz frequencies otherwise available. (Five megahertz is the most reliable daytime frequency in Alaska.) Trident also requests that 3362 and 3238 kHz (previously used by Alascom in Unalaska) be allotted to Anchorage's public and private stations, respectively. (Three megahertz is a reliable nightime frequency.) Since Trident only uses two transmit frequencies, it suggested in its comments that the other unused frequencies be allotted to Alaska-Private Fixed users for simplex use. Trident's subscriber stations are eligible to transmit on 5134.5 and 5137.5 kHz. Thus, 2253, 3183, and 3365 would now be available for private use.

12. The Alaska Telecommunications Division points out a potential adjacent channel problem with Public Safety licensees. The Disaster Communications Service is authorized to use the

[1] PR Docket No. 83-464, released May 5, 1983, 48 FR 23668.

[2] Since Amateurs will not be permitted to use 5167.5 kHz as a calling frequency, J. J. Jones' suggestion of greater frequency tolerance for amateur equipment is moot.

frequency 5135 kHz, which is between two Trident subscriber station transmit frequencies (5134.5 and 5137.5 kHz). The Alaska Telecommunications Division expressed concern that their State-wide "clear" channel would be impaired by Trident subscribers' activities on the neighboring channels. It suggested that Trident's subscribers move to 5138 kHz. Trident argues that such a move would be costly since it would entail buying new crystals for roughly 150 radios. The State of Alaska is equally unwilling to incur the cost of buying new crystals for 200 radios. The Commission will implement the following frequency plan which accommodates both parties: Trident's subscriber stations will continue to use 3238, 5134.5, and 5137.5 kHz. However, upon notification by the State that a disaster is occurring, Trident will notify its stations to cease all transmissions on these two 5 MHz frequencies until further notice. Likewise, the State may conduct periodic radio checks on 5135 kHz, while Trident's radios cease operating. These radio checks will be coordinated in advance to take place at mutually agreeable times.

13. Alaska's Emergency Services Division requested that the frequency 3201 kHz be placed in the general usage category. That was the Commission's intent. The "reserved" notes in § 81.708(b) denoted limitations which had been deleted from the list, not the status of the frequency. In this Report and Order, we have removed all the unused notes, deleted the time of day limitations [3] (with the approval of the Interdepartment Radio Advisory Committee) and we now have a list of twelve (12) notes instead of the original forty-four. (44).

Power

14. Communications Supply asked the Commission to examine the rules governing maximum power use by the two Alaska Fixed Service groups. Private Fixed users, under both the old and the new rules, may use up to 150 watts transmitter power. Section 81.134 clearly distinguishes private users from common carriers in paragraphs (h) and (i). We are amending that section to include the Alaska-Public Fixed stations under paragraph (i), where the output power may go as high as 1000 watts.

Other changes.

15. The frequency band 1605–1715 kHz was allocated to the Aernautical Radionavigation, Fixed, Land Mobile, Maritime Mobile, and Radiolocation Services. The 1979 World Administrative Radio Conference reallocated the bands 1615–1625 and 1625–1705 kHz to AM Broadcasting. The private Radiolocation Service, one of the services to which the bands had previously been allocated, has retained use of that portion of the spectrum until a future regional conference implements the new AM allocation. The Alaska Fixed Service includes seven (7) frequencies in the affected bands. We are therefore making similar provisions for the Alaska Fixed licensees so that they may continue operating on those frequencies until AM Broadcasting makes use of the allocation. We are, however, putting our licensees on notice that they will have to vacate these frequencies if, at some future date, interference is caused to AM Broadcast licensees. The new footnote making the interim allocation is shown in the attached Appendix (§ 2.106, US299).

16. Trident's comments also raised several new issues which are beyond the scope of this proceeding. These issues are:

—Alaska-public fixed use of 2.8A3A emission;
—Use of Alaska-public fixed frequencies for communication with maritime and aeronautical stations;
—Use of digital selective calling and automatic answer back by both private and public fixed stations;
—Use of attended and non-attended terminals at remote sites;
—relaxation of frequency tolerance for portable battery-powered transmitters;
—additional duplex frequencies (at 8 MHz) for summertime long distance calling.

These issues should be the subject of a separate rule making proceeding. In order to initiate such a proceeding, a petition should be filed with the Commission setting forth as much information as is available, e.g., background, user demand, interference potential. Such a petition would afford others the opportunity to file supporting or opposing comments.

17. Communications Supply asked the Commission to delay implementation of the new rules for six months to one year so all its subscribers could be notified of the changes we have made. We believe six months to one year is excessive, especially since many of the changes reflect current practice. However, we have selected September 28, 1984, as the effective date. By September 28, affected licensees should have had sufficient time to make any operational adjustments that are necessary.

Conclusion

18. In summary, we are amending Subpart Q, Part 81, to rename the existing service the Alaska Fixed Service; to define the eligibility requirements for its two categories of users as private or public licensees, to delete the six "zones" in the State of Alaska, to change the Alaska Emergency Frequency from 4383.8 to 5167.5 kHz, to open up all previously unused common carrier duplex channels to private use, and to relax the rules governing coast station and Alaska Fixed station identification to permit use of geographic designators. The rule amendments described in this proceeding are expected to benefit the Alaska HF licensees. The new rules implement some present practices, delete obsolete rules and language, and remove unnecessary regulations. In most instances, licensees will find an increased number of available frequencies, with decreased occupancy of previously available channels.

19. These amendments will not result in a significant economic impact on any entity in the affected Alaska Fixed Service. Most of the changes simplify the existing rules by removing unnecessary regulations and clarify remaining ones. With the exception of the common carriers of which there are but a few, the changes do not significantly impact any entities, but should promote greater efficiency among all of them. Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that these rules will not have significant economic impact on a substantial number of small entities.

20. Accordingly, it is ordered, That under the authority contained in sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective September 28, 1984.

21. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

[3] These deletions render moot Communications Supply's request that we specify Alaska Time or Western Pacific Time.

22. It is further ordered, That this proceeding is terminated.

23. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632–7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81, 83, 87, 90, and 97 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GERERAL RULES AND REGULATIONS

Section 2.106 is amended by revising entries to the Table for the bands 1615–1625, 1625–1705, and 5060–5450 kHz, in Columns (4), (5), and (6) by revising footnote US212 and adding new footnote US299, to read as follows:

§ 2.106 Table of Frequency Allocations.

UNITED STATES TABLE		FCC USE DESIGNATORS
GOVERNMENT	NON-GOVERNMENT	RULE PART(s)
Allocation kHz	Allocation kHz	
(4)	(5)	(6)
* * * * *		
1 615–1 625	1 615–1 625 BROADCASTING 480	ALASKA FIXED (81). AUXILIARY BROADCASTING (74). Private Land Mobile (90).
480 US237	US237 US299	
1 625–1 705	1 625–1 705 BROADCASTING 480	ALASKA FIXED (81). AUXILIARY BROADCASTING (74).
Radiolocation 480 US238	Radiolocation US238 US299	Private Land Mobile (90).
* * * * *		
5 060–5 450 FIXED MOBILE except aeronautical mobile	5 060–5 450 FIXED MOBILE except aeronautical mobile	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 and 83). PRIVATE LAND MOBILE (90).
US212	US212	
* * * * *		

United States Footnotes

* * * * *

US212 In the State of Alaska, the carrier frequency 5167.5 kHz (assigned frequency 5168.9 kHz) is designated for emergency communications. This frequency may also be used in the Alaska-Private Fixed Service for calling and listening, but only for establishing communications before switching to another frequency. The maximum power is limited to 150 watts peak envelope power (PEP).

* * * * *

US299 Until implementation procedures and schedules are determined by a future Regional Conference of the International Telecommunication Union the frequeny bands 1615–1625 and 1625–1705 kHz in Alaska are also allocated to the maritime mobile services and the Alaska fixed service.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. Part 81 is amended in the heading by revising the words "Alaska-Public Fixed Stations" to read "Alaska Fixed Service."

2. Section 81.9 including its heading, is amended as follows: The "Note" at the end of paragraph (a) is removed, paragraph (b) including the map and the note that follow it is removed, paragraph (c) is redesignated (b), paragraph (d) is redesignated (c) and is revised to read as shown below, a new paragraph (d) is added to read to read as shown below, and paragraph (e) is amended by removing the hyphen and the word "public".

§ 81.9 Alaska-Private and Public Fixed.

* * * * *

(c) *Alaska-Public Fixed Station.* A fixed station in Alaska, which is open to public correspondence, and is licensed by the Commission for radio communication between specified fixed points within Alaska. These stations operate at geographical locations specified in this Part on paired, duplex channels.

(d) *Alaska-Private Fixed Station.* A fixed station in Alaska which is licensed by the Commission for radio communication within Alaska and with associated ship stations, on simplex channels listed in this Part. Alaska-Private Fixed stations are also eligible to operate on Alaska-Private Fixed transmit frequencies to exchange communications with Alaska-Public Fixed stations in accordance with § 81.711.

* * * * *

3. Section 81.22 is amended by adding new paragraph (f) to read as follows:

§ 81.22 Administrative classification of stations.

* * * * *

(f) Stations in the Alaska fixed service subject to this part are licensed according to the class of station designated below:

(1) Alaska-private fixed stations.

(2) Alaska-public fixed stations.

§ 81.24 [Amended]

4. Section 81.24 is amended by adding the words "and Alaska fixed stations" to the first sentence between the words "services" and "shall".

§ 81.39 [Amended]

5. Section 81.39 is amended in paragraph (b) by adding the words "or as an Alaska-private fixed station" before the parenthetical phrase.

§ 81.65 [Amended]

6. Section 81.65 is amended by adding the words "and Alaska fixed service" to the first sentence of paragraph (a), between the words "service" and "will".

§ 81.66 [Removed]

7. Section 81.66 is removed.

8. Section 81.74 is amended by adding new paragraph (c) to read as follows:

§ 81.74 Notice of discontinuance, reduction, or impairment of service.

* * * * *

(c) Alaska-public fixed stations intending to discontinue service must comply with Part 63 of this chapter.

9. Section 81.106 is amended by revising its opening paragraph to read as follows:

§ 81.106 Operating controls.

Each coast station, Alaska-public fixed station, Alaska-private fixed station, or shipyard base station subject to this part shall provide operating controls in accordance with the following:

10. In Section 81.131, the introductory text of paragraph (g) is revised to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(g) Authorized frequency tolerances for Alaska-public and Alaska-private fixed stations:

* * * * *

§ 81.132 [Amended]

11. Section 81.132(a)(6) is amended by removing the hyphen and the word "public" in the first column of the table.

12. In § 81.134, the introductory language of paragraphs (g), (h), and (i) is revised to read as follows:

§ 81.134 Transmitter power.

* * * * *

(g) For coast stations in Alaska, transmitter power in the bands below 12,000 kHz shall not exceed the indicated values:

* * * * *

(h) For Alaska-private fixed stations, unless otherwise specified in this part, transmitter power shall not exceed the indicated value:

* * * * *

(i) For Alaska-public fixed and coast stations, transmitter power shall not exceed the indicated value:

* * * * *

13. In § 81.152, paragraph (d) is amended by adding the following two lines at the end of the table:

§ 81.152 Operator required.

* * * * *

(d) * * *

Alaska-public fixed	RP.
Alaska-private fixed	RP.

14. Section 81.195, including its heading is revised to read as follows:

§ 81.195 Alaska-private fixed use of simplex channels.

Alaska-private fixed stations shall transmit and receive on the same frequency when communicating with ship stations within the bands 1605–2035 kHz and 2107–12,000 kHz. This rule is not applicable in an emergency affecting the safety of life or property when, by reason of interference or limitation of equipment, the same frequency cannot be used.

15. In § 81.206, that part of the text of paragraph (d) that appears before the table is revised as shown below and the words "common carrier" are removed from paragraph (e).

§ 81.206 Assignable frequencies.

* * * * *

(d) Alaska-private fixed stations, when authorized by station license, may use the following carrier frequencies to communicate by means of telegraphy with ship and aircraft stations, and with Alaska-public coast stations:

* * * * *

16. Section 81.302 is amended by adding new paragraph (a)(5) to read as follows:

§ 81.302 Points of communications.

(a) * * *

(5) With Alaska-public fixed stations.

* * * * *

17. Section 81.304 is amended by removing the line for frequency 4383.8 kHz in paragraph (a), by adding a line in numerical sequence (between 4425.6 and 6209.3) in paragraph (a), and by revising paragraph (b)(6) and removing paragraph (b)(17), to read as follows:

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of use		
	Section		Limitations
*	*	*	*
5167.5	EMERGENCY		6.
*	*	*	*

(b) * * *

(6) The frequency 5167.5 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. This frequency may also be used by stations authorized in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

* * * * *

§ 81.306 [Amended]

18. In § 81.306, paragraph (b)(7) is removed.

19. In § 81.308, that part of paragraph (a) that appears before the table and paragraph (b) are revised to read as follows:

§ 81.308 Frequencies available in Alaska.

(a) Public coast stations in the Alaska locations indicated are authorized to use the carrier frequencies set forth in the table to communicate with ship stations.

* * * * *

(b) Alaska-private fixed stations, when authorized by station license, may use the following carrier frequencies, subject to the limitations of § 81.304, to communicate with their associated ship stations:

kHz	kHz
1619	2115
1622	2118
1643	2379
1646	2382
1649	2419
1652	2422
1705	2427
1709	2430
1712	2447
2003	2450
2006	2479
2482	3258
2506	3261
2509	4366.7
2512	4369.8
2535	4382.8
2538	4397.7
2563	4403.9
2566	4422.5
2590	4425.6
2616	

20. Section 81.310, including the heading, is revised to read as follows:

§ 81.310 Station identification.

Public coast stations must clearly identify at the beginning and end of each transmission:

(a) by voice or tone-modulated telegraphy (in International Morse Code) transmission of the official call sign; or

(b) by voice transmission of the approximate geographic location of the station if there will be no conflict with identification of any other station; or

(c) by voice transmission of the licensee's name followed by the approximate geographic location of the station.

21. Section 81.354 is amended by adding new paragraph (a)(4) to read as follows:

§ 81.354 Points of communication.

(a) * * *

(4) With Alaska-private fixed stations.

* * * * *

22. The Subpart Q heading is revised to read as follows:

Subpart Q—Alaska Fixed Stations

§ 81.703 [Redesignated From § 81.701]

23. Section 81.701 is redesignated § 81.703, and is amended by removing the hyphen and the word "public" at the beginning of the text.

24. New § 81.701 is added to read as follows:

§ 81.701 Eligibility.

There are two classes of stations within the Alaska-Fixed Service. Alaska-public fixed licensees are common carriers, open to public correspondence, which operate on the paired duplex channels listed in § 81.711. Alaska-private fixed licensees may operate (1) on simplex frequencies listed in § 81.709, (2) on Alaska-Private Fixed station frequencies (listed in the last column in § 81.711) with the Alaska-public fixed licensees, and (3) as limited coast stations to communicate with ships at sea. Under no circumstance shall an Alaska-private fixed licensee charge for service, although third party traffic may be transmitted. In the Alaska Fixed Service, only the Alaska-public

fixed licensees are authorized to charge for communications service.

§ 81.702 [Amended]

25. Section 81.702 is amended by removing paragraph (c).

26. Section 81.704 is revised to read as follows:

§ 81.704 Alaska-public fixed station records.

Each Alaska-public fixed station must maintain an accurate telephone log as set forth in § 81.314. Alaska-public fixed stations may express the time of making each log entry in local standard time in the same manner as is permitted by those sections for coast stations which communicate exclusively with vessels on inland waters of the United States.

§ 81.705 [Amended]

27. Section 81.705 is amended in the first sentence of paragraph (b) by replacing the word "public" after the hyphen with the word "private".

28. Section 81.706 is revised to read as follows:

§ 81.706 Station identification.

Alaska-public and private fixed stations must clearly identify at the beginning and end of each transmission:

(a) by voice transmission of the official call sign; or

(b) by voice transmission of the approximate geographic location of the station if there will be no conflict with identification of any other station; or

(c) by voice transmission of the licensee's name followed by the approximate geographic location of the station.

§ 81.707 [Reserved]

29. Section 81.707 is removed and reserved.

30. Section 81.708 is revised as follows:

§ 81.708 Frequencies available.

(a) The following table indicates the authorized carrier frequencies for use by Alaska-private and public fixed stations along with their specific conditions of use. The conditions of use consist of the pertinent section reference(s) and the specific assignment limitations, which are enumerated in paragraph (b) of this section. The radiotelephone channels may be used with 2.8A3J emission. For single sideband radiotelephone emission, the assigned frequency is 1.4 kHz above the authorized carrier frequency.

Carrier frequency (kHz)	Conditions of use	
	Section	Limitations
1643	81.709	
1646	81.709	
1649	81.709	
1652	81.709	
1657	81.709	
1660	81.709	2
1705	81.709	
1709	81.709	
1712	81.709	
2003	81.709	
2006	81.709	
2115	81.709	3
2118	81.709	
2253	81.709	
2256	81.711	9
2312	81.711	10
2419	81.709	
2422	81.709	
2427	81.709	3
2430	81.709	3
2447	81.709	
2450	81.709	3
2463	81.709	
2466	81.709	
2471	81.709	
2474	81.711	1, 6
2479	81.709	3
2482	81.709	3
2506	81.709	4
2509	81.709	
2512	81.709	
2535	81.709	3
2538	81.709	3
2563	81.709	
2566	81.709	3
2601	81.709	
2604	81.711	
2616	81.709	3
2629	81.709	
2632	81.711	7
2691	81.709	
2694	81.711	8
2773	81.709	
2776	81.711	9
2781	81.711	
2784	81.711	
3164.5	81.709	
3167.5	81.711	
3180	81.709	
3183	81.709	
3198	81.709	
3201	81.709	
3238	81.711	5
3241	81.711	
3258	81.711	5
3261	81.709	
3303	81.709	
3354	81.711	11
3357	81.711	8
3362	81.711	
3365	81.709	
4035	81.709	
4791.5	81.711	4, 11
5134.5	81.711	5, 12
5137.5	81.711	5, 12
5164.5	81.709	
5167.5 Emergency	Calling	Listening
5204.5	81.709	
5207.5	81.711	11
5370	81.711	
6948.5	81.709	1, 4
7368.5	81.709	1, 4
8067	81.709	
8070	81.709	
11,437	81.709	1, 4
11,601.5	81.709	1, 4

(b) Authorization and use of the carrier frequencies set forth in paragraph (a) of this section shall be in accordance with the following limitations and conditions:

(1) These frequencies are available under the following limitations and conditions:

(i) The transmitter output power employed shall be the minimum necessary for satisfactory communication and in no event may exceed a maximum of 1,000 watts peak envelope power.

(ii) Emission 2.8A3J must be used.

(2) Use of the frequency 1660 kHz must be coordinated to protect radiolocation operations on adjacent channels.

(3) This frequency may be authorized for use by Alaska-private fixed stations subject to the following limitations and conditions:

(i) The Alaska-private fixed frequencies are the same as those authorized to the licensee for use at the licensee's coast station.

(ii) The Alaska-private fixed frequencies are to be used in receiving and transmitting equipment which is installed at the same location as equipment used by the coast station; and

(iii) The licensee is authorized in the Maritime Mobile Service.

(4) This frequency may be authorized for radioteletypewriter use.

(5) For communication with common carrier stations located at Anchorage.

(6) For communication with common carrier stations located at Kodiak.

(7) For communication with common carrier stations located at Cordova.

(8) For communication with common carrier stations located at Juneau.

(9) For communication with common carrier stations located at Ketchikan.

(10) This frequency may be used by Alaska fixed stations provided no harmful interference is caused to Alaska public coast stations authorized to use this frequency pursuant to § 81.308(a).

(11) For communication with common carrier stations located at Fairbanks.

(12) In order to avoid potential harmful interference with Public-Safety communications on 5135 kHz, licensees must cease all communications on the frequencies 5134.5 and 15137.5 kHz when notified by the State of Alaska of the existence of an emergency or disaster situation. Licensees may resume communications services on these frequencies when notified by the State of Alaska that the disaster situation or potential for interference has ended.

31. Section 81.709 is revised to read as follows:

§ 81.709 Frequencies available for simplex use by Alaska-private fixed licensees.

Each of the simplex carrier frequencies set forth in the following table, when authorized by station license, may be used by Alaska-private fixed stations for communication with other licensed Alaska-Private Fixed stations. Alaska-private fixed stations

may be interconnected with facilities of licensed common carriers to provide communications to the desired destination. Licensees are forbidden to levy a tariff or any other kind of a fee for use these frequencies. The limitations and conditions of use applicable to each frequency are set forth in § 81.708.

Frequency (kHz)	
1643	2509
1646	2512
1649	2535
1652	2538
1657	2563
1660	2566
1705	2601
1709	2616
1712	2691
2003	2773
2006	3164.5
2115	3183
2118	3198
2253	3201
2400	3258
2419	3261
2422	3303
2427	3365
2430	4035
2447	5164.5
2450	5204.5
2463	6948.5
2466	7388.5
2471	8067
2479	8070
2482	11,437
2506	11,601.5

§ 81.710 [Reserved]

32. Section 81.710 is removed and reserved.

33. Section 81.711 is revised to read as follows:

§ 81.711 Frequencies for duplex use in common carrier systems.

(a) The carrier frequencies in the table below are available for assignment and use, in duplex frequency operations, to Alaska-public fixed stations that provide common carrier service. These stations must have effective tariffs on file with the Commission, pursuant to the requirement of Section 203 of the Communications Act and Part 61 of this chapter, if they engage in any interstate or international communications. If a licensee offers solely intrastate communications, no tariff is required by the Commission; however, intrastate common carriers must comply with State and/or local tariff requirements.

(b) The frequencies in column two below are available for assignment to Alaska-public fixed stations located in the geographical areas listed in column one. The frequencies listed in column three are paired with the frequencies listed in column two and are available for assignment to Alaska-private fixed stations which operate and exchange communications with the public-fixed stations. The frequencies listed in column three may not used for any other purpose.

Location of primary station	Public station transmit (kHz)	Private station transmit (kHz)
(1)	(2)	(3)
Anchorage	3362	3238
	5370	5134.5
		5137.5
Cordova	2312	2632
Fairbanks	3167.5	3354
	4791.5	5207.5
Juneau	2784	2694
	3241	3357
Ketchikan	2604	2256
	3180	2776
Kodiak	2781	2474

§ 81.714 [Amended]

34. Section 81.714 is amended by adding the words "Alaska-private and" between the words "by" and "Alaska-public".

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.2 [Amended]

1. In § 83.2, paragraphs (t) and (u), including the "Note" and the diagram (Map), are removed.

Section 83.3 is amended by adding new paragraphs (f) and (g) to read as follows:

§ 83.3 Maritime Mobile Service.

* * * * *

(f) *Alaska-public fixed station.* A fixed station in Alaska, which is open to public correspondence, and is licensed by the Commission for radio communication between specified fixed points within Alaska. These stations operate at specified geographical locations on paired, duplex channels.

(g) *Alaska-private fixed station.* A fixed station in Alaska which is licensed by the Commission for radio communications within Alaska and with ship stations, on simplex channels. Alaska-private fixed stations are also eligible to operate on Alaska-Private Fixed transmit frequencies to exchange communications with Alaska-public fixed stations in accordance with Part 81 of this Chapter.

3. In § 83.351, in paragaraph (a) table, the line concerning the carrier frequency 4383.8 kHz is removed and a new line is added in numerical sequence (between 4422.5 and 5680 kHz); paragraphs (b) (17), (37), (39) and (42) are revised, paragraph (b)(38) is removed and new paragraph (b)(52) is added to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carriers frequency	Conditions of use	
	Section	Limitations
* * * * *		
5167.5		15, 52
* * * * *		

(b) * * *

(17) Available to public ship stations for communication exclusively with public coast stations located in Alaska.

* * * * *

(37) To minimize interference to the service of ship stations transmitting on 2430 kHz to any public coast station in the vicinity of Seattle, WA, ship stations in Alaska must not transmit on 2430 kHz when south of 59° north latitude.

(39) To minimize interference to or from the service of any coast station transmitting on 2538 kHz and located in the vicinity of Vancouver, British Columbia, ship stations in Alaska must not transmit on 2538 kHz when south of 56° north latitude.

* * * * *

(42) Use of the frequency 2506 kHz for maritime mobile service in Alaska is authorized on condition that harmful interference must not be caused to the service of any coast station located in the vicinity of San Francisco or Eureka, CA.

(52) The frequency 5167.5 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part within 50 nautical miles of the State of Alaska, to communicate with any other station authorized in the State of Alaska for emergency communications.

* * * * *

§ 83.355 [Amended]

4. In § 83.355, the designator (b) is added in front of paragraph (1), and old paragraph (a)(8) [now (b)(8)] is revised by removing the words "the" and "area" surrounding the word "Alaska".

5. Section 83.370 is amended by revising that part of paragraph (a) that appears before the table and paragraph (b) to read as follows:

§ 83.370 Frequencies below 27.5 MHz available in Alaska.

(a) Ship stations are authorized to use the carrier frequencies set forth below to communicate with public coast stations in Alaska.

* * * * *

(b) Ship stations are authorized to use the carrier frequencies set forth below, subject to the limitations of § 83.351, to

communicate with Alaska-private fixed stations.

kHz	
1619	2479
1622	2482
1643	2506
1646	2509
1649	2512
1652	2535
1705	2538
1709	2563
1712	2566
2003	2590
2006	2616
2115	3258
2118	3261
2379	4366.7
2382	4369.8
2419	4382.8
2422	4397.7
2427	4403.9
2430	4422.5
2447	4425.6
2450	

PART 87—AVIATION SERVICES

§§ 87.295, 87.299 and 87.301 [Amended]

1. Sections 87.295, 87.299 and 87.301 are amended in all their tables by removing the first and second columns, in § 87.295, paragraph (c)(4) is amended in the table by removing the frequency "4383.8 kHz" and replacing it with "[1] 5167.5," KHz and by revising footnote 1 to read as follows:

[1] The frequency 5167.5 kHz may be used for emergency communications by aeronautical stations with any other authorized radio station in Alaska. No airborne operations are permitted. Maximum power is limited to 150 watts PEP. This frequency may also be used by stations authorized in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

§ 87.331 [Amended]

2. In § 87.331, paragraph (c) is amended by removing the last sentence of text and the first and second columns of the table.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.253 including its heading is revised to read as follows:

§ 90.253 Use of frequency 5167.5 kHz.

The frequency 5167.5 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. The maximum power permitted is 150 watts peak envelope power (PEP). All stations operating on this frequency must be located in or within 50 nautical miles (92.6 km) of the State of Alaska. This frequency may also be used by stations authorized in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

2. Section 90.555(b) is revised by removing the line for frequency 4383.8 kHz from the kilohertz column and adding a line for frequency 5167.5 kHz (in numbered order) to the kilohertz column to read as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) Combined frequency list:

Frequency	Services	Special limitations
*	*	*
5167.5		Alaska emergency frequency.
*	*	*

PART 97—AMATEUR RADIO SERVICE RULES

1. Section 97.61 is revised by removing the line concerning the frequency 4383.8 kHz, by adding the following line in its place (between the bands 3750–4000 kHz and 7000–7300 kHz), and by revising paragraph (b)(13):

§ 97.61 Authorized frequencies and emissions.

(a) * * *

Frequency band (kHz)	Emissions	Limitations (see paragraph (b))
*	*	*
5167.5	A3J,A3A	13
*	*	*

(b) * * *

(13) The frequency 5167.5 kHz, maximum power 150 watts, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. All stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska. The frequency 5167.5 kHz may be used by licensees in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

* * * * *

2. Section 97.107 is amended by revising a footnote to paragraph (a) as follows:

§ 97.107 Operation in emergencies.

* * * * *

(a) * * *

[1] The frequency 5167.5 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. All stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska. The frequency 5167.5 kHz may be used by licensees in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

* * * * *

[FR Doc. 84-21148 Filed 8-10-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-999; RM-4494]

FM Broadcast Station in Andalusia, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 284A to Andalusia, Alabama, as that community's second local FM channel, at the request of Companion Broadcasting Services, Inc.

EFFECTIVE DATE: October 12, 1984.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of Assignments, FM Broadcast Stations (Andalusia, Alabama), MM Docket No. 83-999, RM-4494.

Adopted: July 30, 1984.
Released: August 6, 1984.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 45428, published October 5, 1983, seeking comments on the proposed assignment of FM Channel 224A to Andalusia, Alabama, at the request of Companion Broadcasting Service, Inc. ("Companion"). The assignment could provide Andalusia with its second local FM assignment. Companion filed comments reiterating its intention to apply for the channel, if assigned. In response, Trio Broadcasters, Inc. ("Trio" or "WBLX"), the licensee of Station WBLX, Channel 225, Mobile, Alabama, filed a Petition for Reconsideration, Motion for Stay of Notice of Proposed Rule Making, and Opposition and Counterproposals.

Companion filed Further Comments to which Trio filed Reply Comments.

2. Channel 224A can be assigned in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.3 miles north. This site restriction negates a short-spacing to Stations WPAP–FM, Channel 233, Panama City, Florida, and WBLX, Channel 224, Mobile, Alabama. The *Notice* further stated that the site restriction, while obviating the short-spacing to the current sites of the two existing stations, did not meet the required distance separation to a recently filed application of Station WBLX which sought the relocation of its transmitter site to enable an increase in its height and power. Therefore, the application would be held in abeyance pending the outcome of the rule making.

3. Trio does not oppose the assignment of an FM channel to Andalusia. However, it states that the Commission should not have delayed the processing of its application to relocate its transmitter and upgrade its facilities pending resolution of the rule making. It goes on to state that if Channel 224A is allocated to Andalusia, its pending application could be granted at its proposed site 13.44 miles short-spaced to the Andalusia allocation. Further, while acknowledging that reconsideration of Commission actions are generally not taken until a final order has been issued, Trio states that, in this case, should the Commission grant the assignment at Andalusia, it could be irreparably harmed by forever being foreclosed from increasing its facilities by moving to the antenna farm applied for. Therefore, to preclude such an occurrence, Trio requests that action on the *Notice* be stayed pending resolution of its reconsideration request.

4. Companion filed an opposition to Trio's pleadings stating that since a Notice of Proposed Rule Making does not order any action to be taken by anybody, nor authorize any action, a stay is inappropriate. Rather, a Notice merely informs the public of a proposed change and seeks comments thereon. Therefore, the motion for stay and reconsideration request should not be granted.

5. Trio also filed comments in opposition, reiterating its assertion that the assignment of Channel 224A at Andalusia would preclude WBLX from upgrading its facilities and providing Mobile with superior service. In this regard, Trio avers that when the Commission assigned Channel 225 to Mobile, it made a section 307(b) determination that the channel should serve Mobile with facilities as close to the maximum permitted for its class of channel. Therefore, it concludes that this prior determination includes giving the current licensee, Station WBLX, the flexibility needed to select a site from which it can operate with such facilities. To assign Channel 224A to Andalusia would negate this flexibility, according to Trio. Trio goes on to state that since its application and the petition of Companion are mutually exclusive, the Commission must consider them together to provide Trio with its *Ashbacker* rights. If the Andalusia channel is assigned, Trio states that the burden of seeking a waiver of the Commission's mileage separation rules would fall on WBLX, a burden which it states is unsurmountable. Therefore, as an alternative, Trio requests that Channel 224A be denied at Andalusia, or that Trio's application be approved and the assignment at Andalusia be made subject to the acceptance of the short-spacing to Trio's new transmitter site, or that another channel be proposed for Andalusia under the new Docket 80–90 assignment rules.

6. Companion states in response that: (1) The application of Trio was filed after the petition seeking the Andalusia assignment; (2) the petition, when filed, met all spacing requirements to existing and proposed assignments; and (3) the facilities proposed by WBLX are those of a Class C1 which requires a separation of only 80 miles, whereas the communities are 95 miles apart. Therefore, both requests can be granted.

7. Trio, in its reply comments, correctly points out that it has requested full Class C facilities, not those of a Class C1 station. Therefore, both requests cannot be granted. It goes on to state that its application to move its transmitter location should take precedence over a request for assignment of a new FM channel. In support, Trio cites *Western Translators, Inc.*, 50 R.R. 79, 81 (Broadcast Bureau 1979), wherein the Commission stated that translator applications would continue to be processed under existing rules during the pendency of a related rule making. We find that the *Western Translators* decision, as relied on by Trio, is inapposite. If we are to follow the statement quoted by Trio, we must find that the action taken by the Commission in holding Trio's application in abeyance pending the outcome of the Andalusia rule making is the only correct avenue to pursue. The petition of Companion to assign Channel 224A to Andalusia was filed and accepted by the Commission in compliance with all existing rules at that time (mileage separation requirements to all existing and proposed allocations). It was only after the petition was filed and accepted for rule making that Trio submitted its application to move and upgrade its facilities. However, with the adoption of the BC Docket No. 80–90 rules, the staff performed another channel search using the new assignment rules and has found that Channel 284A can be assigned to Andalusia, with a site restriction of 3.46 kilometers north. This alternative channel will enable grant of Trio's application to move its transmitter to its preferred site.

8. As for the petition for reconsideration, we wish to take this occasion to reiterate our policy regarding the action to be taken when a pending channel assignment and a pending application are in technical conflict. Generally, an application to change a transmitter site is regarded as a benefit to the licensee rather than the public unless the licensee can demonstrate an overriding public interest justification. The showing would take the form of a comparison indicating what new areas are to be covered and the extent to which these areas are currently unserved or underserved. In the absence of such a showing of need for the proposed service, the proposed channel assignment would be favored since it would represent a new service. On the other hand, a change in site would involve the loss of an existing service to some listeners. See *Clarksville, Virginia*, 49 R.R. 2d 1003 (1981); see also *Freeport, Texas*, 45 FR 21638, published April 2, 1980.[1]

9. In view of the fact that Channel 284A can be assigned to Andalusia to provide the community with a second local FM service, we find the assignment to be in the public interest. Trio's petition for reconsideration and motion for stay will be dismissed as moot as the assignment of Channel 284A at Andalusia does not conflict with the application of Station WBLX for a change in transmitter site and increase in power. Accordingly, it is ordered, That effective 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

[1] This policy has been in effect since the original FM Table of Assignments was in preparation. See *First Report and Order* in Docket No. 14185, 40 F.C.C. 662, 702–703 (1962), wherein the Commission stated:

"[i]f work on a Table of Assignments is to proceed in an orderly fashion, any grant [of applications] must be subject to a change in channel if more over-all assignment efficiency would result."

City	Channel No.
Andalusia, Alabama	251, 284A

10. It is further ordered, That the petition for reconsideration and motion for stay filed by Trio Broadcasters, Inc. is dismissed.

11. It is further ordered, That this proceeding is terminated.

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

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–21349 Filed 8–10–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–1122; RM–4342]

TV Broadcast Station in Murray, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 38 to Murray, Kentucky, in response to a petition filed by Stanley G. Emert. The assignment could provide a first commercial television service to Murray.

EFFECTIVE DATE: October 9, 1984.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b) Table of Assignments, Television Broadcast Station (Murray, Kentucky), MM Docket 83–1122, RM–4342.

Adopted: July 16, 1984.
Released: July 31, 1984.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Stanley G. Emert ("petitioner"), the Commission adopted the Notice of Proposed Rule Making 48 FR 49891, published October 28, 1983, proposing the assignment of UHF television Channel 38 to Murray, Kentucky, as its first commercial television channel. Comments were filed by the petitioner restating his intention to apply for authority to build and operate on Channel 38, if assigned. Comments and a counterproposal were submitted by Low Power Television, Inc. ("LPTI") [1] after the December 5, 1983, deadline.

2. Murray (population 14,248) [2], seat of Callaway County (population 30,031) is located in southwestern Kentucky, approximately 290 kilometers (180 miles) southwest of Louisville, Kentucky. Murray currently has one television service (Station WKMU) (Channel *21), reserved for noncommercial educational use.

3. We believe that the public interest would be served by assigning UHF Television Channel 38 to Murray, Kentucky. The petitioner has adequately demonstrated the need for a first commercial allocation to that community. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.283 and 0.204 of the Commission's Rules, it is ordered, That effective October 9, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules is amended as follows:

City	Channel No.
Murray, Kentucky	*21 +, 38

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

6. For further information concerning this proceeding contact Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–21350 Filed 8–10–84; 8:45 am]

BILLING CODE 6712–01–M

[1] LPTI's pleading of June 19, 1984 was untimely filed without sufficient reason and will not be considered in this proceeding.

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

47 CFR Part 73

[MM Docket No. 83–1132; RM–4586]

FM Broadcast Station in Marion, MS; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 276A to Marion, Mississippi, as that community's first local FM service, in response to a petition filed by Larry G. Fuss, Sr.

EFFECTIVE DATE: October 9, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, or Stanley Schmulewitz, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Marion, Mississippi) (MM Docket No. 83–1132, RM–4586).

Adopted: July 16, 1984.
Released: July 31, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 50579, published November 2, 1983, issued in response to a petition filed by Larry G. Fuss, Sr. ("petitioner"), proposing the assignment of FM Channel 276A to Marion, Mississippi, as that community's first local FM broadcast service. Supporting comments were filed by petitioner in which he reaffirmed his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. We believe the public interest would be served by assigning Channel 276A to Marion, Mississippi, since it could provide a first local FM service to the community.

3. As indicated in the *Notice*, Channel 276A can be assigned to Marion consistent with the minimum distance separation requirements of §73.207 of the Commission's Rules, provided the transmitter is restricted to an area 4.3 kilometers (2.7 miles) east of the community to avoid short-spacing to Station WMSI(FM) (Channel 275), Jackson, Mississippi.

4. Accordingly, pursuant to the authority contained in Sections 4(i),

5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 9, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended to incorporate the community listed below, as follows:

City	Channel
Marion, Mississippi	276A

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

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

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–21352 Filed 8–10–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–947; RM–4489]

FM Broadcast Station in Buckhannon, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class B FM Channel 267 to Buckhannon, West Virginia, in response to a petition filed by Terry D. and Laura W. Reed. The assigned channel could provide Buckhannon with its second local broadcast service.

EFFECTIVE DATE: October 9, 1984.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Buckhannon, West Virginia) (MM Docket No. 83–947, RM–4489).

Adopted: July 16, 1984.

Released: July 31, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration, the *Notice of Proposed Rule Making*, 48 FR 41467, published September 15, 1983, proposing the assignment of Class B Channel 267 to Buckhannon, West Virginia, as that community's second FM allocation. The *Notice* was issued in response to a petition filed by Terry D. and Laura W. Reed ("petitioners"). Comments were filed by the petitioners restating their intent to apply for authority to build and operate a station on Channel 267, if assigned.

2. We believe the public interest would be served by assigning Channel 267 to Buckhannon, West Virginia, since it could provide that community with an opportunity for its second local FM service. As stated in the *Notice* the transmitter site is restricted to 2.16 km (1.3 miles) south of the city, to avoid short-spacing to Station WPIT–FM (Channel 268), Pittsburgh, Pennsylvania.

3. This assignment is located within the radio "Quiet Zone" under the jurisdiction of the National Radio Astronomy Observatory (NRAO) and the Naval Radio Research Observatory (NRRO). All applicants for Channel 267 at Buckhannon, should be aware of the Commission's notice requirements to the NRAO and NRRO as set forth in Section 73.1030 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 9, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Buckhannon, West Virginia	228A, 267

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

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–21353 Filed 8–10–84; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

Office of Acquisition Policy

48 CFR Part 513

[GSAR AC–84–3]

Purchases Under Blanket Purchase Agreements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This circular temporarily amends the General Services Administration Acquisition Regulation (GSAR) § 513.204, to add additional regulatory coverage to eliminate any possible confusion regarding purchases under Blanket Purchase Agreements. The intended effect is to provide clearer and more concise regulatory language.

DATES: Effective Date: July 30, 1984.

Expiration Date: This circular expires 6 months after issuance unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Office of GSA Acquisition Policy and Regulations (VP) (202–523–4916).

SUPPLEMENTARY INFORMATION:

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.); therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 513

Government procurement.

Authority: 40 U.S.C. 486(c).

In 48 CFR Chapter 5, the following Acquisition Circular is added to Appendix C at the end of the chapter to read as follows:

Dated: July 30, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

General Services Administration, Washington, DC 20405

July 30, 1984.

General Services Administration Acquisition Regulation; Acquisition Circular (AC–84–3)

To: All Contracting Activities.

Subject: Purchases under Blanket Purchase Agreements (BPA).

1. *Purpose.* This GSAR Acquisition Circular temporarily amends § 513.204 of the GSAR to expand the regulatory language.

2. *Background.* GSA contracting activities have questioned the application of the FAR and GSAR limitation on individual purchases under BPAs to orders placed against established schedule contracts which make use of a BPA for ordering purposes. The individual order limitation in FAR 13.204(b) and GSAR 513.204 is intended to apply only where a BPA is established to facilitate the making of open market small purchases. The limitations do not apply where individual orders are delivery orders against existing requirements or indefinite quantity type contracts using a BPA technique.

3. *Effective date.* July 30, 1984.

4. *Expiration date.* This Circular expires 6 months after issuance unless canceled earlier.

5. *Reference to regulation.* GSAR 513.204, Purchases under Blanket Purchase Agreements.

6. *Explanation of Change.*

Section 513.204 is amended to delete the existing language and add new regulatory language to read as follows:

513.204 Purchases under Blanket Purchase Agreements.

(a) Individual purchases made against Blanket Purchase agreements shall not exceed $5,000.

(b) Individual purchases under BPA's may exceed the $5,000 threshold in (a) above and the small purchase threshold (FAR 13.101) if the BPA has been established in accordance with FAR 13.203–1(f).

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84–20961 Filed 8–10–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 40449–4066]

Atlantic Swordfish Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim rule; corrections.

SUMMARY: This document corrects errors in an interim rule for the Atlantic Swordfish Fishery published June 13, 1984, at 49 FR 24380.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813–893–3722, or Patricia Gerrior, 617–281–3600.

In FR Doc. 84–15886, page 24380, under the heading "**FOR FURTHER INFORMATION CONTACT**," the telephone number given for Patricia Gerrior is corrected to read 617–281–3600.

Dated: August 7, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

The following corrections in FR Doc. 84–15886 are also made:

1. In § 630.2, page 24382, column 2, under the definition "Owner," paragraph (b) is corrected to read "* * * time, voyage"; and paragraph (c) is corrected to read "* * * function, or operation of the vessel."

2. In § 630.4, page 24382, column 3, "Information will be collected by—" is removed.

3. In § 630.7, page 24383, column 3, under (d) "Signals," paragraph (2), the signal extracted from the International Code of Signals for "RY–CY" is corrected to read "(dot-dash-dot, dash-dot-dash-dash; dash-dot-dash-dot, dash-dot-dash-dash)."

(16 U.S.C. 1801 *et seq.*)

[FR Doc. 84–21426 Filed 8–10–84; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 661

[Docket No. 40453–4053]

Ocean Salmon Fisheries off the Coast of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure, recreational salmon fishery.

SUMMARY: The Secretary of Commerce announces closure of the all-species ocean recreational salmon fishery for all species of salmon in the fishery conservation zone (FCZ) between Cape Falcon, Oregon, and the Oregon-California border at midnight August 7, 1984, when the quota for coho salmon in the area was projected to be reached. The Acting Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Oregon Department of Fish and Wildlife (ODFW) that the recreational fishery quota of 106,000 coho salmon was reached by midnight August 7.

EFFECTIVE DATE: Closure of the all-species recreational salmon fishery in the FCZ from Cape Falcon, Oregon, to the Oregon-California border is effective at 0001 hours Pacific Daylight Time (PDT), August 8, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas E. Kruse, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way NE. BIN C15700, Seattle, WA 98115; telephone 208–526–6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to manage the ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** on May 3, 1984, 49 FR 18853.

The emergency regulations specify at § 661.42(a)(2) that when a quota for the recreational fishery, for any species of salmon in any portion of the fishery management area, is projected by the Regional Director to be reached on or by a certain date, the Secretary will close, by publishing a notice in the **Federal Register**, the recreational fishery as of the date the quota will be reached.

The coho quota for the ocean recreational fishery south of Cape Falcon, Oregon is 106,000 fish, as shown in Table 3 of § 661.42(a)(1) of the emergency regulations. Based on the most recent catch and effort information supplied by the ODFW, the all-species recreational fishery in the area south of Cape Falcon reached the 106,000 coho salmon quota by midnight August 7, 1984. The Secretary therefore issues this notice closing the all-species recreational fishery between Cape Falcon, Oregon, and the Oregon-California border effective midnight, August 7, 1984. This notice does not apply to other fisheries which may be operating in other areas, and the ocean recreational fishery between Cape Blanco and the Oregon-California

border will open for salmon other than coho from 0001, August 8, 1984, until October 31, 1984, as provided in Table 2 of § 661.41.

The Regional Director consulted with the Director, ODFW, and advised the Executive Director, Pacific Fishery Management Council, regarding this closure. The Director of the ODFW will close state waters adjacent to the FCZ on August 7, 1984.

As provided under § 661.42(d), all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review from 8:00 a.m. to 4:30 p.m. weekdays at the above address.

Other Matters

This action is taken under the authority of 50 CFR 661.42 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: August 8, 1984.

Joseph W. Angelovic

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-21424 Filed 8-8-84; 5:02 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 157
Monday, August 13, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-333]

7 CFR Parts 301 and 319

Unshu Oranges; Japan; Extension of Domestic Quarantine, Importation and Distribution

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend § 319.28(b) of the regulations by relieving certain geographic restrictions on importing into the United States Unshu oranges, *Citrus reticulata* var. *unshu* Blanco (also known as satsuma), that are grown in Japan, and to amend § 301.83 of the regulations by extending the domestic quarantine on imported Unshu oranges to conform with the geographic restrictions proposed for § 319.28(b). The effect of this action would be to expand the present geographic areas in the United States into which Unshu oranges grown in Japan could be imported and moved interstate. This proposal is in response to a request from the Japanese Government and appears to be warranted in order to relieve unnecessary geographic restrictions on the importation of Unshu oranges grown in Japan.

DATES: Written comments concerning the proposal must be received on or before October 12, 1984. A public hearing concerning this proposal will be held on September 18, 1984.

ADDRESSES: Written comments concerning this proposal should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, APHIS, USDA, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8248.

Steven Poe, Plant Pathologist, Emergency Programs, Plant Protection and Quarantine, APHIS, USDA, Room 609 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-6365.

SUPPLEMENTARY INFORMATION:

Public Hearing

A public hearing concerning this proposal will be held at U.S. Department of Agriculture, Room 3501 South Building, 12th and Independence Avenue, SW., Washington, D.C., on September 18, 1984.

A representative of the Animal and Plant Health Inspection Service will preside at the hearing. Any interested person may appear and be heard in person, by attorney, or by other representative.

The hearing will begin at 9 a.m. and is scheduled to end at 5 p.m. local time. However, the hearing may be terminated at any time after it begins if all of those persons desiring an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 8:30 a.m. to 9 a.m. Those registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard. It is requested that duplicate copies of any written statements that are presented be provided to the presiding officer at the hearing.

If the number of preregistered persons and other participants in attendance at the hearing warrant it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Background

This document proposes to (1) amend § 319.28(b) of the citrus fruit regulations (7 CFR 319.28(b)) and § 301.83 of the Unshu orange regulations (7 CFR 301.83) to allow the importation and distribution of Unshu oranges, *Citrus reticulata* var. *unshu* Blanco (also known as satsuma), grown in Japan, into certain areas of the United States where they are not presently allowed. Specifically, imported Japanese Unshu oranges would be allowed into all areas in the United States, except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States. For reasons discussed elsewhere in this document, the Department believes that such regulatory action is warranted.

The citrus canker disease, which occurs in the United States only in Guam, is a disease which affects citrus. It is caused by the infectious bacterium *Xanthomonas campestris* pv. *citri* (Hasse 1915) Dye 1976. The strain of citrus canker found to occur in Japan is a strain which has been found to infect the twigs, leaves and fruit of a wide spectrum of commercial and noncommercial *Citrus* species.

Presently, because of the existence of citrus canker, the regulations found in 7 CFR 319.28 prohibit the importation and distribution in the United States of fruit and peel of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae from certain countries including Japan except for (1) Unshu oranges imported from Japan in accordance with conditions prescribed in § 319.28(b); (2) Unshu oranges imported under Departmental permit for scientific or experimental purposes in accordance with conditions prescribed in §319.28(c); (3) fruits and peel designated in § 319.28(a)(1) and imported into Guam pursuant to § 319.28(d); and (4) Unshu oranges imported from Japan into Alaska pursuant to § 319.28(h).

Specifically, § 319.28(h) allows the importation of Unshu oranges from Japan into Alaska without further restrictions. Otherwise, importation of Unshu oranges is allowed pursuant to § 319.28(b) only if stringent safeguards concerning growing, packing, inspection, treatment, labeling and certification are fully carried out, and if the oranges are imported and distributed into Hawaii, Idaho, Montana, Oregon or Washington.

In addition to the provisions of Part 319 of the regulations, Part 301 prohibits the interstate movement of imported Japanese Unshu oranges from the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington into or through

any other State, Territory or District of the United States.

The Department has received a formal request from the Japanese Government's Ministry of Agriculture, Forestry and Fisheries asking that the present geographic restrictions in § 319.28(b) of the regulations be amended to allow Unshu oranges to be imported and distributed throughout all areas of the United States, or at least throughout all areas of the United States other than the commercial citrus producing States. For reasons discussed below, the Department believes that some expansion of the geographical areas in the United States is warranted.

Specifically, this document proposes to amend the regulations to allow Unshu oranges to be imported and distributed throughout all areas in the United States except those States or Territories where plants of the *Citrus* species, which are known to be hosts of the strain of citrus canker bacteria found in Japan, can be or are grown (commercially or noncommercially). Thus, under this proposal, the present geographic restrictions on importing and distributing Unshu oranges from Japan would be removed for all areas in the United States except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States.

The Department decided to propose expanding the geographic areas into which Unshu oranges could be imported and distributed after an evaluation of the effectiveness of existing regulatory safeguards, and a review of what is known about the host range, symptoms and epidemiology of the Japanese strain of citrus canker and the Unshu orange. After reviewing these data, it appears that the geographic restrictions in §319.28(b) could be safely expanded.

Specifically, the Department found that the established regulatory safeguards taken by Japan in growing, processing, and packaging the fruit have been proven effective. In addition, it was noted that the Unshu orange is considered highly resistant to the Japanese strain of the citrus canker bacteria.

The present safeguards in effect in Japan consist of a series of independent measures which include growing the Unshu orange in isolation surrounded by a disease free buffer zone area; inspecting the trees and fruit in the buffer zone and isolation area during the growing, harvesting and packing of the fruit; washing each piece of fruit to be exported in a chlorine solution that will kill any surface bacteria and visually inspecting each piece of fruit for evidence of the disease. In addition, the absence of bacteria is confirmed through phage-testing of samples of the fruit from the isolation and buffer zone areas and no species of *Citrus*, other than *Citrus reticulata* var. *unshu* Blanco, are grown in either the isolation or buffer zone areas. During the last ten (10) years Unshu oranges have been imported into the United States under these conditions and there has been no finding of citrus canker on these Unshu oranges. As a result, the Department believes that these existing safeguards are sufficient to prevent the introduction of the citrus canker bacteria into the United States. Further, the Department does not believe that an expansion of geographic areas in the United States into which Unshu oranges could be imported or distributed would undermine the effectiveness of these established safeguards or would increase the risk significantly, if at all, that the citrus canker bacteria would be introduced into the United States.

The Department recognizes, however, that no matter how effective existing safeguards are, there is always the possibility, however remote, that the oranges might come into contact with the bacteria in Japan and that this event could go undetected before the oranges are imported or distributed in the United States. Although the Department believes the likelihood that this event would occur is so slight that is poses a negligible risk, it recognizes that the strain of citrus canker found in Japan is particularly aggressive and, if introduced into a citrus growing area, could spread very quickly and could be devastating. Therefore, while this document proposes to relieve most of the existing geographic restrictions on importing Unshu oranges, certain areas of the United States are proposed to be retained as restricted areas. This will provide protection to the citrus growing areas of the United States should the very unlikely situation arise that the citrus canker bacteria were introduced into the United States through the importation of Unshu oranges.

Therefore, this document proposes to allow the importation and distribution of Unshu oranges into any area of the United States except those States and Territories which have areas where host citrus plants could grow (commercially or noncommercially). The proposed restricted areas are the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States.

There are two reasons for proposing these States and Territories as restricted areas. First, this proposal provides protection to citrus growing areas from the spread of the bacteria in the highly unlikely event they were introduced into the United States through the importation of Unshu oranges. This is because even if the bacteria were to be introduced into the United States by the oranges they would be introduced into an area where the host citrus plants of the bacteria would not be found, and, therefore, the bacteria would not be able to become established.

Second, this proposal would extend the domestic quarantine in § 301.83 on Unshu oranges to all areas in the United States that would be allowed to receive the imported Unshu oranges and would prohibit the interstate movement of such oranges to restricted areas. This would appear to be adequate to prevent the artificial spread of the bacteria to citrus growing areas because the commercial or private movement of the imported Unshu oranges from noncitrus areas into or through citrus growing areas would be prohibited.

In addition to the above changes, the Department proposes to update the definition of "United States" in § 319.28(g) to include the Northern Mariana Islands and American Samoa to reflect that these territories are part of the United States.

Executive Order 12291

This proposed amendment to the interim rule is issued in conformance with Executive Order 12291 and has been determined to be not "major rule". Based on information compiled by the Department, it has been determined that this proposal would have an annual effect on the economy of less than $100,000,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Specifically, Unshu oranges imported from Japan constitute only about three percent (3%) of the total number of tangerines imported into the United States (the Unshu orange is listed as a tangerine for commerce data gathering purposes). Even if the geographic

restrictions are relieved, as proposed by this document, and the volume of imported Japanese Unshu oranges increases, it is not expected that it will be increased significantly when compared with imports of tangerines from other countries. Further, because the Unshu orange is a speciality orange not grown in the United States, it is not expected to be marketed in competition with domestic grown citrus.

Alternatives considered in developing this proposed rule included (1) not to amend the regulations; (2) to remove all geographical restrictions on the importation and distribution of Unshu oranges; or (3) to expand the present geographic areas into which Unshu oranges could be imported and distributed to include all areas except for those states or territories where host citrus plants of the Japanese strain of citrus canker bacteria could be grown. Alternative (1) was not chosen because the Department believes that there does not appear to be a biological basis for continuing to impose the current geographic restrictions on importation and distribution of Unshu oranges. Alternative (2) was not chosen because the Department believes it would not provide adequate protection to citrus growing areas in the unlikely event the bacteria were introduced into a citrus growing area of the United States. Also, for the reasons described, Alternative (3) was chosen because it would provide protection to the citrus growing areas of the United States from the natural or artificial spread of the bacteria should it be introduced into the United States.

Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that it does not appear that this proposal, if adopted, would have a significant effect on a substantial number of small entities. Presently, there are only 3 small entities that import Unshu oranges from Japan into the United States. The Unshu orange is a premium product aimed at a luxury market. It sell at 2 to 3 times the price of tangerines and is available for distribution in the United States only during late November and December of each year. For these reasons it is not anticipated that this proposed rule, if adopted, will cause a significant increased distribution of Unshu oranges into the United States or have a significant effect on small entities in the import or domestic tangerine market.

List of Subjects

7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plant (agriculture), Quarantine, Transportation, Citrus canker.

7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plant pests, Plant (agriculture), Quarantine, Transportation, Citrus canker.

Under the circumstances referred to above, it is proposed to amend Parts 301 and 319 of the regulations as follows:

Authority: Secs. 105, 106 and 107; 71 Stat. 32–34 (7 U.S.C. 150dd, 150ee, 150ff); secs. 5, 7, 8 and 9; 37 Stat. 319–18 (7 U.S.C. 159, 160, 161, 162); 7 CFR 2.17, 2.51 and 371.2(c).

PART 301—[AMENDED]

1. Section 301.83 would be revised to read as follows:

§ 301.83 Prohibition and Notice of Quarantine.

(a) It has been determined that in order to prevent the interstate dissemination of the citrus canker bacteria, the movement of Unshu oranges, *Citrus reticulata* var. *unshu* Blanco (also known as satsuma) grown in Japan, is prohibited from being moved from any quarantined State, Territory or District of the United States into or through any nonquarantined State, Territory or District in the United States.

(b) All States, Territories and Districts in the United States, except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States, are quarantined.

PART 319—[AMENDED]

2. The introductory text of § 319.28(b) would be revised to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(b) This prohibition shall not apply to importation or distribution of fruits of *Citrus reticulata* var. *unshu* Blanco (also known as satsuma), grown in Japan and imported under permit, into any area in the United States except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, the Northern Mariana Islands, North Carolina, Puerto Rico, South Carolina, Texas and the Virgin Islands of the United States: *Provided*, that each of the following safeguards are fully carried out:

* * * * *

3. Section 319.28 (b)(6) and (g) would be revised to read as follows:

§ 319.29 Notice of quarantine.

* * * * *

(b) * * *

(6) Fruit of *Citrus reticulata* var. *unshu* Blanco (Also known as satsuma), grown in Japan, shall be imported into the United States only through a port of entry listed in § 319.37–14 of this part except that such importation shall not be allowed through such ports of entry located in the following States or Territories: Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas or the Virgin Islands of the United States.

* * * * *

(g) The term "United States" means the States, District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

* * * * *

Done at Washington, DC, this 2nd day of August, 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–21296 Filed 8–10–84; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO–160–A62–R01]

Milk in the Middle Atlantic Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts several changes that would make it easier to qualify milk for pool status under the Middle Atlantic order. The decision increases the percentage of a cooperative association's member milk supply that may be diverted from pool plants to nonpool plants, and allows a federation of cooperatives to act as a handler in diverting the member milk of its individual cooperative associations to nonpool plants. It also provides that a distributing plant that was fully

regulated under the order in one month would remain fully regulated during the immediately succeeding two months regardless of whether or not its total Class I disposition during those months meets the order's minimum pooling requirement.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amendmended order.

The changes adopted in the decision are based on the record of a public hearing held May 23, 1984, at Philadelphia, Pennsylvania, and are needed to reflect current marketing conditions and to promote marketing efficiencies.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued May 2, 1984; published May 8, 1984 (49 FR 19502).

Recommended Decision: Issued July 12, 1984; published July 18, 1984 (49 FR 29100).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended order will promote more orderly marketing of milk by producers and regulated handlers.

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900) at Philadelphia, Pennsylvania, on May 23, 1984. Notice of such hearing was issued on May 2, 1984, and published May 8, 1984 (49 FR 19502).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Programs, on July 12, 1984, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. A paragraph has been added at the end of the Issue No. 1 discussion.

The material issues on the record of hearing relate to:

1. Diversion of producer milk.
2. Pool distributing plant definition.
3. Whether emergency marketing conditions exist that warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Diversion of Producer Milk

Limits on diversions of the milk of members of a cooperative association to nonpool plants should be increased from 40 to 50 percent, and provisions should be made for producer milk to be diverted to nonpool plants for the account of a federation of cooperatives. There was no proposal for any increase in allowable diversions of nonmember milk supplies nor any support for such action. Therefore there should be no change in diversion limits on nonmember milk.

The order now provides that a cooperative's monthly diversions of producer milk to nonpool plants during September through February may not exceed 40 percent of the volume of member milk handled by the cooperative association during the month. Alternatively, up to 18 days' production of each dairy farmer may be diverted during the month to nonpool plants. No diversion limitations apply during the months of March through August.

A federation of four cooperative associations, Atlantic Processing, Inc. (API), and an additional cooperative association, Inter-State Milk Producers Cooperative (Inter-State), proposed that the diversion allowances for cooperative member milk be increased to 50 percent. In addition, API proposed that a federation of cooperatives be allowed to divert for its account the milk of member producers.

The witness representing API testified that higher diversion limits are needed to assure that the milk of producers historically associated with the Middle Atlantic market will continue to be eligible to share in the marketwide pool. He explained that the cheese-processing portion of a reserve processing pool plant owned and operated by API at Allentown, Pennsylvania, had been sold on April 30, 1984. He stated that the plant had been operated as a pool plant for many years and served as an outlet for a significant portion of the regularly associated reserve supply of milk for the market. Because of the sale, the witness testified, the cheese-processing portion of the plant would no longer have pool status, and deliveries of producer milk to that location would be diversions to a nonpool plant. Based on API's milk deliveries during the months of October and December 1983, the witness estimated that over forty percent of API member milk will be delivered to the nonpool cheese-processing facility at Allentown during the months of September through December 1984. Without an increase in the percentage of allowable diversions, the witness stated, API would have to move milk uneconomically to assure that its member producers would continue to have all of their milk pooled, or the milk of some producers who have long been associated with the Order 4 market would have to be excluded from the marketwide pool.

The API witness also testified in support of API's proposal to allow milk to be diverted for the account of a federation of cooperative associations. He stated that such provision would allow the cooperative associations that are members of API to operate collectively within the Order 4 diversion limits, and would encourage more economic movements of milk from producers' farms to plants.

A representative for Inter-State testified in favor of increasing the limit on allowable diversions of producer milk to nonpool plants from 40 to 50 percent of a cooperative's member milk. The witness stated that the Allentown plant recently sold by API has been a customary outlet for Inter-State member milk in excess of the fluid needs of the market. He testified that during the months of September and October, 1983, Inter-State nearly failed to meet the 40-percent limit on diversion of producer milk to nonpool plants. Without the use of the Allentown facility as a pool outlet for milk in excess of the market's fluid needs, the witness indicated, Inter-State would have difficulty in qualifying all of its member milk for pooling under the present diversion allowances. The Inter-State witness stated that Eastern Milk Producers Cooperative Association, Inc., whose Order 4 milk is marketed predominantly by Inter-State, supported the cooperative's position. He testified that Inter-State took no position on whether a federation of cooperative associations should be able to divert the milk of members of its own cooperatives.

A representative of 29 Order 2 and Order 4 handlers (Ad Hoc Committee) testified that the group of handlers he represents has no objection to the proposed order amendments. He stated that the proposals of API and Inter-State do not change the Ad Hoc Committee's position taken at the earlier hearing, of which this proceeding is a re-opening, regarding the urgent need to regulate 23 additional Pennsylvania counties. The witness stated that any amendments to Order 4 adopted as a result of this portion of the proceeding also will be appropriate for Order 4 as it may be expanded as a result of the earlier hearing in this proceeding.

The proposed increase in diversion allowances for cooperative members should be adopted to accommodate the changed marketing conditions in the Middle Atlantic marketing area represented by the loss of pool status of a major outlet for the market's reserve supply of milk. Increased diversion limits will assure that producers long associated with the market will continue to have their milk priced and pooled under the order without uneconomic movements of milk on the part of the cooperative associations that handle the market's reserve milk supplies. Such a change was proposed and supported by cooperatives representing a substantial number of the producers on the market, and was opposed by no one.

As noted previously, the proposal that would permit a federation of cooperatives to be a handler on diverted milk in the same manner as the order now provides with respect to an individual cooperative should be adopted. The current order provisions do not accord handler status to a cooperative federation that diverts milk in the same manner as an individual diverting cooperative. This is because the present provisions are written in a manner that requires the cooperative federation to compute allowable diversions on the basis of member producer milk associated at each pool plant operated by the federation. The diversion allowance applicable to a federation of cooperatives should be based on the combined member cooperatives' producer milk associated with pool plants. This will allow the members of the proponent to collectively meet the diversion allowance rather than having to meet this requirement on an individual plant basis. Such an arrangement will accommodate the change in the operation of the federation's Allentown facility and will facilitate the orderly and efficient disposition of its reserve milk supplies.

A conforming change should be made in the order language to require that a federation of cooperatives report to the market administrator the receipts and diversions of producer milk for which it is the handler.

2. Pool Distributing Plant Definition

The pool distributing plant definition should be amended to provide that a plant which meets the pool plant requirements as a distributing plant during any month would continue to be pooled for the two immediately succeeding months as long as the handler continues to dispose of at least 15 percent of its receipts as route disposition within the marketing area. This pool plant "lock-in" under the order would be effective regardless of whether or not the plant meets the Class I disposition percentage of its total receipts of pool milk required under the order's pool plant definition during the two succeeding months. The order now requires that not less than 40 percent of a handler's receipts in each of the months of September through February, and 30 percent during March through August, be disposed of as Class I milk in order for the plant to be a pool distributing plant. In addition, 15 percent of the handler's receipts must be disposed of as route disposition in the marketing area during each month.

The amendment was proposed by Inter-State. The witness for Inter-State testified that the cooperative supplies significant volumes of milk to three Order 4 distributing plants whose Class II use has grown while their Class I use has remained constant or declined. In any given month, the witness stated, one or more of these plants may fail to qualify as an Order 4 pool plant because their Class I dispositions do not constitute a large enough percentage of the plant's receipts.[1] The Inter-State representative testified that as a result of the failure of any of these plants to maintain pool status, the milk of Inter-State members delivered to such a plant would cause it to exceed the limit on diversions to nonpool plants and thereby force some member milk to be depooled.

According to the Inter-State witness, increased diversion limits will not solve the problems presented by the uncertain pool status of these three plants. The witness testified that during September and October 1983, Inter-State nearly exceeded the order's diversion limits. At that time, he pointed out, the three plants involved, as well as the Allentown manufacturing facility, were all pool plants. If any one of those plants had failed to qualify for pooling, the Inter-State milk delivered to that plant would be a delivery to a nonpool plant and cause Inter-State producer milk to be over-diverted. As a result, some milk would have to be removed from the pool, and would not be priced under the order.

The witness stated that a major problem encountered by Inter-State in delivering milk to the three distributing plants in question is that a failure of any of the plants to meet pooling requirements is not known until after the end of the month in which delivery was made. Consequently, the Inter-State representative testified, the cooperative has found it necessary to make uneconomic deliveries of milk normally associated with the three plants to other Order 4 pool distributing plants to ensure that milk received at the plants in question would remain producer milk regardless of whether those plants meet pool plant requirements or not. The witness said that uneconomic movements of milk must be undertaken not only during the months in which one of the distributing plants fails to qualify for pooling, but during any month in which it is possible that one of the plants may not be a pool plant. For this reason, he said, the "lock-in" is needed for two successive months after the plant qualifies for pooling so that the cooperative has time to adjust its milk deliveries to cope with the plant's nonpool status. He described the proposed amendment as being necessary to avoid uneconomic movements of Inter-State member milk and to insure Order 4 pool status for producers long associated with the order.

In a post-hearing brief filed on behalf of Inter-State, it was pointed out that, in addition to the problems encountered by Inter-State in supplying milk to any of the plants in question, such a plant's fluctuation between pool and non-pool status could jeopardize the handler's milk supply because of the additional expenses incurred by the cooperative as a result of the plant's uncertain regulatory status. No other person testifying at the hearing, or filing briefs, favored or opposed adoption of the amendment proposed by Inter-State.

The order should be amended so that Inter-State will not encounter difficulty in pooling member producer milk which it has delivered to a fluid processing plant in the belief that the plant will be pooled. In addition, uneconomic

[1] Official notice is taken of the May 1984 listing of plants under Order No. 4 as published by the market administrator. This list indicates that one of the three plants (Green's Dairy, York, Pa.) referred to by the Inter-State witness was a partially regulated distributing plant in May 1984.

movements of milk should not be required in order that Inter-State can be assured that milk of its member producers will continue to be pooled and priced under the order when supplied to a fluid milk plant.

Provision should be made, however, that a "lock-in" of a pool distributing plant that fails to meet the order's percentage Class I disposition requirements does not prevent the plant from being another order plant if it otherwise meets the pool plant definition of another federal order. No testimony was given regarding any need for producers to be pooled under the Middle Atlantic order if the plant to which their milk is delivered meets the pool requirements of another federal order. Therefore, if the plant qualifies for pool status under another order, but not under Order 4, the "lock-in" provision should not be effective.

In the Middle Atlantic order, as in most other federal milk orders, the operator of a supply or reserve processing plant which automatically has pool status for certain months on the basis of having met pooling standards during specific prior months may request that the plant have nonpool status during the months in which it automatically would qualify for pooling. However, in reply to questioning, the witness expressed the opinion that the needs of the cooperative in assuring that the milk of its members would remain eligible for pooling should override the distributing plants' ability to choose nonpool status. He also indicated that the handlers involved probably would share the cooperative's interest in assuring the pool status of the milk they receive. The witness said that he believed Inter-State to be the sole supplier of milk to the three handlers. The interests of the distributing plant operator should be protected by providing such a handler the opportunity to avoid being pooled during those months in which the plant's operations do not meet the order's minimum pooling requirements. If, as the witness stated, the distributing plant has a strong interest in maintaining the pool status of its supply of cooperative member milk, the plant would not exercise such an option. The handler should, however, have such an option.

3. Need for Emergency Action

A recommended decision in this proceeding was not omitted. Witnesses for both API and Inter-State requested emergency action on the proposed amendments on the basis that such action would be necessary to amend the order before September 1, when the order's diversion limits once again become effective. Also in September, the percentage of receipts at a pool distributing plant that is required to be disposed of as Class I milk increases from 30 to 40 percent.

It is important for both of these reasons that the order amendments be effective by September 1, 1984. However, barring unforeseeable delays, the Deputy Administrator concluded that there should be no difficulty in completing the amendment process before September 1 through the regular rule-making process. Therefore, the request to omit a recommended decision and proceed directly to the issuance of an emergency final decision was denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Middle Atlantic marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1984 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Middle Atlantic marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C., on August 6, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [2] Amending the Order, Regulating the Handling of Milk in the Middle Atlantic Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth supplement those

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the date effective hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Programs, on July 12, 1984 and published in the **Federal Register** on July 18, 1984 (49 FR 29100), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to a modification in § 1004.30.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.7, add new paragraphs (a)(3) and (4) to read as follows:

§ 1004.7 Pool plant.

* * * * *

(a) * * *

(3) A plant which meets the "pool plant" requirements of this paragraph during any month shall retain its pool status during the immediately succeeding two months as long as the plant continues to meet the 15-percent in-area Class I disposition requirement, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month during which it does not otherwise qualify pursuant to this paragraph.

(4) A plant's status as an other order plant pursuant to paragraph (f) of this section shall not be affected by the provisions of paragraph (a)(3) of this section.

2. In § 1004.9, revise paragraph (b) to read as follows:

§ 1004.9 Handler.

* * * * *

(b) Any cooperative association or federation of cooperative associations with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of § 1004.12 for the account of such cooperative association or federation.

* * * * *

3. In § 1004.12, revise paragraph (d)(2)(i) to read as follows:

§ 1004.12 Producer.

* * * * *

(d) * * *

(2) * * *

(i) All of the diversions of milk of members of a cooperative association or a federation of cooperative associations to nonpool plants are for the account of such cooperative association or federation, and the amount of member milk so diverted does not exceed 50 percent of the volume of milk of all members of such cooperative association or federation delivered to or diverted from pool plants during the month.

* * * * *

§ 1004.30 [Amended]

4. In § 1004.30, revise paragraph (d) to read as follows:

* * * * *

(d) On or before the eighth day after the end of each month, each cooperative association and/or a federation of cooperative associations shall report with respect to milk for which it is a handler pursuant to § 1004.9 (b) or (c) as follows:

* * * * *

[FR Doc. 84-21364 Filed 8-10-84; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 822 3197]

American Society of Sanitary Engineering; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, that a Bay Village, Ohio organization ("ASSE"), whose members consist of manufacturers of plumbing products and others associated with the plumbing industry, to cease refusing written requests for issuance of a standard or modification of an existing standard for a product because the product is patented or produced by only one or a limited number of manufacturers. The order would also bar the society from failing to take sought action when it has already issued a standard, modification of a standard or a seal of approval covering a competing product and the applicant has demonstrated that its product adequately meets required performance goals. Should ASSE fail to issue the requested standard, modification or seal of approval, it would be required to provide applicant with a statement of the justification and bases for the failure together with a reasonable opportunity to respond, and to maintain copies of relevant submissions and responses. Additionally, the society would be required to incorporate the requirements of Parts I and II of the Order into its Bylaws, and publish them in both its Yearbook and Standards Handbook.

DATE: Comments must be received on or before October 12, 1984.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/H 272, Michael C. McCarey, Washington, D.C. 20580 (202) 523–1415.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Standards, Plumbing products, Trade practices.

In the matter of American Society of Sanitary Engineering; a corporation; File No. 822 3197.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of American Society of Sanitary Engineering, Inc., and it now appearing that American Society of Sanitary Engineering, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between American Society of Sanitary Engineering, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent is organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at P.O. Box 9712, in the town of Bay Village, in the State of Ohio.

2. Solely for purposes of this agreement and order and any subsequent action pursuant to the Federal Trade Commission Act for a violation of this order, proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this order, the following definitions shall apply:

"ASSE" means the American Society of Sanitary Engineering, its successors and assigns.

"Competent and reliable testing criteria" means a method or methods of testing or evaluation to measure whether the performance of a given product satisfies the implicit or explicit performance goals that underlie a standard. A rebuttable presumption of competence and reliability shall exist for testing criteria that are developed by a testing laboratory or expert that has been relied upon by ASSE to judge the acceptability of other products covered by standards.

"Competing products" means products sold or available in the market that can be used for substantially the same end use as the applicant's product.

"Reasonable standard setting criteria" means criteria which are consistently applied in the development or modification of a standard and which promote the legitimate self-regulatory goals of ASSE, such as assuring a reasonable and adequate level of safe and effective performance for a product. It shall not be reasonable for ASSE to require that the performance level for an applicant's product exceed the performance level required of competing products.

I

It is ordered that respondent American Society of Sanitary Engineering, its successors and assigns, and respondent's officers, agents, representatives, employees, and committees, directly or through any corporate or other device, in connection with any standard or seal of approval in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act (hereinafter standard or seal of approval), do forthwith cease and desist, from directly or indirectly:

A. failing to issue a new standard or a modification of an existing standard, after receipt of a written application requesting such actions, for the reason that the product to be covered by the requested standard or modification is: (1) Patented or (2) produced by only one

manufacturer or a limited number of manufacturers;

B. failing to issue for any product a new standard, a modification of an existing standard, or a seal of approval whenever (1) ASSE has received a written application requesting such action, (2) ASSE has already issued a standard, a modification of a standard, or a seal of approval covering any competing product(s), (3) the applicant has reasonably established in its application that its product adequately meets the implicit or explicit performance goals required by the existing standard covering any competing product(s) (*e.g.*, the applicant has proposed competent and reliable testing criteria for the product and, under the proposed criteria, has demonstrated that the product meets the existing standard's performance goals), and (4) ASSE does not at that time possess and rely upon a justification for failing to issue the requested standard, modification, or seal of approval that would satisfy reasonable standard setting criteria.

II

It is further ordered that whenever (1) ASSE receives for any product a written application requesting that ASSE issue a new standard, a modification of an existing standard, or a seal of approval (2) ASSE has already issued a standard, a modification of a standard, or a seal of approval covering any competing product(s), (3) the applicant has reasonably established in its application that its product adequately meets the implicit or explicit performance goals required by the existing standard covering any competing products, and (4) ASSE fails to issue the requested standard, modification, or seal of approval, ASSE shall:

A. provide to the applicant a written statement of the justification and bases for the failure, including the identification of the standard setting criteria and tests or other evidence or information upon which ASSE relied;

B. provide to the applicant a reasonable opportunity to respond;

C. if the applicant responds in writing, provide the applicant a written statement of the justifications and bases for the final decision which addresses all the issues raised by the applicant's response, including the identification of the standard setting criteria and tests or other evidence or information upon which ASSE relied; and

D. maintain copies of the applicant's submissions, of all responses made to the applicant, of the applicant's responses thereto, if any, and of the justifications and bases for the final decisions.

III

It is further ordered that ASSE shall incorporate the requirements of Parts I and II of this order in its Bylaws and publish the requirements of Parts I and II of this order in the ASSE Standards Handbook and the ASSE Yearbook.

It is further ordered that ASSE shall:

A. Maintain in a separate file for a period of at least ten (10) years after the date of service of this order and, upon request, make available to the Federal Trade Commission for inspection and copying every application for issuance or modification of an ASSE standard or issuance of a seal of approval and all documents that discuss, refer, or relate thereto;

B. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in respondent that may affect compliance obligations arising out of this order, including but not limited to dissolution, assignment, a sale resulting in the emergence of a successor organization, or the creation or dissolution of subsidiaries; and

C. Within sixty (60) days from the date of service of this order submit a report, in writing, to the Federal Trade Commission setting forth in detail the manner and form in which it has complied with this order.

American Society of Sanitary Engineering

[File No. 822 3197]

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a consent order from the American Society of Sanitary Engineering (ASSE).

The proposed order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received. At that time, the Commission will decide whether it should withdraw from the agreement or make the agreement's order final.

The Complaint

The complaint, prepared for issuance by the Commission, alleges that ASSE has unreasonably denied standards coverage to the Fillpro valve, an innovative plumbing product manufactured by J.H. Industries (J.H.). According to the complaint, ASSE has offered two justifications for its denial. The first is ASSE's unjustified assertion that only the design requirements contained in the existing ASSE standard (ASSE 1002) are acceptable. The second is ASSE's policy of refusing to provide standards coverage for products that are patented or produced by a single manufacturer. The complaint asserts that ASSE had no reasonable basis or justification for its policies or conduct. The complaint also asserts that ASSE's actions have had the effect of unreasonably restraining trade and hindering competition in the manufacture and sale of plumbing devices in markets where there is reliance upon ASSE standards. The complaint alleges that ASSE's refusal constitutes a concerted refusal to deal with the manufacturer and violates section 1 of the Sherman Act and section 5 of the Federal Trade Commission Act.

The complaint alleges that ASSE is an organization composed of various segments of the plumbing industry including manufacturers of plumbing products. According to the complaint, ASSE's principal activity is the development of standards for plumbing products and the issuance of seals of approval to products that comply with its standards. The complaint alleges that there is extensive reliance upon ASSE standards by state and local building code officials, model code groups (organizations that develop model building codes for adoption by state and local authorities), federal agencies, foreign governments, and others as a basis for determining product acceptability. The complaint further alleges that because of this reliance, compliance with ASSE standards confers important competitive benefits upon manufacturers of plumbing products and is essential to doing business in many markets.

The complaint alleges that J.H. manufactures the Fillpro valve, an innovative toilet tank fill valve that it has patented. According to the complaint, the Fillpro valve operates on different principles than ASSE-approved valves and does not meet design specifications set forth in the ASSE 1002. The complaint alleges that J.H. requested that ASSE modify the existing standard or develop a new standard to cover the Fillpro valve. The complaint asserts that J.H. supported these requests with extensive and credible evidence that the Fillpro valve performs as well as ASSE-approved valves.

The complaint alleges that ASSE refused J.H.'s requests. According to the complaint, ASSE never evaluated J.H.'s

evidence concerning the Fillpro valve's performance. Instead, ASSE allegedly based its decision solely upon its policy of refusing to extend standards coverage to products that are patented or produced by a single manufacturer and upon an unsupported assertion that the design specified in the standard was the only acceptable design. The complaint asserts that ASSE had no reasonable basis for its conduct and policies. As a result of ASSE's refusal, J.H. has allegedly been hindered or prevented from selling the Fillpro valve in jurisdictions that rely on the ASSE standard.

The Proposed Consent Order

The proposed order is intended to remedy the effects of ASSE's unreasonable refusal to extend standards coverage to the Fillpro valve and to prevent future violations of section 1 of the Sherman Act and section 5 of the Federal Trade Commission Act. Provision IA of the order prohibits ASSE from refusing to issue a new standard or modify an existing standard because the product to be covered by the new standard is either patented or produced by one of a limited number of manufacturers.

Provision IB of the order requires ASSE to have a justification that would satisfy reasonable standard setting criteria when it refuses to adopt or modify a standard. Reasonable standard setting criteria are defined in the order as criteria that relate to ASSE's legitimate self-regulatory goals, such as assuring that products provide an adequate level of safe performance. Under the order, the criteria must be consistently applied. The order specifically disallows setting performance levels for an applicant's product that are higher than those set for a competitor's product.

Provision IB is not triggered unless the applicant has met three conditions. First, ASSE must receive a written application requesting that it extend standards coverage to a product. Second, ASSE must have issued standards on competing products. Third, the applicant must have reasonably established in its application that its product meets the implicit or explicit performance goals contained in the existing standard. Provision IB provides an illustration drawn from the facts alleged in the complaint to demonstrate how an applicant can satisfy the third condition. Specifically, an applicant will have satisfied this condition when it has proposed competent and reliable testing criteria for the product, and under the criteria, has demonstrated that the product meets the standard's implicit or explicit performance goals. The term competent and reliable testing criteria is defined in the order as a method or methods of testing or evaluation to measure whether the performance of a given product meets the standard's performance goals.

Provision II requires that, if ASSE denies a request from an applicant who has met the conditions set forth in Provision IB, it will provide the applicant with written statement of the reasons and evidence for its decision. Further, ASSE must provide the applicant with an opportunity to respond, and if a written response is offered, ASSE must provide written statement of its final decision and of the basis for that decision. ASSE must maintain written records regarding the statements provided to the applicant, the applicant's response, if any, and the justification and basis for the final decision.

Provision III requires ASSE to incorporate the requirements of Parts I and II of the order into its bylaws and to publish the requirements of Parts I and II in the ASSE Standards Handbook and the ASSE Yearbook. Provision IV requires ASSE to keep written records concerning any requests for standards coverage, to notify the Federal Trade Commission of changes in its organization that might affect its ability to comply with the order, and to provide a report describing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. it is not intended to constitute an official interpretation of the proposed agreement and order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-21396 Filed 8-10-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 83N-0280]

Food Labeling; Nutrition Labeling of Food; Calorie Content

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the food labeling regulations to provide for the exclusion of nondigestible dietary fiber when determining the calorie content of a food for nutrition labeling purposes. This proposal would allow for a more accurate declaration of the available calories in high-fiber foods.

DATE: Comments by October 12, 1984.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Request for single copies of the analytical method may be sent to the Dockets Management Branch or to the Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF-260), Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0177.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 22, 1978 (43 FR 43248), FDA published a regulation (21 CFR 105.66) that established the criteria to be met when making a reduced calorie claim on the label of a product. The general criteria required, among other things, that a product labeled as "reduced calorie" have a caloric reduction of at least one-third of the calorie content of an equivalent serving of the same food without fabrication or alteration (§ 105.66(d)(1)(i)). In the same issue of the **Federal Register** (43 FR 43261), FDA issued a proposal, based on a petition, to allow a bread product to bear "reduced calorie" labeling if it achieved a one-quarter caloric reduction, rather than the one-third reduction specified in the general requirements.

After review of the comments submitted, FDA withdrew the proposal (June 20, 1980; 45 FR 41652) on the grounds that a calorie reduction of one-third is technologically feasible and a product with such a calorie reduction is acceptable to those consumers interested in or participating in weight-control programs. In response to an objection and request for hearing filed by Interstate Brands Corp., a manufacturer of a 25-percent reduced-calorie bread, FDA revoked the withdrawal of the proposal and reopened the comment period by notice in the **Federal Register** of June 26, 1981 (46 FR 33053). (FDA treated the objection and request for hearing as a request for reconsideration under 21 CFR 10.33 and granted the request by revoking the withdrawal of the proposal.) The basis for the manufacturer's request was, among

other things, that the method used to calculate the calorie content of the reduced calorie product had not been specified and that the manufacturers of the one-third reduced calorie product were not using the calculations set forth in 21 CFR 101.9.

Comments received during the 60-day comment period showed that, when calculating the calorie content of a food high in dietary fiber, carbohydrate content of the nondigestible dietary fiber should be excluded from the total carbohydrate content of the food before applying the Atwater conversion factors as specified in § 101.9.

FDA has developed a method to determine the amount of nondigestible dietary fiber in a food. The method is based on the results of a collaborative study by the Association of Official Analytical Chemists (AOAC). The method is suitable to be used to determine nondigestible dietary fiber in all foods, including high-fiber foods. Accordingly, FDA is proposing to amend § 101.9(c)(3) to allow manufacturers to adjust the calorie declaration in the nutrition labeling on their products for the presence of carbohydrates contributed by nondigestible dietary fiber. Without such an adjustment, the calories declared on the label will be greater than the actual amount of calories available. Also, the agency is proposing the method to be used to determine nondigestible fiber content and, thus, the appropriate adjustment to the calorie declaration. Manufacturers, however, are not required by regulation to make any dietary fiber adjustment to the calorie declaration calculated.

Manufacturers should be aware that the proposed adjustment to the calorie declaration would be most significant in those products that are high in nondigestible fiber. This amendment would have little or no impact on foods in which the carbohydrate portion of the food is composed principally of starches and sugars. Therefore, manufacturers of foods that contain little or no dietary fiber may wish not to do an analysis for dietary fiber because there would be little or no change in the caloric declaration.

If a manufacturer of a high-fiber food chooses not to adjust the calorie declaration for the presence of the nondigestible dietary fiber, the resultant calorie declaration must include both the assimilable and nonassimilable calories, thus reflecting a larger calorie contribution from the food than is actually available. Because this declaration would not state the calorie content as being lower than it actually is, an unadjusted declaration would not be in violation of § 101.9 and will not place a food in jeopardy of legal action by the agency.

The method to be used for the determination of the dietary fiber in a food is entitled, "Total dietary Fiber, AOAC Collaborative Study, January 25, 1982". This method was developed by the agency and submitted for publication to the AOAC and is on file in the Dockets Managment Branch (address above). Pending adoption and publication by the AOAC, a copy of the method may be obtained from the Division of Nutrition (HFF–260), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

Also, as a result of its consideration of the comments, the agency found that § 101.9(c)(3) is stated in a manner that appears to mandate the use of the Atwater method of computing calorie content.

The agency did not intend to make use of this method mandatory. Therefore, the agency is proposing to revise the regulation to reflect correctly FDA's intent. The proposed correction changes a "shall" to a "will" in § 101.9(c)(3) when referring to the method accepted as the official method for compliance purposes when determining the calorie content. This proposed correction of the language of the regulation will have no impact, economic or environmental, on any manufacturers for it only clarifies the agency's intent regarding the method specified in this regulation.

Therefore, the agency is proposing to amend § 101.9(c)(3) by changing the second sentence to read "Caloric content will be determined by * * *", rather than "Caloric content shall be determined by * * *", and by providing a method of analysis to determine total dietary fiber content of a food. With use of the dietary fiber determination, the formula for the calculated caloric content per serving would be as follows: (grams protein × 4) + (grams fat × 9) + [(grams total carbohydrate − grams total nondigestible dietary fiber) × 4] = Calories per serving (portion).

Because the agency is proposing to modify the manner in which a manufacturer can determine calories for "reduced calorie" products, the agency is publishing, elsewhere in this issue of the **Federal Register**, a notice withdrawing the 1978 proposal requesting an exemption from the § 101.9 definition.

In accordance with Executive Order 12291, FDA has analyzed the economic effects of this proposal and has determined that if a final rule is promulgated it will not be a major rule under the Order. In reviewing the costs associated with the implementation of the proposed amendment of § 101.9(c)(3), FDA has determined that added costs of the additional analysis will be minimal and would not result in a significant economic impact on any manufacturers. The threshold assessment supporting this finding is on file with the Dockets Management Branch (address above). Further, as discussed above, manufacturers may choose not to determine the amount of dietary fiber contained in their food product, thus reporting the calorie content without the analysis for dietary fiber. For these reasons, the agency certifies according to the Regulatory Flexibility Act (Pub. L. 96–354) that this proposal, if promulgated, will not have a significant economic impact on small entities.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not result in the production or distribution of any substance and will not result in the introduction of any substance into the environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency proposes that any final rule that may issue based upon this proposal become effective upon publication in the **Federal Register**. The agency does not intend to take regulatory action against food products labeled in reliance on this proposal pending completion of this rulemaking.

List of Subjects in 21 CFR Part 101

Food labeling, Misbranding, Nutrition labeling, Warning statements.

PART 101—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403(a), 701(a), 52 Stat. 1040–1042 as amended, 1047 as amended, 1055 (21 U.S.C. 321, 343(a), 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 101 be amended in § 101.9 by revising the second, third, fourth, and fifth sentences in paragraph (c)(3), to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) * * *

(3) * * * Caloric content will be determined by the Atwater method as described in A.L. Merrill and B.K. Watt, "Energy Value of Foods—Basis and Derivation," USDA Handbook 74 (1955), except that the nondigestible dietary fiber may be subtracted from the total

carbohydrate content before calculation of the calories contributed by the carbohydrate portion of the food. The nondigestible dietary fiber will be determined by the method entitled, "Total Dietary Fiber, AOAC Collaborative Study, January 25, 1982." Both methods are incorporated by reference. Copies of both methods are available from the Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington DC 20408. * * *

* * * * *

Interested persons may, on or before October 12, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 20, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–21340 Filed 8–10–84; 8:45 am]

BILLING CODE 4160–01–M

---

21 CFR Part 105

[Docket No. 78P–0207]

Special Dietary Foods Label Statements; Misleading Statement; Reduced Calorie Labeling for Bread; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing the proposal that would have permitted bread to bear "reduced calorie" labeling if the bread has a 25-percent reduction in calories. Elsewhere in this issue of the **Federal Register**, FDA is proposing to amend 21 CFR 101.9(c)(3) to provide for the exclusion of nondigestible dietary fiber when determining the calorie content of a food for nutrition labeling purposes. This proposal would provide manufacturers of a 25-percent "reduced calorie" bread with a method for more accurately calculating the available calories in high-fiber breads and would facilitate compliance for all manufacturers of high-fiber foods with the requirement that "reduced calorie" foods have at least a 33⅓ percent reduction of calories.

EFFECTIVE DATE: August 13, 1985, for all products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0177.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 22, 1978, (43 FR 43261), FDA issued a proposal to exempt bread products from the requirement in § 105.66(d)(1)(i) (21 CFR 105.66(d)(1)(i)) that a food have a calorie reduction of at least 33⅓ percent in order to bear "reduced calorie" labeling. The proposal would have permitted bread products that achieve a calorie reduction of 25 percent to bear "reduced calorie" labeling. After review of the comments submitted, FDA withdrew the proposal in the **Federal Register** of June 20, 1980 (45 FR 41652). FDA reasoned that a calorie reduction of one-third is technologically feasible, and a product with such a calorie reduction is acceptable to consumers interested in or participating in weight-control programs.

In response to an objection and request for hearing filed by Interstate Brands Corp., a manufacturer of a 25-percent reduced-calorie bread, FDA revoked the withdrawal of the proposal and reopened the comment period by notice in the **Federal Register** of June 26, 1981 (46 FR 33053). (FDA treated the objection and request for hearing as a request for reconsideration under 21 CFR 10.33 and granted the request by revoking the withdrawal of the proposal.)

In reopening the rulemaking proceedings, the agency requested comments, particularly comments regarding: (1) information on current marketing trends and consumer acceptance of breads with 25 percent or more reduction in calories and (2) the method of analysis and calculation of the calorie content of reduced-calorie breads.

The comments FDA received supported the withdrawal of the proposal. Manufacturers commented that there are currently numerous bread products on the market that achieve a 33⅓ percent reduction in calories. Information submitted by the manufacturers of the 33⅓ percent reduced-calorie bread products reveals that these bread products are acceptable to those consumers interested in a reduced-calorie product, and that sales records indicate a growing repeat market.

The manufacturers of the 33⅓ percent reduced-calorie bread also submitted information regarding the method of analysis and calculation of the calorie content in reduced-calorie, high-fiber foods. The information confirms that no specific factors exist for correcting analytical energy values to compensate for the nonavailability of the calories in the nondigestible fiber in the bread due to the body's inability to metabolize or digest such substances. The method specified in 21 CFR 101.9(c)(3), which uses the Atwater values when calculating calorie content, provides an estimate of the digestible calories when the calories are derived soeley from raw agricultural commodities. This method, however, does not compensate for the addition of large amounts of refined nondigestible substances such as cellulose.

According to other comments, the manufacturers of those breads labeled as 25-percent reduced in calories are using a method for determining the calorie content that fails to adjust for indigestibility of a portion of the carbohydrate component. This results in an overestimation of the available calorie content.

The failure to adjust for the indigestible component is particularly true for foods formulated to be high in "dietary (nondigestible) fiber." For these foods, FDA believes that it is reasonable to assume that the kilocalories that can be derived from a reduced-calorie, high-fiber bread are equal to the total calories contained in the product, i.e., the protein, fat, and carbohydrate portions of the bread, minus the calories contributed by the nondigestible fiber substances. This position will allow manufacturers to make calculations that take into account the nondigestible fiber content of high-fiber foods for the purpose of determining the calorie content in "reduced calorie" food, including "reduced calorie" bread, under § 105.66(d)(1)(i). This calculation will allow manufacturers of 25-percent "reduced-calorie" breads to bring their products into compliance with § 105.66(d)(1)(i). The new calculation will also facilitate compliance with the requirement by all manufacturers of high-fiber foods.

Elsewhere in this issue of the **Federal Register**, FDA is proposing to amend the nutrition labeling regulation (21 CFR 101.9(c)(3)) to allow the carbohydrate portion of the calorie calculation to be adjusted by subtracting the grams of carbohydrates contributed by nondigestible dietary fiber from the

grams total carbohydrates determined in a food. The method FDA proposes be employed to determine the nondigestible fiber content of high-fiber food, including reduced-calorie bread, is in a collaborative study with the Association of Official Analytical Chemists (AOAC). Pending adopting and publication by the AOAC, a copy of this method, "Total Dietary Fiber, AOAC Collaborative Study, January 25, 1982," is on file in and may be obtained from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The written requests should be identified with Docket No. 83N–0280. The method is also available from the Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260), Food and Drug Administration, 200 C St. SW., Washington, DC 20204. Thus, the assimilable calories may then be calculated by appling the Atwater values of 4, 9, 4 to the protein, fat, and calculated digestible carbohydrate as outlined in § 101.9(c)(3). The appropriate methods for determining protein and fat may be found in the most recent edition of the "Official Methods of Analysis of the Association of Official Analytical Chemist."

FDA has determined from the comments submitted in the extended comment period that a reduced-calorie bread product meeting the criteria set forth in § 105.66(d) is technologically feasible and acceptable to consumers and that carbohydrates contributed by the nondigestible fiber content of a high-fiber food should be deducted when calculating the calorie content in "reduced calorie" foods, including "reduced calorie" bread, under § 105.66(d)(1)(i).

List of Subjects in 21 CFR Part 105

Dietary foods, Food labeling, Infant foods, Nutrition, Vitamins and minerals.

PART 105—FOODS FOR SPECIAL DIETARY USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the proposal to add new paragraph (d)(4) to § 105.66 *Label statements relating to usefulness in reducing or maintaining caloric intake or body weight*, published in the Federal Register of September 22, 1978 (43 FR 43261), regarding the labeling of reduced calorie bread is hereby withdrawn, and the rulemaking proceeding begun by that proposal is terminated.

Products subject to the September 22, 1978 proposal that have been labeled in reliance on the proposal should be changed to comply with the provisions of § 105.66(d) and all other applicable regulations. All labeling for these products initially introduced or initially delivered for introduction into interstate commerce on or after August 13, 1985, shall comply with § 105.66(d) and all other applicable regulations. As stated in the new proposed rule published elsewhere in this issue of the Federal Register to amend the caloric content calculation method in § 101.9(c)(3), the agency does not intend to take regulatory action against food products labeled in reliance on the new proposed rule pending completion of this rulemaking.

Dated: July 20, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–21341 filed 8–10–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R–84–1148; FR 1815]

Manufactured Home Procedural and Enforcement Regulations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's manufactured home procedural and enforcement regulations by clarifying and simplifying procedures to be followed by Design Approval Primary Inspection Agencies and Production Inspection Primary Inspection Agencies.

DATE: Comments must be received by October 12, 1984.

ADDRESS: Interested person are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James C. McCollom, Director, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6920. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The proposed rule would amend 24 CFR Part 3282 to allow Design Approval Primary Inspection Agencies (DAPIAs) to prepare manufactured home designs and quality assurance manuals in whole or in part at the manufacturer's option and to approve designs and quality assurance manuals that they have prepared. The prohibition in the current regulations against DAPIAs preparing designs and quality assurance manuals has not proven productive of better designs and quality assurance manuals, and has been costly and time consuming. Therefore, the proposed regulation would (1) revise § 3282.203(f) to allow DAPIAs to prepare designs and quality assurance manuals in conjunction with manufacturers; (2) delete the prohibition against DAPIAs approving their own designs and quality assurance manuals in § 3282.359(b) (5); and (3) revise § 3282.361(b) (2), (3), (4) and (5) and (c) (1), (2) and (4) to allow DAPIAs to prepare designs and quality assurance manuals and changes to them in conjunction with manufacturers. HUD could deny a particular DAPIA the right to produce designs or quality assurance manuals if the designs and quality assurance manuals it produces are found not to conform to the standards. The rule would provide that the right of a DAPIA to revise design packages will expire one year after the effective date of the rule, unless specifically extended by the Secretary.

To be consistent with these proposed changes, the provisions which require DAPIAs to prepare design and manual deviation reports would be eliminated. Such requirements would serve no useful purpose since, under the proposed changes, the DAPIA would be able to make whatever changes are necessary. In addition, in those cases where the manufacturer wants to modify the design or manual, the elimination of the report requirement would simplify and speed communication between the DAPIA and the manufacturer's designer. This change would be accomplished by revision of § 3282.361(b)(3) and (c)(2).

A related provision of the proposed rule would require any Primary Inspection Agency (PIA) which wishes

to challenge a DAPIA approved design, quality assurance manual or listing to attempt to resolve the difference directdly with the DAPIA before bringing it to the Secretary's attention. Frivolous appeals of DAPIA approvals have unnecessarily burdened the Department's resources and have caused confusion and delay to manufacturers. Proposed amendments to §§ 3282.360 and 3282.361(a)(2) would require a challenger to consult with the DAPIA before referring the matter to the Secrertary for final determination. If the matter is referred to the Secretary, the referral must be accompanied by full documentation. This approach has worked effectively when used informally by program participants.

The proposed rule would also clarify procedures concerning third-party certification of products used in manufactured homes. Section 3282.360 would be amended to make it clear that PIAs must determine that a product listing complies with the Federal manufactured home construction and safety standards (Federal standards) before accepting the product for use in manufactured homes. The phrase "all PIAs (Primary Inspection Agencies) shall accept all product verification programs, labelings, and listings" in § 3282.360 has been misinterpreted by some PIAs to allow acceptance of a listing to any standard regardless of whether it is incorporated by reference into the Federal standards, and some PIAs have actually accepted listings which do not require compliance with the Federal standards. The proposed amendment to § 3280.360 would clarify this issue.

Another provision would amend § 3282.361(b)(2) to provide for a more systematic submission of documentation by the manufacturer for DAPIA approval. Existing § 3282.361(b)(2), which requires the manufacturer to submit, for the DAPIA's evaluation, floor plans and specific information for each manufactured home design or variation, has been subject to varying interpretations. By stating more specifically those items which must be submitted, the proposed amendment would eliminate some confusion.

Finally, several provisions of the proposed rules address the requirements for inspection labels and data plates which must be attached to each manufactured home. An amendment to § 3282.362(c)(2)(i)(G) is proposed which would require Production Inspection Primary Inspection Agencies (IPIAs) to inspect on dealer's lots manufactured homes which the IPIA has reason to believe do not conform to the Federal standards. After such inspection, the IPIA would be required to place a red tag on any manufactured home which is found not to conform.

Section 3282.362(c)(2)(i) (G) and (H) now provides for the red tagging by IPIAs of labeled homes which do not meet the Federal standards, and for replacing lost of damaged labels. The intent of this section is to assure that labels would never be removed unless the home is damaged beyond repair or sold for salvage. The label is the manufacturer's certification that the home complies with the requirements of the Act. Its removal, except under strictly controlled conditions, may result in its illegal application to homes which do not comply with the requirements of the Act. Red tag procedures are provided to prohibit the sale of noncomplying homes. The proposed rule would amend § 3282.362(c)(2)(i)(B) by specifying that the label shall not be removed unless the home is damaged and sold for salvage or unless it is used for purposes other than as a single family dwelling. It would also provide new §§ 3282.362(c)(2)(i) (I) and (J) which describe the disposition and replacement of labels on manufactured homes which have been sold for salvage. The proposed rule would amend § 3282.362(c)(2)(i)(H) to state that labels may only be replaced under circumstances described in §§ 3282.362(c)(2)(i) (I) and (J).

Section 3282.362(c)(3)(i) now requires that data plates be placed in manufactured homes, and that such data plates show the model designation of the unit. The current practice of showing an alpha-numeric designation of the number of rooms and the size of the model does not designate the model. There is frequently more than one floor plan for each alpha-numeric designation. Each floor plan references specific variations in the systems drawings which are peculiar to that floor plan. IPIAs, monitoring inspectors, and, in many instances, factory workers cannot determine from the alpha-numeric designation alone which drawings they must refer to in order to assure conformance. The proposed rule would revise § 3282.362(c)(3)(i)(B) by requiring the manufacturer, as part of the model designation, to list on the data plate, the drawing number of the floor plan and to cross-reference it to the appropriate systems drawings.

Section 3282.362(c)(3)(ii) now requires IPIAs to maintain a permanent record of all data plates issued under their surveillance. The proposed rule would eliminate this unnecessary record-keeping. The Department does not use the data plates that have accumulated in IPIA files. The IPIA files have become bulky and expensive to maintain. If needed, the information on the data plate could be reconstructed from production records and design package records maintained by the Department's monitoring contractor. The proposed regulation would remove § 3282.362(c)(3)(ii).

Although this rule would give DAPIAs greater responsibility in several important areas of the manufactured housing program, that responsibility would not be unrestrained and the DAPIAs would not be free from supervision. HUD and its monitoring inspection contractor would continue to monitor each DAPIA's activities. As is now the case, a DAPIA which does not adequately carry out one or more of its functions may be disqualified under 24 CFR 3282.356(a). Moreover, manufacturers would still be free to replace an unsatisfactory DAPIA, subject only to the contract between the manufacturer and the DAPIA.

Several of the revised procedures which are proposed by this rule would only be in effect for one year after the effective date of the final rule unless specifically extended by the Secretary. During this one year period, HUD will evaluate these procedures and, if they prove to be desirable, HUD will extend them. The provisions which would initially be effective for only one year include Part 3282, sections 203f, 361(b)(2), 361(b)(3), 361(b)(4), 361(c)(1), 361(c)(2) and 362(c)(4).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington D.C. 20410.

This proposed rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment,

productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have significant economic impact on a substantial number of small entities. While the amendments proposed by this rule would have an effect on manufacturers and Primary Inspection Agencies, some of which may constitute small entities, the economic impact on them will not be significant.

The information collection requirements contained in this rule have been submitted by the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

This proposed rule is listed as Item H-107-82 on page 47450 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47421), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.804—Manufactured Housing.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Mobile homes.

PART 3282—[AMENDED]

Accordingly, it is proposed that 24 CFR Part 3282 be amended as follows:

1. By revising § 3282.203(f) to read as follows:

§ 3282.203 DAPIA Services.

* * * * *

(f) The information to be submitted to the DIPIA for approval under paragraphs (b) and (c) of this section may be prepared by the manufacturer's staff or by outside consultants; or, at the manufacturer's option, it may be prepared in part or in whole by the DAPIA. However, regardless of who prepares it, it must be prepared over the manufacturer's title block, and it must be cross referenced to the specific models to which it applies. If approved, the DAPIA must indicate its approval on each page or sheet by placing its stamp of approval thereon. The right of any DAPIA to prepare the information required under paragraphs (b) and (c) of this section will last for one year from the effective date of this rule unless specifically extended by the Secretary. The Secretary may deny a DAPIA the right to produce this information if it is determined that the information produced by the DAPIA does not conform to the standards or to these regulations.

* * * * *

§ 3282.359 [Amended]

2. By removing § 3282.359(b)(5).

3. By revising § 3282.360 to read as follows:

§ 3282.360 PIA acceptance of product certification programs or listings.

In determining whether products are acceptable to be included in a manufactured home, all PIAs shall accept all product certification programs, labelings, and listings which have been approved by a DAPIA as being in compliance with the standards set out in 24 CFR Part 3280 including all standards incorporated by reference. The DAPIA shall determine that the certification program provides adequate inspections on a continuing basis to assure that the products manufactured are equal to the specimens which were originally tested. After a DAPIA has approved a product certification program, labeling, or listing, any PIA which has reason to believe that the certification is not acceptable shall, after making a reasonable effort to resolve the problem in consultation with the DAPIA, inform the Secretary and provide the Secretary with full documentation on which its belief is based. Pending a determination by the Secretary, the PIA shall continue to accept the certification. The Secretary's determination shall be binding on all PIAs.

4. By revising paragraphs (a)(2), (b)(2), (3), (4) and (5) and (c)(1), (2) and (4) of § 3282.361 to read as follows:

§ 3282.361 Design Approval Primary Inspection Agency (DAPIA).

(a) *General.* * * *

(2) A design or quality assurance manual approved by a DAPIA shall be accepted by all IPIAs acting under § 3282.362, as being in conformance with the Federal standards or as providing for adequate quality control. However, each design and quality assurance manual is subject to review by the Secretary in order to determine whether it is in compliance with the Federal standards and these regulations. Should an IPIA, and SAA, or HUD's contractor challenge a design or any part thereof, after first making a reasonable effort to resolve the problem with the DAPIA who approved the design, the challenger may refer the matter to the Secretary together with full documentation as to why the design is not in compliance. Pending a determination by the Secretary, the IPIA shall provisionally accept the DAPIA approval. The Secretary's determination shall be binding on all parties.

(b) *Designs.* * * *

(2) The DAPIA shall require the preparation of floor plans and specific design information for each manufactured home model or model variation. By mutual agreement the manufacturer may prepare the complete design package or the DAPIA may prepare it in part or in whole. In either case the design package shall specify a floor plan and all of its variations. Each floor plan or variation shall identify and reference each manufactured home assembly, subassembly, detail drawings and all specifications. Each drawing or any part thereof shall be cross referenced so that each design component can be tied to a specific floor plan or plans which the DAPIA is to evaluate. The design package shall include all drawings, specifications, calculations and test records of the structural, plumbing, electrical and mechanical systems of each floor plan. The design package need not contain duplicate information where systems are referenced as being common to several floor plans. The common information shall be clearly cross referenced with those floor plans. Each DAPIA shall develop and carry out procedures for evaluating original manufactured home designs by requiring manufacturers to submit necessary drawings and calculations or by supplying such drawings and calculations and carry out such verifications as it deems necessary. Where compliance with the standards cannot be determined on the basis of drawings and calculations, the DAPIA shall require any necessary tests to be carried out at its own facility, at separate testing facilities or at the manufacturer's plant. The right of any DAPIA prepare design packages will last for one year from the effective date of this rule unless specifically extended by the Secretary.

(3) *Design deviations.* After evaluating a design package which does not conform to the Federal standards and these regulations, the DAPIA, by agreement with the manufacturer, shall either: (i) Revise, in accordance with § 3282.203(f), the drawings, calculations, and specifications which it finds in nonconformance with the Federal

standards and regulations; or (ii) require the manufacturer to supply the necessary corrections which will bring the entire design package into conformance with the Federal standards. The DAPIA's right to revise design packages will last for one year from the effective date of this rule unless specifically extended by the Secretary.

(4) *Design approval.* The DAPIA shall signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA shall clearly cross-reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross-referencing if it wishes. Within 5 days after approving a design, the DAPIA, shall forward a copy of the design to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards, the latter copy shall go to the Secretary). The DAPIA shall maintain a complete up-to-date set of approved designs and design changes approved under paragraph (b)(5) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(5) *Design change approval.* The DAPIA shall also be responsible for approving all changes which a manufacturer wishes to make in a design approved by the DAPIA. At the manufacturer's option, the design changes may be prepared in part or in whole by the DAPIA in accordance with § 3282.203(f). The DAPIA shall indicate on the approved change document the date of its approval and the date the change will become effective in the manufacturing process and what drawings, calculations, tests, etc., if any, are superseded by the change. In reviewing design changes, the DAPIA shall respond as quickly as possible to avoid disruption of the manufacturing process. Within 5 days after approving a design change, the DAPIA shall foward a copy of this change to the manufacturer and the Secretary or the Secretary's agent as set out in subparagraph (b)(4) of this section to be included in the design to which the change was made. The right of any DAPIA to prepare design changes under this subparagraph will last one year from the effective date of this rule unless specifically extended by the Secretary.

(c) *Quality Assurance Manuals.* (1) In evaluating a quality assurance manual, the DAPIA shall identify any aspects of designs to be manufactured under the manual which require special quality control procedures. The DAPIA shall determine whether the manual under which a particular design is to be manufactured reflects those special procedures, and shall also determine whether the manuals which it evaluates provide for such inspections and testing of each manufactured home so that the manufacturer, by following the manual, can assure that each home it manufactures will conform to the standards. The manual shall, at a minimum, include the information set out in § 3282.203(c). At the manufacturer's option, the manual may be prepared in part or in whole by the DAPIA. The right of any DAPIA to prepare the manual will last for one year from the effective date of this rule unless specifically extended by the Secretary.

(2) *Manual deviations.* After evaluating a quality assurance manual which does not comply with the Federal standards and these regulations, the DAPIA, by agreement with the manufacturer, shall either: (i) Revise in accordance with § 3282.203(f), the parts of the manual it finds in nonconformance with the Federal standards; or (ii) require the manufacturer to supply the necessary corrections which will bring the entire manual into conformance with the Act. The right of any DAPIA to revise the manual under this subparagraph will last for one year from the effective date of this rule unless specifically extended by the Secretary.

* * * * *

(4) *Manual change approval.* Each change that the manufacturer wishes to make in its quality assurance manual shall be approved by the DAPIA. At the manufacturer's option, the manual changes may be prepared in whole or in part by the DAPIA and they shall be identified with the specific page of the manual which is changed and stamped with the DAPIA's approval. Within 5 days after approving a manual change, the DAPIA shall forward a copy of the change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made. The right of any DAPIA to prepare manual changes under the subparagraph will last one year from the effective date of this rule unless specifically extended by the Secretary.

* * * * *

5. In § 3282.362 revise paragraph (c)(2)(i) (B), (G) and (H), by adding new subdivisions (I) and (J) to paragraph (c)(2)(i), by revising paragraph (c)(3)(i)(B), and by removing paragraph (c)(3)(ii), to read as follows:

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

* * * * *

(c) *Production surveillance.* * * *

(2) *Labeling*—(i) Labels required.

* * *

(B) Except where a manufacturer acts under the transition certification program under § 3282.207, a permanent label shall be affixed to each transportable section of each manufactured home for sale or lease to a purchaser in the United States in such a manner that removal will damage the label so that it cannot be reused. This label is provided by the IPIA and is separate and distinct from the data plate which the manufacturer is required to provide under §§ 3280.5 and 3282.362(c)(3) of Chapter XX of 24 CFR. Once affixed, the label shall not be removed from the manufactured home by the manufacturer, the IPIA or any person for any reason with the sole exception that if the unit has been damaged and sold for salvage or used for purposes other than a single-family dwelling then a concerted effort must be made to recover the label as expeditiously as possible.

* * * * *

(G) Whenever the IPIA determines that a manufactured home which has been labeled, but which has not yet been released by the manufacturer does not conform to the design or, as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA by itself or through an agent shall red tag the manufactured home. Where the IPIA determines that a manufactured home which has been labeled and released by the manufacturer, but not yet sold to a purchaser (as described in § 3282.252(b)) does not conform, the IPIA by itself or through an agent shall proceed to red tag the manufactured home. In addition, where the IPIA has reason to believe that a manufactured home which has been labeled and released by the manufacturer, but not yet sold to a purchaser (as described in § 3282.252(b)) may not conform, the IPIA shall go and inspect such home in order to determine whether it conforms. Only the IPIA is authorized to remove red tags, though it may do so through agents which it seems qualified to determine that the failure to conform has been corrected. Red tags may be removed when the IPIA is satisfied, through inspections and assurances from the manufacturer or otherwise, that the affected home(s) conform.

(H) Labels which are lost, damaged, removed or missing, may be replaced only with the Secretary's approval or in accordance with §§ 3282.362(c)(2)(i) (I) and (J).

(I) If the manufactured home has been damaged before its sale to a purchaser (as described in § 3282.252(b)) and the manufacturer does not elect to repair it, it may be sold for salvage. If a home is sold for salvage the manufacturer or the IPIA shall remove the label, render it unuseable, record its removel and return it promptly to the Secretary's Monitoring Contractor or to the Secretary. A home which has been sold for salvage may be relabeled if the salvage company engages a DAPIA and IPIA and brings the damaged manufactured home into compliance with the Federal standards as required by the Federal regulations.

(J) Where a section of a multi-section manufactured home is destroyed or sold for salvage, and such section is to be replaced, the labeling record for the new section shall show that it was mated with the original surviving section.

* * * * *

(3) Data plate. (i) * * *

(B) The serial number, the date the unit was manufactured, and the model designation including the drawing number of the floor plan or final assembly drawing (the floor plan or final assembly drawing shall reference all of the subassemblies, subsystems, and components in the design package which specifically apply to the home).

* * * * *

Authority: Section 625 of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: April 16, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-21423 Filed 8-10-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 538]

The Hamptons, Long Island Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF), is considering the establishment of a viticultural area located in Suffolk County on the South Fork of Eastern Long Island, New York. The proposed viticultural area includes all of the land areas in the Townships of Southampton and East Hampton. The petition was submitted by a vineyard/bonded winery owner located within the boundaries of the proposed viticultural area. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

DATES: Written comments must be received by September 27, 1984.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 538).

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, ATF Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION: .

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name and location of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

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

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

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

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

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

Petition

ATF has received a petition proposing a viticultural area on the South Fork of Eastern Long Island, New York. The proposed viticultural area is to be known as "The Hamptons, Long Island." The petition was submitted by Mr. Lyle Greenfield, owner of the Bridgehampton Winery which is located at Bridgehampton, Long Island, New York. The proposed viticultural area consists of all of the land found in Townships of Southampton and East Hampton (including Gardiners Island) in Suffolk County. The area encompassed by the proposed boundaries consists of 213.2 square miles or 136,448 acres of land that is bounded on the south and east by the Atlantic Ocean. To the north is the Peconic Bay which separates the North Fork of Long Island from The Hamptons. To the west lies the remainder of Long Island where the two forks meet. There are now 55.5 acres of vinifera grapes growing and one bonded winery located within the proposed viticultural area.

The petitioner bases this petition on the following information:

Historical and current evidence regarding the name and boundaries, provided by the petitioner include:

(a) Historical Evidence of Name

The first English settlers arrived around 1640 to the area now known as The Hamptons. By the time of the American Revolution the entire area of the southern fork of Eastern Long Island had been settled. The first town to be established in this area was Southampton which was so named for Henry Wriothesly who was the Earl of Southampton, England. Wriothesly was

very active in colonizing the new world as he was Director and Treasurer of the Virginia Company and was well known by the leading men of Southampton in the Colony of New York. The towns of East Hampton, Bridgehampton, Westhampton and Hampton Bays were established by the late eighteenth century.

This area thereafter became known as "The Hamptons," obviously due to the common ending of the major town names and a desire to preserve the area's English heritage. Today this name is commonly used to describe the locality. This is evident by the many publications, businesses and landmark descriptions which use the name "The Hamptons" to distinguish this region from the rest of Long Island, New York.

(1) *Viticultural History*

For more than 300 years, The Hamptons have been a productive agricultural growing region. Wine grapes had been introduced to Eastern Long Island as early as the 18th Century by a French immigrant, Moses Fournier. Records indicate that vineyards were flourishing in Southampton during Colonial times, although the types of grapes that were grown and what happened to the plantings is not known. Most of the grapes planted in The Hamptons region prior to the 20th Century were cultivated in relatively small vineyards; the grapes and wine which resulted from them were used principally for private consumption. Many of the local Indians, however, may have actually tended vineyards several hundred years earlier.

In 1979, the tradition of grape-growing in The Hamptons region once again came into focus with the installation of 2 vinifera grape plantings. It was in this year that Lyle Greenfield of Bridgehampton and Ken Conrad of Sag Harbor each planted their own vineyard of vinifera wine grapes in Bridgehampton and Water Mill, respectively. The Bridgehampton Winery, with presses in The Hamptons viticultural area, released two wines for sale in 1983 (Chardonnay and Riesling).

There are presently 55.5 acres of grapes growing in the proposed viticultural area of which 5 acres are located near the Atlantic Ocean at Sagaponack in the Town of Southampton. All of the grapes are vinifera grapes and almost all of them are now producing a crop.

According to the petitioner The Hamptons region has potential for vineyard expansion. Current growers are making more land available to them for potential vineyard expansion. In addition, there are still hundreds of acres of prime farmland in The Hamptons region that are available for the planting of grapes in the future.

(b) Evidence of Boundaries

The boundaries of "The Hamptons, Long Island" viticultural area may be found on five U.S.G.S. maps. They are titled "Riverhead, NY," 7.5 minute series, scaled at 1:24,000, edition of 1956; "Eastport, NY," 7.5 minute series, scaled at 1:24,000, edition of 1956; "New York, NY; NJ; Conn.," U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979; "Providence, RI; Mass.; Conn.; NY," U.S. 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969; "Hartford, Conn.; NY; NJ; Mass," U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975. The specific description of the boundaries of the proposed viticultural area is found in the regulations which immediately follow this preamble.

Evidence of the geographical characteristics which distinguish "The Hamptons, Long Island" proposed viticultural area from the surrounding areas includes the following information:

The actual geographic area of The Hamptons although attached to a larger island, may be referred to as a peninsula or fork. This is due to the fact that 3 of its boundaries are surrounded by water, the Atlantic Ocean to the south and east and the Peconic Bay to the north. The Hamptons region lies entirely in Suffolk County and is governed under the State of New York. The western boundary of The Hamptons appellation is the 10 mile long boundary line separating Southampton and Brookhaven Townships. The North Fork consists of the Townships of Riverhead and Southold. The Hamptons (South Fork) consists of the Townships of Southampton and East Hampton (213.2 sq. mi.).

The Hamptons begins roughly where the 2 forks begin to separate. The northern border of The Hamptons has its beginnings at the Peconic River in Riverhead Township and follows the river's path to Peconic Bay. The Peconic Bay accounts for the rest of the northern boundary, meeting the Atlantic Ocean at Montauk Point at the eastern tip of Long Island. Gardiners Island is located off the shore of East Hampton Township. The entire length of The Hamptons is approximately 54 miles from its beginning at the Brookhaven/Southampton Town Line to its end at the tip of Eastern Long Island at Montauk Point. The Hamptons is 10 miles wide at its widest point and less than ½ mile wide at its narrowest point.

(1) Soils

Mr. Richard T. Harbich, Vineyard Manager and Cellarmaster of the Bridgehampton Winery submitted evidence which states that the soils which make up The Hamptons are distinctly different from those of the surrounding areas. Mr. Harbich is the author of the articles titled "Vinifera Growing On Long Island" and "The Long Island Viticultural Area—The Case For Separate Appelations" which appeared in the Vinifera Wine Growers Journal (The Plains, Virginia) in the Winter, 1982 and Spring 1984, issues, respectively. According to data gathered by Mr. Harbich, the difference in soils occurs fairly abruptly, beginning at the Peconic River and continues eastward to Montauk Point. This also designates exactly the proposed northern boundary for "The Hamptons, Long Island" appellation.

According to the United States Conservation Service the predominant soil types which are found in the land area north of The Hamptons commonly known as the North Fork are as follows:

1. *Carver-Plymoutn-Riverhead Association:* These soils are excessively well-drained and are very sandy. They are located primarily on the perimeter of the North Fork and are usually rolling or sloping in terrain. The natural fertility of these soils is low and the rapid permeability of water through them makes irrigation a desirable option for vineyards in this area.

2. *Haven-Riverhead Association:* These soils are characteristically deep and somewhat level. They are well-drained and have a medium texture. Most of these soils have a moderate to high water holding capacity and crops respond well to lime and fertilizer when grown in these soils. Due to these factors, this soil association (which is the predominant one of the North Fork) is considered one of the best farming areas in Suffolk County.

The soils of The Hamptons on the other hand are somewhat different and many more soil associations are present:

1. *Plymouth-Carver Association:* These soils are rolling, hilly, deep and excessively drained. Characteristically, scrub oak and other minor trees are found as cover. Permeability is rapid and natural fertility is low. Most of these soils have never been farmed due to these factors and hence they are known to be poor supporters of crops.

2. *Bridgehampton-Haven Association:* These soils are deep and excessively drained and have a medium texture. It is its depth, good drainage and moderate to high available water-holding capacity

that make this soil well-suited to farming. Most of these areas are currently under cultivation of potatoes and vegetables. These soils are the main reason why potato and vegetable growers in The Hamptons have consistently used less irrigation water than their North Fork counterparts.

3. *Montauk-Montauk, Sandy Variant-Bridgehampton Association:* These soils are deep and usually very sloping. Its steep slopes, irregular topography and a high water table limit the potential of this area for conventional farming, but may be very suitable for supporting grapes. Presently, most of this areas is either idle or wooded.

4. *Montauk, Sandy Variant-Plymouth Association:* These soils are excessively drained and coarse textured. Sloping areas within this association also limit conventional farming practices. This loamy-sand is droughty but contains a black surface layer which is high in organic matter content. There is no indication that grapes cannot be grown on these soils.

5. *Montauk-Haven-Riverhead Association:* These soils are fairly well-drained and are located mainly on the northern side of The Hamptons along the Peconic Bay. The surface layer is a silt loam, with a fine sandy loam found at deeper levels. These soils are very deep and well suited to cultivation.

6. *Dune-Land-Tidal Marsh-Beach Association:* The remainder of the soils in The Hamptons consist of these types of soils which make up the beach and marshland areas, both of which are unsuitable for farming.

As previously stated by the petitioner the soils of the North Fork and The Hamptons are quite different. At the Town of Riverhead where the forks meet, there is still some slight separation of the different soil associations. To the west of The Hamptons, the soil associations of Long Island tend to become less restricted to a distinct geographic area and much more intermingling and blending of soil series can be found. Along with this fact, there are the soils making up the "spine" of Long Island, known as the "Pine Barrens." These "Pine Barrens" run east and west down the center of Long Island. The Pine Barrens are an untouched pine stand, one of the last wild areas on Long Island. The soils of the "Pine Barrens" can support only short scrubby pine forests. This is the only vegetation found in the light, extremely sandy and unfertile soils found just west of The Hamptons. This land area is the major ground water recharge basin for Suffolk County. This area is presently being considered by New York State for preservation status, due to its importance for Long Island's water supply.

Further west from here through Nassau County and into New York City, the soil associations become more foreign to those found on the eastern end of Long Island. Of major importance, it must also be pointed out that while various soil types found to the west of The Hamptons may be similar to those found there, the encroachment of dense suburban and industrial development on Long Island has made commercial agriculture and land available for it almost non-existent in the townships west of the proposed viticultural area.

Land classes are subdivisions determined by the U.S. Soil Conservation Service to rate the capabilities of various soil series. Most of the soils in The Hamptons and surrounding land areas including the North Fork fall into the Land Class members I and II. These soils contain few or moderate limitations that restrict their use. There is, however, a greater percentage of soil series associations in The Hamptons which are listed under Class III. These soils have limitations that reduce the choice of plants, require special conservation practices, or both. In general, the soils of The Hamptons contain a greater percentage of silt and loam than the soil series associations found on the North Fork. This accounts for the fact that The Hamptons soils have a greater water-holding capacity than North Fork soils and hence require less irrigation. The soils of The Hamptons are also generally slightly lower in natural fertility than the soils of the North Fork.

Also included in "The Hamptons, Long Island" viticultural area is Gardiners Island which is part of the Township of East Hampton. This island, although separate from the mainland is composed mostly of Montauk and Plymouth soil associations, which are the same as those making up the remainder of The Hamptons.

These and other differences which are associated with different soil types and series found in The Hamptons can greatly affect the growth of grapes. The petitioner feels that the differences in soil types, series and associations found between The Hamptons and the surrounding areas can impart distinct variations in the components of the grapes and also in the wine made from those different areas.

(2) Climate

The petitioner claims that although The Hamptons and the North Fork are relatively close together, there are many climatic differences which exist between them. These differences are due to the unique topography of the eastern end of Long Island and the relation of the two forks to the Atlantic Ocean.

Most of the climatic data for the eastern end of Long Island is recorded mainly from three weather stations: the Cornell Experimental Station in northern Riverhead (located on the North Fork), the Greenport weather station (located on the North Fork), and the Bridgehampton weather station in The Hamptons (located on the South Fork). The Cornell Station at Riverhead has been recording weather data since the 1950's, while the Bridgehampton Station has been operating for almost half a century.

According to Mr. Richard Hendrickson, who has been the caretaker of the Bridgehampton Weather Station since 1938, there are definite climatic differences which exist between the two forks. He has made this observation by comparing his many years of data accumulated from the Bridgehampton Station with weather data from the North Fork. He also makes this observation from living in the area for his entire lifetime. Mr. Hendrickson states that on the average, the winter months are colder on the North Fork. There the colder temperatures average 1½ to 2 degrees (F.) colder than The Hamptons. The reason for this is that the North Fork is further away from the Atlantic Ocean and hence does not receive the warmed southwest winds which come in from the Atlantic Ocean that The Hamptons receive. In the winter, the prevailing winds come from the southwest and are warmed by the Atlantic Ocean. The ocean in the winter has a buffering effect due to its accumulation of heat from the summer and fall months. This wind will therefore buffer the temperature of The Hamptons as it passes over them, however, by the time the wind passes over the colder Peconic Bay and reaches the North Fork, it has lost much of its warmth and hence does little to buffer the temperatures of the North Fork.

By the time spring arrives on Long Island, the ocean has cooled somewhat from the low winter temperatures. Breezes coming from the south at this time of year will therefore become cooled by the ocean, and as they pass over the warming land, a fog will often be produced. This fog will often become trapped on The Hamptons due to the many hills and rolling areas which exist there. Therefore, in the springtime, the North Fork will usually have more sunshine earlier and also have a higher

average temperature. This is evident by the fact that the strawberries, sweet corn and potatoes grown on the North Fork begin to grow and ripen earlier than those same crops grown in The Hamptons.

During the summer months the southern breezes coming off the cool ocean will continue to keep average temperatures of The Hamptons lower. As the winds pass over The Hamptons, they travel over the Peconic Bay which is a smaller body of water and hence warmer. The winds absorb much of the warmth from the bay and therefore cause the average temperatures on the North Fork to be higher than The Hamptons during the summer months. Mr. Hendrickson also explained that during the summer, the North Fork receives a greater number of thunder and lightning storms. These storms usually arrive form the west, and are pushed over towards the North Fork by the prevailing southeast winds.

During the fall, The Hamptons can also expect cooler temperatures than the North Fork, especially during the night. Otherwise, both forks have the benefit of enjoying a fall season consisting of a lot of sunshine and normal amounts of precipitation. The ocean effect, which alters the climates of both the North and South Fork is considerably reduced west of Riverhead, where the island widens. The petitioner states that it is this reason along with the increased blending of soil series, which would keep either fork from being considered part of a larger Long Island appellation.

According to the petitioner, although the amount of sunshine and rainfall can have an effect on the length of the growing season, the single most important factor is the number of days between the spring and fall frosts. In data taken from the Riverhead Station on the North Fork and from the Bridgehampton Station in The Hamptons (South Fork), there are definite differences in the frost dates for both forks. During the 6-year period from 1978–1983 the number of days between frosts, or the length of the growing season averaged 195 days on the North Fork and 182 days in The Hamptons. During those years there were anywhere from 1 to over 3 weeks less time for the growing season in The Hamptons as compared to the North Fork.

The petitioner claims that this is a very significant difference. When this data is further examined, it was seen that this difference occurs mostly between the dates of the last spring frost. The average last frost in The Hamptons is usually around April 23rd, while that on the North Fork occurs around the beginning of April. This spring difference is much greater than the difference between the first fall frosts, which usually occur during the end of October to the beginning of November on both forks. This supports the fact that the growing season gets off to a slower start in The Hamptons.

The use of heat summation or "Growing Degree Days" is also another standard for determining climatic differences in grape-growing areas. Heat-summation is a standard developed by the University of California at Davis, and it is the measurement of the mean monthly temperatures of a single area, above 50° F. The importance of heat summation above 50° F. (10° C.) as a factor in grape quality has been indicated by Koblet and Zwicky (1965) and also by Amerine and Winkler (1944). The University of California broke down various areas in California into 5 climatic regions. They are as described as follows:

Region I—Less than 2,500 degree-days
Region II—2,501–3,000 degree-days
Region III—3,001–3,500 degree-days
Region IV—3,501–4,000 degree-days
Region V—4,001 or more degree-days

The average number of degree days for the North Fork (at Riverhead) and The Hamptons (at Bridgehampton) are as follows:

Riverhead (1941–1970)—2,932
Bridgehampton (1941–1970)—2,531

From the period of 1941 through 1970, the average number of heat summation days for the Riverhead Station placed them between the Regions II and III. During the same period, Bridgehampton was placed between the Region I and II.

The growing degree days for the periods 1973 to 1979 averaged 2,575 for Bridgehampton and 2,987 for Riverhead. During this time the area of the Riverhead Station on the North Fork varied between Regions II and III while the Bridgehampton area varied between Regions I and II.

The petitioner claims, as far as grape growing areas are concerned, this is a significant difference. In the years 1941–1979, the number of degree days in The Hamptons rarely came close to the number accumulated on the North Fork. The petitioner states that this is another distinguishing climate feature which exists between the North Fork and The Hamptons.

The petitioner goes on to say that climate and soil have a very significant effect on the kind and quality of grapes which can be grown in a particular location. The difference in these two important factors which exists between the North Fork and The Hamptons can have a substantial effect on the growth of the wine grapes in these two areas. For instance, the emergence of buds in The Hamptons may be 1–3 weeks later than bud-break on the North Fork, thereby shortening the growing season. The cooler temperatures encountered during the growing and ripening seasons in The Hamptons can also impart special qualities to wine grapes grown there. Cooler ripening weather fosters a higher degree of acidity, a lower pH and in some instances may bring to the mature fruit, optimum development of aroma and flavoring constituents—the precursors of the bouquet and flavor complexities of the wines. Grapes in The Hamptons are also growing in soil of a heavier texture requiring less, if any, irrigation. The petitioner believes this factor along with the differences in the natural fertility of the soil may also produce subtle differences in the grapes and finished wines. As previously stated by the petitioner, the Atlantic Ocean is the main reason for The Hamptons and more so, the North Fork's buffered climate patterns. Heading west, as the two forks merge into the main body of Long Island, the effect of the Atlantic Ocean is greatly diminished. This is evident when data from Bridgehamption is compared with data from specific areas west of the proposed viticultural area. At the Brookhaven National Laboratory located in central Long Island and Patchogue located on the Great South Bay on the south shore, specific comparisons can be made. The Brookhaven National Laboratory located less than 15 miles west of The Hamptons can have as much as 50 days less of a growing season (growing season averages 150 days 1973–1982) than that recorded at Bridgehampton. Patchogue has as much as 36 days less (growing season averages 176 days 1973–1982) with most seasons being around 1–2 weeks less than Bridgehampton.

The amount of heat summation or growing degree days accumulated in areas to the west of The Hamptons also differs considerably. During the period 1973–1979 the growing degree days averaged 2,403 at the Brookhaven National Laboratory while at Bridgehampton it averaged 2,575 degree days. Over that period the Brookhaven Lab averaged 172 degree days less than Bridgehampton. This significant difference in heat summation correlates with the shorter growing season found at Brookhaven.

The petitioner states that the main reason why the climate differs west of The Hamptons is due to the lesser effect of the Atlantic Ocean on buffering temperatures. As the buffering

southwest winds approach western Long Island, they first must travel over a small sliver of land known as Long Beach, Jones Beach and Fire Island. The winds then must travel over the inlets of South Oyster Bay, Great South Bay and Moriches Bay, before traveling over the main body of Long Island. The combination of passing over the narrow, colder, island strips and bays causes a slight loss in the warmth of the winds, thereby lessening its effect in buffering the mainland. By the time the winds travel north, a few miles inward, they have lost a great deal of the warmth they had previously carried and hence do significantly less to control temperatures than the breezes traveling over The Hamptons. The Hamptons and the North Fork are much narrower strips of land than the main body of Long Island, and therefore alter the temperatures of the winds to a much lesser degree than western Long Island. Data obtained by the petitioner for the periods 1973–1981 show Patchogue averaging 4.1 degrees (F.) cooler than Bridgehampton for the same period.

As previously stated, the petitioner believes the reasons for drawing the western boundary of The Hamptons at the Southampton Town Line are quite numerous. To support these reasons the petitioner emphasized the following:

First and foremost, commercial agriculture, and farmland available for grape-growing are quite limited west of the Riverhead area. The "Pine Barrens" are unsuitable for planting. The remaining areas available for agriculture, to the north and south of the "Pine Barrens," may be suitable for grape growing, however the differences in both soil and climate distinguish this area significantly from The Hamptons. Apart from various soil types having different characteristics, the growing season in this area can be considerably shorter than that found in The Hamptons. The diminished ocean effect in this area, is very inconsistent, allowing for a greater occurrence of late spring and early fall frosts. The consistently shorter growing season, lower amount of heat summation and lower winter minimums, found west of the Town of Riverhead greatly increase the threat of winter injury to the grapes and could force the vintner in this area to carry out cultural practices similar to those used in the colder regions of upstate New York. Certain areas, namely the Town of Brookhaven, are probably not even suited to vinifera at all; vinifera grapes need a minimum of 160 days (average) of growing season. According to the petitioner, this last fact is all the more reason why the western boundary for The Hamptons should be the Southampton Town Line. The petitioner states that this boundary closely defines an area with unique climatic and geographic conditions, different from the rest of Long Island.

To summarize, the petitioner feels that it is extremely important that the specific grape growing areas on Long Island be recognized and set apart from one another in order to maintain quality, individuality and also to protect the consumer. The petitioner concluded by saying that the evidence presented in the petition strongly suggests that "The Hamptons, Long, Island" region has within its boundaries distinct and unique grape growing conditions which warrant the need for approval of a separate viticultural area.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking because the proposal is not expected: (1) To have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause, a significant increase in the reporting recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact nor compliance burdens on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

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

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for "The Hamptons, Long Island" viticultural area. However, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires a public hearing on these proposed regulations should submit his or her requests, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

ATF has received another petition proposing a viticultural area on the North Fork of Eastern Long Island, New York. The petition was submitted by The Long Island Grape Growers Association. The proposed viticultural area is to be known as the "North Fork of Long Island." The proposed area is in Eastern Suffolk County and consists of the Townships of Riverhead and Southold. To date ATF has not received all of the supporting evidence for this petitioned viticultural area. As soon as that information is received a notice of proposed rulemaking will be published in the Federal Register for public comment.

List of Subjects in 27 CFR Part 9

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

Drafting Information

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

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.101 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.101 The Hamptons, Long Island.

Par. 2. Subpart C is amended by adding § 9.101 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.101 The Hamptons, Long Island.

(a) *Name.* The name of the viticultural area described in this section is "The Hamptons, Long Island."

(b) *Approved maps.* The appropriate maps for determining the boundaries of "The Hamptons, Long Island" viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) "Riverhead, N.Y.," 7.5 minute series, scaled at 1:24,000, edition of 1956;

(2) "Eastport, N.Y.," 7.5 minute series, scaled at 1:24,000, edition of 1956;

(3) "New York, N.Y.; N.J.; Conn., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979;

(4) "Providence, R.I.; Mass.; Conn.; N.Y., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969; and

(5) "Hartford, Conn.; N.Y.; N.J.; Mass., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975.

(c) *Boundaries.* The boundaries of the proposed viticultural area are as follows:

"The Hamptons, Long Island" proposed viticultural area is located entirely within Eastern Suffolk County, Long Island, New York. The proposed viticultural area boundaries consist of all of the land areas of the South Fork of Long Island, New York, including all of the beaches, shorelines, islands and mainland areas in the Townships of Southampton and East Hampton (including Gardiners Island).

The beginning point is found on the "Riverhead, N.Y." U.S.G.S. map on the Peconic River about 2 miles east of Calverton where the Townships of Riverhead, Brookhaven and Southampton meet:

(1) The boundary travels south approximately 10 miles along the Southampton/Brookhaven Township line until it reaches the dunes on the Atlantic Ocean near Cupsogue Beach on the "Eastport, N.Y." U.S.G.S. map.

(2) Then the boundary proceeds east and west along the beaches, shorelines, islands and mainland areas of the entire South Fork of Long Island described on the "New York," "Providence," and "Hartford" U.S.G.S. maps until it reaches the Peconic River near Calverton at the beginning point. These boundaries consist of all of the land found in the Townships of Southampton and Easthampton (including Gardiners Island).

Approved: August 3, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-21348 Filed 8-10-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 72

[CGD 84-034]

Light List Printing Cycle

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the publication schedule of Light List Volume V, Mississippi River System, to provide for a biennial printing. The current regulations require that each volume of the Light List be published annually. This proposed change is in response to requests from the marine industry which note that the small number of yearly changes to aids to navigation on the Mississippi River System does not justify a yearly reprint of Light List Volume V.

DATE: Comments must be received on or before September 27, 1984.

ADDRESSES: Comments should be submitted to: Commandant (G-CMC/44), (CGD 84-034), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 2110, 2100 Second Street, SW., Washington, DC, between the hours of 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Parker, Marine Information Branch, U.S. Coast Guard, (202) 426-9566.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting a comment should include their names and addresses, identifying this notice CGD 84-034, and give the reasons for each comment. Receipt of comments will be achnowledged if a stamped, self-addressed postcard or envelope is enclosed. This proposal may be changed in view of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned.

Drafting Information

The principal persons involved in drafting this rulemaking are Mr. Frank Parker, Project Manager, Marine Information Branch, and Lieutenant Dave Shippert, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulation

The Light List Volume V, Mississippi River System, provides a comprehensive listing of the official names, locations, characteristics, and general descriptions of all aids to navigation maintained by or under the authority of the U.S. Coast Guard on the Mississippi River System. The Coast Guard currently publishes all Light Lists annually to incorporate any changes which have occurred during the preceding twelve months. At the Coast Guard/Marine Industry Aid to Navigation Workshops in St. Louis and Memphis in October 1983, many mariners requested that Volume V of the Light Lists be published biennially. The Coast Guard concurs with this suggestion since there has been, on an average, only 350 changes (including editorial changes) made to Volume V at each annual printing. All other Light List will continue to be published annually since more than 2,000 changes are made to each of the other volumes at every annual printing. The slight number of changes made to aids to navigation on the Mississippi River System during a twelve month period does not fairly justify the cost and inconvenience to mariners of the annual printing. The slight changes which do occur are immediately noted in the Local Notice to Mariners; therefore a biennial publication schedule will not affect navigational safety on the Mississippi River System. The proposed publication schedule will however result in savings to those mariners who are required to have a current Light List onboard while transiting the river system. Section 164.33 of Title 33 Code of Federal

Regulations, requires all self-propelled vessels of 1,600 or more gross tons to have a corrected copy of the Light List onboard for the area of transit.

Evaluation

This proposed regulation is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The number of yearly changes made annually to Light List Volume V does not warrant annual publication. This proposed rule will result in a small savings to both the mariner and the Coast Guard. Since the impact of this proposal 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 72

Government publications, Notice to mariners and light lists, Navigation (water).

PART 72—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 72 of Title 33 Code of Federal Regulations, revising Section 72.05–1(a) to read as follows:

§ 72.05–1 Purpose.

(a) The Coast Guard publishes the following Light Lists annually, with the exception of Volume V, which is published biennially, covering the waters of the United States, its territories and possessions:

* * * * *

(14 U.S.C. 93; 49 U.S.C. 108; 49 CFR 1.46)

Dated: July 6, 1984.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 84–21379 Filed 8–10–84; 8:45 am]

BILLING CODE 4910–14–M

---

46 CFR Part 7

[CGD 81–058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Seagoing Barge Act was revised in 1980 to define a seagoing barge as one that proceeds outside a defined boundary. The Coast Guard published proposed rules in the 7 June 1982 **Federal Register** (47 FR 24604) that sought to establish lines for the Seagoing Barge Act and more clearly define the existing Boundary Lines which govern the application of various maritime safety statutes. A supplemental notice of proposed rulemaking was published in the 15 September 1983 **Federal Register** (48 FR 41454). The Coast Guard has made substantial changes to the earlier proposals as a result of the comments received, and is publishing these revised Boundary Lines as a second supplemental notice of proposed rulemaking to allow for further comment prior to publication of a final rule.

DATE: Comments must be received on or before November 13, 1984.

ADDRESS: Comments should be mailed to Commandant (G–CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G–CMC/44), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Donald B. Parsons, (202) 426–4431.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81–058), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The supplemental rules may be changed in light of comments received. No public hearing is planned, but one may be held if written requests are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting information

The principal persons involved in drafting this proposal are: Lieutenant Commander Donald B. Parsons, Project Manager, Office of Merchant Safety, and Lieutenant Dave Shippert, Project Attorney, Office of Chief Counsel.

Discussion

As amended, the Act of February 19, 1895 (33 U.S.C. 151, The Boundary Line Statute) authorizes the Secretary of Transportation to designate and define the lines dividing the high seas from rivers, harbors and inland waters. These lines, promulgated in 46 CFR Part 7, were initially utilized to determine the application of international and inland navigational rules of the road. Six marine safety statutes currently utilize the lines described in 46 CFR Part 7 to establish applicability. These statutes deal with vessel inspection, equipment and manning standards. They are briefly described as follows:

(1) The Vessel Bridge-to-Bridge Radio telephone Act (33 U.S.C. 1201 et seq.) requires the carriage of radiotelephones on board certain vessels inside the Boundary Lines on the navigable waters of the United States (i.e., inside the three-mile line).

(2) The Coastwise Loadline Act (46 U.S.C. 88) applies to merchant vessels 150 gross tons and over engaged in coastwise voyages by sea, passing outside the Boundary Lines.

(3) The Officers Competency Certificates Convention, Geneva, 1936 (54 Stat. 1683), is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 8304, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only,") and defines the high seas with reference to the Boundary Line.

(4) 46 U.S.C. 3301(7) requires the inspection of seagoing motor vessels. A "seagoing motor vessel" is defined in 46 U.S.C. 2101(33) as a "motor vessel of at least 300 gross tons making voyages beyond the Boundary Line."

(5) 46 U.S.C. 3302(d) exempts from inspection requirements certain vessels under 150 gross tons that operate inside the Boundary Line within the waters of southeastern Alaska and the State of Washington.

(6) The final statute, 33 U.S.C. 152, applies to the length of towing hawsers between towing vessels and barges

when operating inside the Boundary Lines.

In 1980, Pub. L. 96-324 amended the Seagoing Barge Act, 46 U.S.C. 395, by defining a seagoing barge as one that "proceeds outside the line dividing the inland waters from the high seas, as defined in section 2 of the Act, (33 U.S.C. 151)." However, a Boundary Line for this purpose has not yet been established. Currently the Coast Guard utilizes the traditional definition of "seagoing" as meaning a barge that proceeds past the headlands. This rulemaking will establish new boundary lines under 33 U.S.C. 151 at 46 CFR Part 7 to determine the applicability of the Seagoing Barge Act. Mariners are reminded that until the final rule is issued and becomes effective, "seagoing" describes a barge that proceeds past the headlands.

Under the Boundary Line Act as amended in 1980 (Pub. L. 96-324), lines may not be located more than twelve nautical miles seaward of the baseline from which the territorial sea is measured and the lines may differ in position for the purposes of different statutes. In this revised proposal, the Coast Guard has adopted the principal that, wherever possible, a single line should be established for all purposes, since multiple lines create the possibility of confusion.

The establishment and placement of the lines in the proposed regulations relate solely to safety and do not concern themselves with the issue of State or Federal sovereignty or jurisdiction in the areas involved.

Discussion of Comments and Proposed Changes

Thirty-eight comment letters were received as a result of the 15 September 1983 supplemental notice of proposed rulemaking (SNPRM). Oral comments were also received at public hearings held in Boston on 26 October 1983 and in New Orleans on 1 November 1983. In addition, the Towing Safety Advisory Committee (TSAC) submitted a recommendation (TSAC Recommendation #39 Boundary Lines (CGD 81-058)) on the proposed rules at the committee's February 1984 meeting. The proposed rules in this SNPRM have been changed based on an evaluation of the TSAC recommendation and the written and oral comments. Specifically, lines in New England, the Gulf of Mexico, Kotezebue Sound (Alaska) and along the southeastern Atlantic coast have been revised.

1. Fourteen written comments and oral comments at the Boston public hearing were in opposition to the proposed lines for seagoing barges in the New York-New England area. The TSAC recommendation also called for establishing a line for seagoing barges in the New England area that coincides with limits presently applicable to other statutues.

The commenters indicated that barges had been operating from New York to Maine for years without being inspected. A review of the barge casualty history for the past 4 years in the New York/New England area revealed that barge casualties were not related to the vessels' inspection status. In view of the casualty history and based on TSAC's recommendation, the Boundary Line for seagoing barges in the New York/New England area has been revised to coincide with the lines proposed for the other five marine safety statutes.

The proposed exception in § 7.5(b) of the 15 September 1983 SNPRM for seagoing barges in the New York/New England area has been deleted from this SNPRM. The Boundary Line for seagoing barges in this area is now contained in §§ 7.10 through 7.30 of this SNPRM.

2. Three commenters were under the impression that the proposed Boundary Lines affected the requirements for pilots on tank barges. The TSAC recommendation also asked whether tank barges operating outside the Boundary Line for seagoing barges would be subject to pilotage requirements.

As discussed in the preamble to the 15 September 1983 SNPRM, the term "seagoing," as used in the pilotage statute (46 U.S.C. 8502), is not related to the boundary line defined under the Act. The Boundary Line statute, 33 U.S.C. 151, states that lines will be established "for the purpose of determining applicability of each statute that refers to" 33 U.S.C. 151. The statute concerning pilotage, 46 U.S.C. 8502, does *not* refer to 33 U.S.C. 151, therefore the Boundary Lines proposed in this rulemaking have no effect on pilotage. The applicability of the pilotage statute is the subject of a separate regulatory project.

3. Two commenters recommended extending proposed lines seaward to accommodate dredging operations in specific channels along the southeastern Atlantic coastline. The original notice of proposed rulemaking and the 15 September 1983 SNPRM sought to accommodate dredging operations along the entire U.S. coast. The additional recommended changes have been added to this SNPRM.

The Boundary Line has been revised for the Atlantic coast in §§ 7.45(c), 7.55, 7.60, 7.70, 7.75, 7.80, 7.85, and 7.95 of this SNPRM.

4. Numerous comments, written and oral, were received concerning the location of the proposed Boundary Line for the Gulf of Mexico. Eighteen commenters recommended moving the line for the entire Gulf of Mexico out to the maximum extent allowed by law, 12 miles. The TSAC recommendation also called for establishing a 12-mile line in the Gulf of Mexico. One commenter recommended moving the limits out at specific western Florida ports to accommodate dredging operations. Three commenters stated that the eastern Gulf of Mexico should have limits similar to the existing Boundary Line in the western Gulf of Mexico because the waters and climatic conditions are identical. One commenter requested moving the line out at Mobile, Alabama to accommodate coal lightering operations proposed for that area. Two commenters stated that keeping the limits in close to shore in the eastern Gulf of Mexico would adversely affect vessels proceeding out to sea from the Tennessee-Tombigbee Waterway.

The conditions cited in the 15 September 1983 SNPRM for maintaining a section of the Boundary Line in the western Gulf of Mexico at 12 miles (mild temperatures, shallow waters and temperate climate) are prevalent throughout the Gulf. In view of TSAC's recommendation and the lack of any foreseeable denigration of safety, the Boundary Line in the Gulf of Mexico has been extended to 12 miles in this SNPRM.

The revised proposed Boundary Line for the Gulf of Mexico is at § 7.105 of this SNPRM.

5. Commenters at the New Orleans public hearing (and three written comments) requested that drilling units be exempted from the Outer Continental Shelf Lands Act (OCSLA) requirements for inspection.

Under 46 U.S.C. 3301 and 2101, "seagoing barges" and "seagoing motor vessels" are required to be inspected if they make voyages beyond an established Boundary Line. Such vessels that remain inside the Boundary Line are not subject to inspection under 46 U.S.C. 3301 and 2101. However, as stated in the preamble to the 15 September 1983 SNPRM, drilling units may be subject to varying degrees of inspection under OCSLA, as amended, or other applicable statutes whether the units operate inside or outside of the Boundary Line. The fact that a drilling unit remains *inside* the Boundary Line does *not* exempt it from OCSLA requirements and other applicable statutes.

The proposed Boundary Line for the Gulf of Mexico in this SNPRM should accommodate the concerns expressed

by the commenters, to the extent permitted by the governing statutes. However, "grandfathering" provisions for any class of vessels or exemptions from inspection requirements that are not related to the Boundary Line are beyond the scope of this rulemaking.

6. One commenter recommended changing the line at Kotzebue Sound, Alaska so it extends from Cape Espenberg to Cape Krusenstern. The TSAC recommendation also called for the same change.

The recommended change would have no foreseeable effect on safety. However, a line drawn as recommended by the commenter and TSAC would extend beyond the 12-mile limit imposed by the Boundary Line statute. Therefore, § 7.180 of this SNPRM has been revised to allow for the recommended line except where it would extend beyond 12 miles from the baseline from which the Territorial Sea is measured.

7. Two commenters recommended extending the Boundary Line on the north slope of Alaska to 12 miles. The TSAC recommendation also called for locating the Boundary Line at 12 miles from Point Barrow, Alaska to the Canadian border.

The north slope of Alaska is subject to intense and severe weather during approximately nine months out of the year. Maintenance of vessels operating on the north slope many times creates problems due to the short operating season and the cost of effecting repairs in this remote area. Due to the climate and the damage incurred by vessels operating in the area each year, the recommended changes for the north slope of Alaska have not been incorporated into this SNPRM.

8. One commenter requested that the proposed regulations stipulate that "seabee" barges carried on mother vessels be exempt from inspection requirements.

"Seabee" barges have traditionally been exempt from inspection when they are carried on mother vessels since they are considered cargo when so carried. This interpretation will continue to apply in the future.

The Boundary Lines establish the applicability of certain marine safety statutes. Interpretations of the inspection statutes are beyond the scope of this rulemaking. Therefore, the recommended change to the proposed rules has not been incorporated into this SNPRM.

9. Two commenters recommended that the line for the Vessel Bridge-to-Bridge Radiotelephone Act (Pub. L. 92–63) coincide with the COLREG Demarcation Line. The TSAC recommendation also supported establishing the Boundary Line for this Act at the COLREG line until the implementing statute (33 U.S.C. 1201 et seq.) can be changed to permit a 12-mile line.

As stated in the preamble to the 15 September 1983 SNPRM, the current Boundary Line for bridge-to-bridge ratiotelephone usage normally provides coverage to the sea buoys and, in many instances, not even that far off shore. The safety of vessels in these areas would be greatly enhanced by extending the requirements for bridge-to-bridge ratiotelephones to the maximum extent allowable, 3 miles. Since the line follows the coastline at a distance of 3 miles from shore, it does wind and weave in certain areas as pointed out by TSAC in its recommendation. However, the proposed line should be readily identifiable by mariners since the 3-mile line, i.e., the seaward extent of the Territorial Sea, is printed on most charts.

The recommended alternative, the COLREG Demarcation Line, in many cases lies along the coastline, and vessels would not be required to use bridge-to-bridge radiotelephones until they are well inside or already through the traffic lanes. Therefore, for safety reasons, the proposed line for bridge-to-bridge radiotelephones has been left at 3 miles in § 7.5(a) of this SNPRM.

Revising the Vessel Bridge-to-Bridge Radiotelephone Act to allow for a 12-mile line is beyond the scope of this rulemaking because it is a legislative matter and must therefore be considered separately.

10. Commenters at the public hearing in New Orleans (and three written comments) indicated that towing vessels that are now under 300 gross tons will exceed 300 gross tons in 1994 because of the requirements of the 1969 Tonnage Convention. This would require these currently uninspected vessels to be subject to inspection and certification as seagoing motor vessels if the vessels operate outside the Boundary Line.

The proposed implementing statute for the Tonnage Convention will enable certain inspected and uninspected vessels that would be required to be measured under the new convention system to continue using the current measurement systems at 46 U.S.C. 77 and 83–83k for determining application of certain domestic and international regulations dealing with marine safety. Placement of the Boundary Line will therefore not affect the inspection status of these vessels.

11. One commenter recommended that a listing of statutes affected by the Boundary Line regulations should be included in the proposed regulations. The proposed rules do list the affected statutes at § 7.1 of this SNPRM.

12. One commenter recommended that the Boundary Lines for the seven affected statutes should be consolidated where possible. The TSAC recommendation also cited this as one of the principles which should be followed by the Coast Guard in establishing any safety or navigation lines.

The original 7 June 1982 proposed rule and the 15 September 1983 SNPRM both sought to consolidate the Boundary Lines where possible. The proposed lines for this SNPRM consolidate the Boundary Lines for 6 of the 7 applicable statutes throughout the U.S. The proposed line for the seventh statute, the Vessel Bridge-to-Bridge Radiotelephone Act, is set uniformly at 3 miles throughout the U.S. Pilotage, MARPOL and other requirements are not controlled by lines established under the Boundary Line Act.

13. The TSAC recommendation included a comment that the Boundary Lines should be established as far to seaward as law and safety considerations allow.

The Boundary Lines in this SNPRM and in the previous proposals were established taking into account the comments received and the safety of the vessels affected by the regulations. Where safety considerations have permitted, the lines have been extended to seaward.

14. The TSAC recommendation included a comment that safety and navigation lines should have a "logical seaward progression." The mariner should always cross the lines in the same order regardless of the port or area he is entering or leaving. In addition, the demarcation lines for various marine safety and navigational statutes and regulations should be consolidated whenever possible.

The Coast Guard agrees that all demarcation lines used by the mariner should be simplified as much as possible. However, since the different sets of lines are established for different purposes, a standard progression is not always possible. For example, the base line, Territorial Sea line (3-mile line), and seaward extent of the Contiguous Zone (12-mile line) are all established under rules that the United States has agreed to internationally. The COLREG Demarcation Line was established well shoreward in 1977 as a result of the coming into force of International Regulations for Preventing Collisions at Sea, 1972, an international convention.

By contrast, the location of the Boundary Lines is based on the intent of

the marine safety statutes that the Boundary Lines affect. The Coast Guard is authorized to establish one line for each statute but the Coast Guard has succeeded, in this SNPRM, in keeping the lines consolidated as much as possible. The other demarcation lines (for COLREGS, MARPOL, pilotage, licensing, etc.) are not related to the Boundary Line statute or the statutes that utilize the Boundary Lines for applicability.

The Coast Guard does review the location of existing demarcation lines when a new statute, regulation or policy requires establishing a line for applicability. If an existing line can be used for a new purpose, the Coast Guard will utilize that line rather than establish a new line for the mariner to be concerned with.

15. The TSAC recommendation included a comment recommending that the Boundary Lines be placed on charts available to mariners. The Coast Guard will request that the Defense Mapping Agency and National Ocean Survey include the final location of Boundary Lines on future editions of nautical charts.

Discussion of Proposed Rules

The recodification of title 46 of the U.S. Code has changed the numbering of the sections in the statutes that refer to the Boundary Line. Proposed § 7.1 of this SNPRM, "General Purpose of Boundary Lines," lists the statues that utilize Boundary Lines for applicability. Proposed § 7.1 has been revised to reflect numbering changes to the statutes.

Proposed §§ 7.3 and 7.5 of the 15 September 1983 SNPRM have been consolidated in this SNPRM into one section (§ 7.5), "Rules for Establishing Boundary Lines." The exception for the "seagoing barge" Boundary Lines in the New England area contained in the 15 September 1983 SNPRM has been deleted from this SNPRM. Section 7.5 of this SNPRM now consists of three paragraphs:

(a) Lines for the Vessel Bridge-to-Bridge Radiotelephone Act are set at three miles, the extent of the navigable waters of the United States. In general, this proposed three-mile limit represents an extension of the applicability of this Act from the current lines. The Safety of vessels in the three-mile zone would be greatly enhanced by extending the requirement to use bridge-to-bridge radiotelephones. Easy identification of the waters covered would also be a benefit derived from this proposed change since the three-mile line is printed on most navigation charts.

(b) Application of the Seagoing Barge Act in the sheltered waters of British Columbia is waived as set forth in the United States-Canada Convention of 1933 [Load Line Convention; 49 Stat. 2685; TS 869].

(c) The general rule for establishing Boundary Lines is established for those areas that are not specifically mentioned in the rules.

Proposed §§ 7.10 through 7.180 revise and redefine Boundary Lines to meet the intent of the six marine safety statutes that currently employ the Boundary Line statute (33 U.S.C. 151). The line for the seventh statute, the Vessel Bridge-to-Bridge Radiotelephone Act, is proposed at 3 miles.

The major proposed revisions in this SNPRM are made in New England, the Gulf of Mexico and in specific ports from Virginia to the east coast of Florida. Except for the specific line for the Vessel Bridge-to-Bridge Radiotelephone Act and the specific line for the sheltered waters of British Columbia in proposed § 7.5, the lines for all of the applicable statutes are consolidated into one line.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The proposed Boundary Lines in this supplemental rulemaking coincide with the existing lines or, in many cases (e.g., the Gulf of Mexico), extend seaward of the existing lines thereby imposing fewer regulatory requirements on vessels and companies affected by these regulations.

Although the previous proposal and supplemental rulemakings were also considered nonsignificant under DOT regulatory policies and procedures, it now appears that the earlier proposals may have been significant because of the substantial public interest and controversy they generated as evidenced by the comments received both from TSAC and the public. However, since the majority of recommendations may have been incorporated into this supplemental rulemaking to the extent allowed by existing stautes, the controversial issues should be resolved. Accordingly, this proposed rule is considered nonsignificant.

The Regulatory Flexibility Act) 94 Stat. 1164, Pub. L. 96–354 requires an analysis of the impact of proposed regulations on small businesses, organizations, and small governmental jurisdictions. Since the impact of this proposal 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 46 CFR Part 7

Law enforcement, Vessels.

Accordingly, Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. By revising 46 CFR Part 7 to read as follows:

PART 7—BOUNDARY LINES

General

Sec.

Atlantic Coast

Gulf Coast

Hawaii

Pacific Coast

Alaska

Sec.
7.150 Canadian (BC) and United States (AK) borders to Cape Spencer, AK.
7.155 Cape Spencer, AK to Cape St. Elias, AK.
7.160 Point Whitshed, AK to Aialik Cape, AK.
7.165 Kenai Peninsula, AK to Kodiak Island, AK.
7.170 Alaska Peninsula, AK to Aleutian Islands, AK.
7.175 Alaska Peninsula, Ak to Nunivak, AK.
7.180 Kotzebue Sound, AK.

Authority: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 108); 49 CFR 1.46(b).

General

§ 7.1 General purpose of boundary lines.

The lines in this part delineate the application of the following U.S. statutes: 33 U.S.C. 152 relating to the length of towing hawsers; 33 U.S.C. 1201 et seq., the Vessel Bridge-to-Bridge Radiotelephone Act; 46 U.S.C. 88, the Coastwise Loadline Act; 46 U.S.C. 3301(6) requiring the inspection of seagoing barges which are defined in 46 U.S.C. 2101(32); 46 U.S.C. 3301(7) requiring the inspection of seagoing motor vessels which are defined in 46 U.S.C. 2101(33); 46 U.S.C. 3302(d) which exempts from inspection requirements certain vessels under 150 gross tons that operate within the waters of southeastern Alaska and the State of Washington; and 46 U.S.C. 8304, "Implementing the Officers' Competency Certificates Convention, 1936."

§ 7.5 Rules for establishing boundary lines.

(a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 et seq., the line is 3 miles seaward of the baseline from which the territorial sea is measured.

(b) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 are not required to be inspected as seagoing barges under 46 U.S.C. 3301.

(c) Except as otherwise described in this part, Boundary Lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers.

Atlantic Coast

§ 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to latitude 44°54'45" N. longitude 66°58'30" W.; thence to the range market located in approximate position latitude 44°51'45" N. longitude 66°59' W.

(b) A line drawn from West Quoddy Head Light to latitude 44°48.5' N. longitude 66°56.43' W. (Sail Rock Lighted Whistle Buoy "1"); thence to latitude 44°37.5' N. longitude 67°09.8' W. (Little River Lighted Whistle Buoy "2LR"); thence to latitude 44°14.5' N. longitude 67°57.2' W. (Frenchman Bay Approach Lighted Whistle Buoy "FB"); thence to Mount Desert Light; thence to Matinicus Roch Light; thence to Monhegan Island Light; thence to latitude 43°31.6' N. longitude 70°05.5' W. (Portland Lighted Horn Buoy "P"); thence to Boon Island Light; thence to latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2").

§ 7.15 Massachusetts Bay, MA.

A line drawn from latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2") to latitude 42°22.7' N. longitude 70°47.0' W. (Boston Lighted Horn Buoy "B"); thence to Race Point Light.

§ 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to latitude 41°36.1' N. longitude 69°51.1' W. (Pollack Rip Entrance Lighted Horn Buoy "PR"); thence to latitude 41°26.0' N. longitude 69°46.2' W. (Great Round Shoal Channel Lighted Buoy "2"); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

§ 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to Highlands Light (north tower).

§ 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2' N. longitude 74°32.2' W. to the northeasternmost point of Ocean City at latitude 39°17.6' N. longitude 74°33.1' W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, highwater shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

§ 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to latitude 38°55.8' N. longitude 74°51.4' W. (Cape May Harbor Inlet Lighted Bell Buoy "2CM"); thence to latitude 38°48.9' N. longitude 75°02.3' W. (Delaware Bay Entrance Channel Lighted Buoy "8"); thence to the northernmost extremity of Cape Henlopen.

§ 7.45 Cape Henlopen, DE to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to latitude 38°36.5' N. longitude 75°02.8' W. (Indian River Inlet Lighted Gong Buoy "1"); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to latitude 38°19.4' N. longitude 75°05.0' W. (Ocean City Inlet Entrance Lighted Buoy "4"); thence to latitude 38°19.3' N. longitude 75°05.1' W. (Ocean City Inlet Entrance Lighted Buoy

"5"); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to latitude 37°50.2' N. longitude 75°24.9' W. (Chincoteague Inlet Lighted Bell Buoy "CI"); thence to the tower charted at latitude 37°52.6' N. longitude 75°26.7' W.

(d) A line drawn from the southernmost extremity of Cedar Island to latitude 37°34.7' N. longitude 75°36.0' W. (Wachapreague Inlet Entrance Lighted Buoy "1"); thence due south to shore at Parramore Beach.

(e) A line drawn from the seaward tangent of Parramore Beach to the lookout tower on the northern end of Hog Island charted in approximate position latitude 37°27.2' N. longitude 75°40.5' W.

§ 7.50 Chesapeake Bay and tributaries.

A line drawn from Cape Charles Light to latitude 36°56.8' N. longitude 75°55.1' W. (North Chesapeake Entrance Lighted Gong Buoy "NCD"); thence to latitude 36°54.8' N. longitude 75°55.6' W. (Chesapeake Bay Entrance Lighted Bell Buoy "CBC"); thence to latitude 36°55.0' N. longitude 75°58.0' W. (Cape Henry Buoy "1"); thence to Cape Henry Light.

§ 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to latitude 36°50' N. longitude 75°56.7' W.; thence to Rudee Inlet Jetty Light "1".

(b) A line drawn from Bodie Island Light to latitude 35°49.3' N. longitude 75°31.9' W. (Oregon Inlet Approach Lighted Whistle Buoy "OI"); thence to Oregon Inlet Radiobeacon.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04' N. longitude 76°00.8' W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7' N. longitude 76°02.3' W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to latitude 34°38.4' N. longitude 76°40.6' W. (Beaufort Inlet Lighted Bell Buoy "2BI"); thence to the seaward extremity of the Beaufort Inlet west jetty.

(g) A line drawn from the seaward extremity of Masonboro Inlet north jetty to latitude 34°10.3' N. longitude 77°48.0' W. (Masonboro Inlet Lighted Whistle Buoy "A"); thence to the beach in approximate position latitude 34°10' N. longitude 77°49.4' W.

§ 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity of Cape Fear to latitude 33°49.5' N. longitude 78°03.7' W. (Cape Fear River Entrance Lighted Bell Buoy "2CF"); thence to Oak Island Light.

(b) A line drawn from the southernmost extremity of Bird Island at approximate position latitude 33°51.2' N. longitude 78°32.6' W. to latitude 33°50.3' N. longitude 78°32.5' W. (Little River Inlet Entrance Lighted Whistle Buoy "2LR"); thence to the northeasternmost extremity of Waties Island at approximate position latitude 33°51.2' N. longitude 78°33.6' W.

(c) A line drawn from the seaward extremity of Murrells Inlet north jetty to latitude 33°31.5' N. longitude 79°01.6' W. (Murrells Inlet Lighted Bell Buoy "MI"); thence to Murrells Inlet South Jetty Light.

(d) A line drawn from Georgetown Light to latitude 33°11.6' N. longitude 79°05.4' W. (Winyah Bay Lighted Bell Buoy "2WB"); thence to the southernmost extremity of Sand Island

§ 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to latitude 32°40.7' N. longitude 79°42.9' W. (Charleston Lighted Whistle Buoy "2C"); thence to Folly Island Loran Tower (latitude 32°41.0' N. longitude 79°53.2' W.).

§ 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southernmost extremity of Folly Island to latitude 32°35' N. longitude 79°58.2' W. (Stono Inlet Lighted Whistle Buoy "1S"); thence to Kiawah Island bearing approximately 307° true.

(b) A line drawn from the southernmost extremity of Kiawah Island to latitude 32°31' N. longitude 80°07.8' W. (North Edisto River Entrance Lighted Whistle Buoy "2NE"); thence to Botany Bay Island in approximate position latitude 32°33.1' N. longitude 80°12.7' W.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3' N. longitude 80°19.2' W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5' N. longitude 80°26.5' W.

(d) A line drawn from the abandoned lighthouse on Hunting Island in approximate position latitude 32°22.5' N. longitude 80°26.2' W. to latitude 32°18' N. longitude 80°25' W.; thence to the standpipe on Fripp Island in approximate position latitude 32°19' N. longitude 80°28.7' W.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to latitude 32°04.8' N. longitude 80°34.9' W. (Port Royal Sound Lighted Whistle Buoy "2PR"); thence to the easternmost extremity of Hilton Head at latitude 32°13.2' N. longitude 80°40.1' W.

§ 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to latitude 31°58.3' N. longitude 80°44.1' W. (Tybee Lighted Whistle Buoy "T"); thence to the southeasternmost extremity of Little Tybee Island bearing approximately 269° true.

§ 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn from the Wassaw Island in approximate position latitude 31°52.5' N. longitude 80°58.5' W. to latitude 31°48.3' N. longitude 80°56.8' W. (Ossabaw Sound North Channel Buoy "OS"); thence to latitude 31°39.3' N. longitude 81°02.3' W. (St. Catherines Sound Buoy "St. C."); thence to latitude 31°31.2' N. longitude 81°03.8' W. (Sapelo Sound Buoy "S"); thence to the easternmost extremity of Blackbeard Island at Northeast Point.

(d) A line drawn from the southernmost extremity of Blackbeard Island to latitude 31°19.4' N. longitude 81°11.5' W. (Doboy Sound Lighted Buoy "D"); thence to latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S").

§ 7.85 St. Simons Island, GA to Little Talbot Island, FL.

(a) A line drawn from latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S") to latitude 30°42.7' N. longitude 81°19.0' W. (St. Mary's Entrance Lighted Whistle Buoy "1"); thence to Amelia Island Light.

(b) A line drawn from the southernmost extemity of Amelia Island to latitude 30°29.4' N. longitude 81°22.9' W. (Nassau Sound Approach Buoy "6A"); thence to the northeasternmost extremity of Little Talbot Island.

§ 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little

Talbot (Spike) Island to latitude 30°23.8' N. longitude 81°20.3' W. (St. Johns Lighted Whistle Buoy "2 STJ"); thence to St. Johns Light.

§ 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn from the seaward extremity of St. Augustine Inlet north jetty to latitude 29°55' N. longitude 81°15.3' W. (St. Augustine Lighted Whistle Buoy "St. A."); thence to the seaward extremity of St. Augustine Inlet south jetty.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn from the seaward extremity of Ponce de Leon Inlet north jetty to latitude 29°04.7' N. longitude 80°54' W. (Ponce de Leon Inlet Lighted Bell Buoy "2"); thence to Ponce de Leon Inlet Approach Light.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to latitude 28°23.7' N. longitude 80°32.2' W. (Canaveral Bight Wreck Lighted Buoy "WR6"); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9' N. longitude 80°36.6' W.

(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to latitude 27°28.5' N. longitude 80°16.2' W. (Fort Pierce Inlet Lighted Whistle Buoy "2"); thence to the tower located in approximate position latitude 27°27.2' N. longitude 80°17.2' W.

(g) A line drawn from the seaward extremity of St. Lucie Inlet north jetty to latitude 27°10' N. longitude 80°08.4' W. (St. Lucie Inlet Entrance Lighted Whistle Buoy "2"); thence to Jupiter Island bearing approximately 180° true.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to latitude 26°46.4' N. longitude 80°01.5' W. (Lake Worth Inlet Lighted Bell Buoy "2LW"); thence to Lake Worth South Light "1"; thence to the seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the South Lake Worth Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Baton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower located in approximate position latitude 26°06.9' N. longitude 80°06.4' W. to latitude 26°05.5' N. longitude 80°04.8' W. (Port Everglades Lighted Whistle Buoy "1"); thence to the signal tower located in approximate position latitude 26°05.5' N. longitude 80°06.5' W.

(n) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

§ 7.100 Florida Reefs and Keys from Miami, FL to Marquesas Keys, FL.

(a) A line drawn from the tower located in approximate position latitude 25°46.7' N. longitude 80°08' W. to latitude 25°46.1' N. longitude 80°05.0' W. (Miami Lighted Whistle Buoy "M"); thence to Fowey Rocks Light (latitude 25°35.4' N. longitude 80°05.8' W.); thence to Pacific Reef Light (latitude 25°22.3' N. longitude 80°08.5' W.); thence to Carysfort Reef Light (latitude 25°13.3' N. longitude 80°12.7' W.); thence to Molasses Reef Light "10" (latitude 25°00.7' N. longitude 80°22.6' W.); thence to Alligator Reef Light (latitude 24°51.1' N. longitude 80°37.1' W.); thence to Tennessee Reef Light (latitude 24°44.7' N. longitude 80°46.9' W.); thence to Sombrero Key Light (latitude 24°37.6' N. longitude 81°06.6' W.); thence to American Shoal Light (latitude 24°31.5' N. longitude 81°31.2' W.); thence to latitude 24°27.7' N. longitude 81°48.1' W. (Key West Entrance Lighted Whistle Buoy); thence to Cosgrove Shoal Light (latitude 24°27.5' N. longitude 82°11.2' W.); thence due north to a point 12 miles from the baseline from which the territorial sea is measured in approximate position latitude 24°47.5' N. longitude 82°11.2' W.

Gulf Coast

§ 7.105 Marquesas Keys, FL to Rio Grande, TX.

(a) A line drawn from Marquesas Keys, Florida at approximate position latitude 24°47.5' N. longitude 82°11.2' W. along the 12-mile line which marks the seaward limits of the contiguous zone (as defined in 33 CFR Part 2.05-15) to Rio Grande, Texas at approximate position latitude 25°58.6' N. longitude 96°55.5' W.

Hawaii

§ 7.110 Mamala Bay, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

Pacific Coast

§ 7.115 Santa Catalina Island, CA.

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

§ 7.120 Mexican/United States border to Point Fermin, CA.

(a) A line drawn from the southerly tower of the Coronado Hotel in approximate position latitude 32°40.8' N. longitude 117°10.6' W. to latitude 32°39.1' N. longitude 117°13.6' W. (San Diego Bay Channel Lighted Bell Buoy "5"); thence to Pont Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside Breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2" to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

§ 7.125 Point Vincente, CA to Point Conception, CA.

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to latitude 34°24.1' N. longitude 119°40.7' W. (Santa Barbara Harbor Lighted Bell Buoy "1"); thence to Santa Barbara Harbor Breakwater Light.

§ 7.130 Point Conception, CA to Point Sur, CA.

(a) A line drawn from the southernmost extremity of Fossil Point at longitude 120°43.5′ W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to latitude 35°21.5′ N. longitude 120°52.3′ W. (Morro Bay Entrance Lighted Bell Buoy "1"); thence to Morro Bay West Breakwater Light.

§ 7.135 Point Sur, CA to Cape Blanco, OR.

(a) A line drawn from Monterey Harbor Light "6" to latitude 36°36.5′ N. longitude 121°53.2′ W. (Monterey Harbor Anchorage Buoy "A"); thence to the northernmost extremity of Monterey Municipal Wharf No. 2.

(b) A line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the northwestern tip of Tomales Point to latitude 38°15.1′ N. longitude 123°00.1′ W. (Tomales Point Lighted Horn Buoy "2"); thence to latitude 38°17.2′ N. longitude 123°02.3′ W. (Bodega Harbor Approach Lighted Gong Buoy "BA"); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11′ W.

§ 7.140 Cape Blanco, OR to Cape Flattery, WA.

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to latitude 43°21.9′ N. longitude 124°21.7′ W. (Coos Bay Entrance Lighted Bell Buoy "1"); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from the lookout tower located in approximate position latitude 46°13.6′ N. longitude 124°00.7′ W. to latitude 46°12.8′ N. longitude 124°08.0′ W. (Columbia River Entrance Lighted Whistle Buoy "2"); thence to latitude 46°14.5′ N. longitude 124°09.5′ W. (Columbia River Entrance Lighted Bell Buoy "1"); thence to North Head Light.

(c) A line drawn from latitude 46°52.8′ N. longitude 124°12.6′ W. (Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2"); thence to latitude 46°55.0′ N. longitude 124°14.7′ W. (Grays Harbor Entrance Lighted Whistle Buoy "3"); thence to Grays Harbor Bar Range Rear Light.

§ 7.145 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

(a) A line drawn from the northernmost point of Angeles Point to latitude 48°21.1′ N. longitude 123°02.5′ W. (Hein Bank Lighted Bell Buoy); thence to latitude 48°25.5′ N. longitude 122°58.5′ W. (Salmon Bank Lighted Gong Buoy "3"); thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to latitude 48°46.6′ N. longitude 122°53.4′ W. (Clements Reef Buoy "2"); thence to International Boundary Range B Front Light.

Alaska

§ 7.150 Canadian (BC) and United States (AK) borders to Cape Spencer, AK.

(a) A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garnet Point, Kanagunut Island; thence to Lord Rock Light; thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Bartolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

§ 7.155 Cape Spencer, AK to Cape St. Elias, AK.

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituya Bay.

(b) A line drawn from Ocean Cape Light to latitude 59°31.9′ N. longitude 139°57.1′ W. (Yakutat Bay Entrance Lighted Whistle Buoy "2"); thence to the southeasternmost extremity of Point Manby.

(c) A line drawn from the northernmost extremity of Point Riou to the easternmost extremity of Icy Cape.

§ 7.160 Point Whitshed, AK to Alalik Cape, AK.

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southernmost extremity of Cape Resurrection to the Aialik Cape.

§ 7.165 Kenai Peninsula, AK to Kodiak Island, AK.

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0′ W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of Long Island; thence to the northeasternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7′ N. to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

§ 7.170 Alaska Peninsula, AK to Aleutian Islands, AK.

(a) A line drawn from the southernmost extremity of Cape Kumlium to the westernmost extremity of Nakchamik Island; thence to the eastmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay entrance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moller.

§ 7.175 Alaskan Peninsula, AK to Nunivak, AK.

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenham.

(c) A line drawn from the church spire located in approximate position latitude 59°45′ N. longitude 161°55′ W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

§ 7.180 Kotzebue Sound, AK.

A line drawn from Cape Espenberg Light to latitude 66°52′ N. longitude 163°28′ W.; and thence to Cape Krusenstern Light.

Dated: August 8, 1984.

Clyde T. Lusk, Jr.,

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

[FR Doc. 84-21386 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-723; RM-4748]

TV Broadcast Station in Cortaro, AZ; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Saul Dresner, proposes the assignment of UHF TV Channel 49 to Cortaro, Arizona, as the community's first television facility.

DATE: Comments must be filed on or before September 21, and reply comments on or before October 9, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Cortaro, Arizona) (MM Docket No. 84-723, RM-4748).

Adopted: July 16, 1984.
Released: July 31, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Saul Dresner ("petitioner"), requesting the assignment of UHF TV Channel 49 to Cortaro, Arizona, as the community's first television facility. Petitioner has stated an intention to apply for the channel, if assigned.

2. Cortaro (not listed in the 1980 Census) is, according to petitioner, located in Pima County (population 531,443) [1] in southern Arizona, approximately 20 kilometers (12 miles) northwest of Tucson.

3. Petitioner states that Cortaro is an incorporated community, the seat of Pima County and has a population of 262,933. We have been unable to substantiate this information. Further, Cortaro cannot be located on any map or Atlas index as a community. Pursuant to Section 307(b) of the Communications Act of 1934, as amended, the Commission is required to assign broadcast frequencies only to a "community", that is, an identifiable population grouping. Generally, if the locality is listed in the U.S. Census, or is incorporated, that is sufficient to satisfy its status as a community. In the absence of such recognizable community status, the petitioner is required to provide the Commission with sufficient information to demonstrate that such a place has social, economic or cultural indicia to qualify as a "community" for asignment purposes. See *Ansley, Alabama*, 46 FR 58688, published December 3, 1981; *Cascade Village, Colorado*, 84 FR 19917, published May 3, 1983; *Gayles, Louisiana*, 48 FR 28495, published June 22, 1983; and cases cited therein.

4. In view of the above, and based on the information submitted by petitioner, the Commission does not believe that a final determination can be made as to the status of Cortaro as a community. Therefore, we believe it appropriate to further investigate this matter through the solicitation of comments. Accordingly, petitioner is requested to submit more information about this place including any businesses, social organizations, or governmental units that identify themselves with Cortaro, in order to demonstrate how Cortaro may qualify as a "community" for assignment purposes.

5. UHF Television Channel 49 can be assigned to Cortaro, Arizona, in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules, with a site restriction of 12.3 miles north of the location indicated by petitioner for Cortaro. This restriction is necessary to avoid short spacing to an application for Channel 46 at Green Valley, Arizona.

6. Since Cortaro is located within 320 kilometers (200 miles) of the U.S.-Mexican border, the assignment requires concurrence by the Mexican government.

7. In view of the foregoing, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Cortaro, Arizona		49

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 21, 1984, and reply comments on or before October 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mr. Saul Dresner, c/o Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (Consultant to Petitioner).

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

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

[1] Population figures are extracted from 1980 U.S. Census, unless otherwise indicated.

an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 184, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

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

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

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

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

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

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

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

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

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

[FR Doc. 84-21351 Filed 8-10-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25 Notice 55]

Uniform Tire Quality Grading Standards Effective Dates for Reimplementation of Treadwear Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA) DOT.

ACTION: Notice of proposed rulemaking; statement of policy.

SUMMARY: This notice invites comment on proposed effective dates for the reimplementation of treadwear grading requirements under the agency's Uniform Tire Quality Grading Standards (UTQGS). Treadwear grading requirements were suspended by the agency on February 7, 1983, due to high levels of variability found in treadwear test data and assigned grades. However, on April 24, 1984, the United States Court of Appeals for the District of Columbia Circuit vacated the agency's suspension, finding it arbitrary and capricious. See *Public Citizen* v. *Steed*, 733 F.2d 93. In view of the fact that a variety of steps must be taken by the agency and the tire and vehicle manufacturers to reimplement the treadwear requirements, this notice proposes to eatablish new effective dates for those requirements. This notice also announces that NHTSA will take no enforcement action regarding the treadwear requirements until the agency establishes new effective dates.

DATES: In the case of bias ply and bias belted tires, requirements that treadwear information be included on paper labels affixed by tire manufacturers to tire treads and for the submission of consumer information brochures to NHTSA for review would be reimplemented effective December 15, 1984. Those brochures would be required to be made available to tire dealers by January 15, 1985. Requirements regarding the molding of treadwear information on tire sidewalls would be reimplemented effective May 15, 1985. Requirements regarding the dissemination of treadwear information for tires on new vehicles would be reimplemented effective September 1, 1985.

In the case of radial ply tires, requirements that treadwear information be included on paper labels affixed by tire manufacturers to tire treads and for the submission of consumer information brochures to NHTSA for review would reimplemented effective July 15, 1985. Those brochures would be required to be made available to tire dealers by August 15, 1985. Requirements regarding the molding of treadwear information on tire sidewalls would be reimplemented effective December 15, 1985. Requirements regarding the dissemination of treadwear information for tires on new vehicles would be reimplemented effective September 1, 1985.

The amendments proposed in this notice would become effective immediately upon publication in the **Federal Register.**

Comments on this notice must be received by September 12, 1984.

ADDRESS: Comments on this notice should refer to the docket number set forth above and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William Boehly, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh

Street, SW., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: On February 7, 1983, in 48 FR 5690, NHTSA suspended treadwear grading requirements under the UTQGS. The treadwear grades were intended to provide consumers with information on the relative treadwear performance of various automotive tires. However, the agency found that high levels of variability in treadwear test results and in grade assignment practices of the tire manufacturers resulted in a substantial likelihood that treadwear information being provided to consumers under this program would be misleading, i.e., that the assigned grades could, in many instances, incorrectly rank the treadwear performance of different tires.

On April 24, 1984, the U.S. Court of Appeals for the District of Columbia Circuit, in *Public Citizen* v. *Steed*, 733 F.2d 93, vacated the agency's suspension. The court's action could be interpreted as a reinstatement of the treadwear grading requirements. However, it is clear that the tire and vehicle manufacturers cannot immediately comply with all the reinstated requirements. For example, tire manufacturers currently manufacturing or selling tires without treadwear information molded on the sidewall cannot immediately comply because treadwear measurement tests would have to be conducted first for many of the tires and existing tire molds would then have to be modified or replaced with new molds. New tire labels would have to be printed to reflect treadwear information, as would consumer information materials provided by tire dealers and by vehicle manufacturers.

Because of the impracticability of immediate compliance with the treadwear requirements, the agency proposes establishing deferred effective dates for reimplementing those requirements. NHTSA believes the establishment of these dates is appropriate under the court's mandate for two reasons. First, the agency does not believe that the court intended to create a situation in which tire and vehicle manufacturers must choose between failing to comply with the UTQGS and suspending the sale of their products (at considerable cost and consumer inconvenience) until compliance can be achieved. Second, the agency is seeking in this rulemaking proceeding to require reimplementation at the earliest feasible time.

The agency will continue its efforts to reduce the variability problems found with the treadwear grades. By the end of this year, the agency anticipates issuing a notice of proposed rulemaking on improvements to the treadwear grading procedures. However, that rulemaking will be independent from this action to establish new effective dates; any changes to the treadwear grading procedures would take effect after the current requirements have been fully re-implemented.

Based on the agency's experience with the previous implementation of the UTQGS and informal discussions with the tire manufacturers, the agency has estimated the minimum feasible lead time for reimplementation of the treadwear requirements by identifying the steps necessary to achieve a working treadwear grading system and then assessing the time necessary to complete each step. The five steps are: (1) Reactivating the test facilities and procuring course monitoring tires (CMT's), (2) determining the base course wear rate of CMT's and testing candidate tires, (3) analyzing data, printing labels and brochures, and distributing labels to tire production plants and submitting brochures to NHTSA for review, (4) providing brochures to tire dealers, and (5) modifying tire molds.

The first step is reactivating the agency's test facility in San Angelo, Texas, and those facilities used by the tire manufacturers. In the case of the agency's facility, all equipment necessary to initiate testing is available and personnel can be made available in a very short time. The agency does not view the facility availability question as affecting the amount of overall leadtime.

A more significant timing factor in making the testing system fully operational appears to be the need to obtain new radial CMT's. The relatively high natural rubber content of the tread of the existing radial CMT's makes the wear rate of the tires sensitive to changes in ambient temperature. Therefore, the agency deems it necessary to procure a new supply of the radial CMT's which will be less sensitive to temperature. The agency believes that with an expedited procurement process, testing facilites can be made available and new CMT's manufactured and delivered by mid-January 1985.

It appears likely that even those tire lines which had been graded prior to the agency's February 1983 suspension will have to be regraded. This necessity arises from the practice of tire manufacturers of making a relatively continuous set of incremental changes in the tread compound and other properties of their tires. Over a period of time as short as one to two years, those changes could affect the treadwear properties of the tires. Thus, it does not appear possible to expedite the reimplementation of treadwear requirements by simply carrying over the grades for most older tire lines. The agency anticipates that up to 500 test convoys will be required to regrade all radial tire lines, requiring up to 2000 CMT's. Even without the temperature sensitivity problem, the existing supply of radial CMT's appears to be inadequate to meet the initial surge of demand by the tire manufacturers. The agency currently has on hand approximately 1200 radial CMT's. However, if a second batch of the existing CMT were procured, that batch would likely have a different wear rate than the current batch, raising questions as to the validity of their use.

It does appear possible to expedite the reimplementation process by establishing an earlier effective date for bias ply and bias belted tires, for which the agency can rely upon its existing supply of CMT's. This existing supply should be adequate for at least four years. The agency has completed its testing of the bias ply and bias belted CMT's and is currently reviewing those data. NHTSA anticipates it will be able to verify the base course wear rate and coefficient of variation for this existing supply of bias ply and bias belted CMT's shortly.

The next phase of the reimplementation process would be the actual testing of tires by the tire manufacturers for the assignment of treadwear grades. Based on the agency's past experience in this area, it appears that this process will take approximately two to three months for the two groups of tires. Due to the delay created by the necessity of obtaining new radial CMT's, testing for bias ply and bias belted tires would be completed before testing could begin for the radials. Testing by the agency to determine the base course wear rate for the radial CMT's would be conducted next, over a two month period.

After the raw test data are generated by the manufacturers, they must be analyzed and then used as the basis for the assignment of specific grades. Labels including treadwear information must be designed, printed, and shipped by the tire manufacturers to their manufacturing plants. Consumer information brochures must be printed and disseminated by the tire manufacturers to tire dealers across the country. At least 30 days prior to the date on which the brochures are provided to consumers, the information

contained in them must be submitted to NHTSA for review. The agency believes that brochures can be printed and that labels can be printed and made available for affixing in one month, with an additional month necessary for agency review and distribution of brochures to tire dealers.

Individual tire molds must also be modified to include treadwear grading information. In the past, the agency has found that a 6 month period is necessary for all tire molds to be modified. We believe that time period still to be necessary for the task. The mold modification process can take place concurrently with the preparation of labels and brochures. Further, the agency sees no reason to delay the use of the new labels and brochures while the modification of molds is being performed. Therefore, separate effective dates are proposed for these tasks.

In summary, the agency's lead-time analysis is set forth in Figure 1 below.

BILLING CODE 4910-59-M

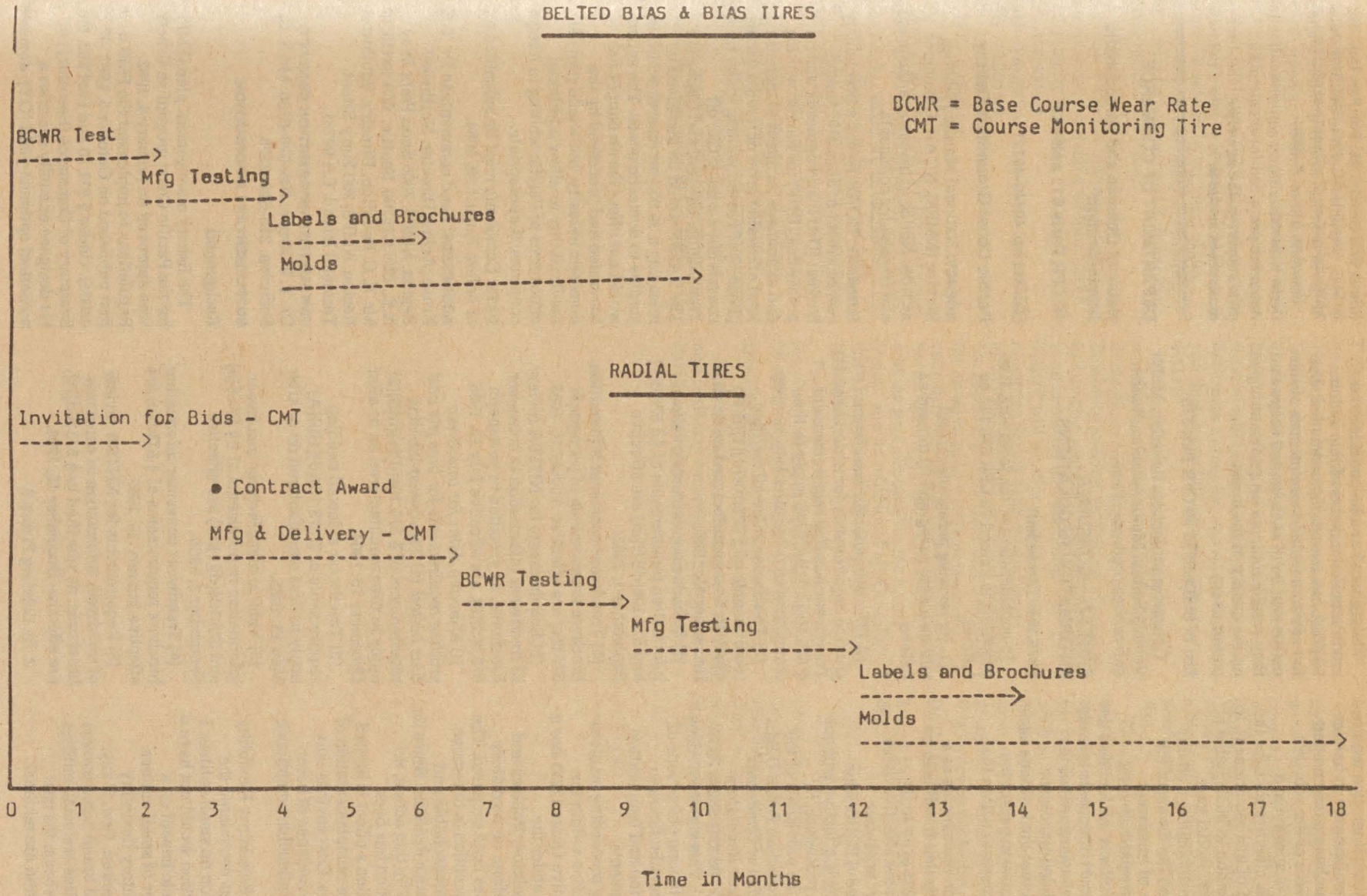

Figure 1. Timing for elements of the UTQGS treadwear grading reinstatement

BILLING CODE 4910-59-C

The agency's regulations also require motor vehicle manufacturers to provide to vehicle first purchasers information on the quality grades of the vehicle's tires. The agency is specifying a September 1, 1985, effective date for the reimplementation of this requirement, to permit the information to be included at the start of the 1986 model year.

The agency is establishing a 30-day comment period on the timing of the reimplementation of treadwear requirements. The relatively brief comment period reflects the fact that the judgment of the court of appeals already provides for the reinstatement of the previously suspended treadwear requirements and that the leadtime issue is sufficiently narrow to permit the submission of comments within that period.

NHTSA is herein announcing as a statement of policy that it will take no enforcement actions prior to its establishment of new effective dates with regard to the treadwear requirements of the UTQGS. This statement of policy is effective without notice and public procedure, in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(b)(A). See *Union of Concerned Scientists* v. *Nuclear Regulatory Commission*, 711 F. 2d 370, 382–3 (D.C. Cir. 1983) (dictum). This statement does not affect the continuing obligations of tire and vehicle manufacturers to comply with traction and temperature resistance requirements.

This rulemaking proceeding involves neither a major action within the meaning of Executive Order 12291 nor a significant action under the Department's Regulatory Policies and Procedures. Therefore, no regulatory impact analysis has been prepared. The only impact of this action is to remove the threat of an unreasonable and infeasible compliance deadline. Since no costs are imposed by this action, no regulatory evaluation has been prepared. This action's effect is limited to the timing of the reimplementation of those requirements. Cost savings may result due to the avoidance of harm resulting from an infeasible compliance date.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this action on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required. Few, if any, manufacturers and brand name owners of passenger car tires are small entities. Further, as noted above, the cost impacts of this action are minimal.

The agency has also considered the environmental impacts of this action. NHTSA has tentatively concluded that the environmental consequences of this action will be of such limited scope that they would not have a significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor Vehicle Safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

§ 575.104 [Amended]

In consideration of the foregoing, it is proposed to amend 49 CFR 575.104 as follows:

1. By revising paragraph (i) and adding a new paragraph (j) to read as follows:

* * * * *

(i) *Effective dates for treadwear grading requirements for radial tires.* (1) Treadwear labeling requirements of § 575.104(d)(1)(i)(B)(2) apply to tires manufactured on or after July 15, 1985.

(2) Treadwear sidewall molding requirements of § 575.104(d)(1)(i)(A) apply to tires manufactured on or after December 15, 1985.

(3) Vehicle manufacturer treadwear information requirements of §§ 575.6(a) and 575.104(d)(1)(iii) are effective September 1, 1985.

(4) Treadwear consumer information brochure requirements of paragraph 575.6(c) are effective August 15, 1985.

(5) Requirements for NHTSA review of treadwear information in consumer brochures, as specified in paragraph 575.6(d)(2), are effective July 15, 1985.

(j) *Effective dates for treadwear grading requirements for bias ply and bias belted.* (1) Treadwear labeling requirements of § 575.104(d)(1)(i)(B)(2) apply to tires manufactured on or after December 15, 1984.

(2) Treadwear sidewall molding requirements of § 575.104(d)(1)(i)(A) apply to tires manufactured on or after May 15, 1985.

(3) Vehicle manufacturer treadwear information requirements of §§ 575.6(a) and 575.104(d)(1)(iii) are effective September 1, 1985.

(4) Treadwear consumer information brochure requirements of § 575.6(c) are effective January 15, 1985.

(5) Requirements for NHTSA review of treadwear information in consumer brochures, as specified in § 575.6(d)(2), are effective December 15, 1984.

2. By deleting Figure 6.

((Secs. 103, 112, 119, 201, 203, Pub. L. 98–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50.)

Issued on August 7, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84–21370 Filed 8–8–84; 12:41 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 40446–4072]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment and request for comments.

SUMMARY: NOAA issues a preliminary reassessment of domestic annual harvest (DAH) and domestic annual processing (DAP) for Pacific whiting, and announces its intent to increase the total allowable level of foreign fishing (TALFF) of Pacific whiting in the fishery conservation zone (FCZ) off Washington, Oregon, and California. The TALFF would be increased by releasing a 35,000-mt reserve which is surplus to domestic needs. The action would not affect the amount of fish harvested and processed by the domestic industry, but would provide the flexibility to allow additional allocations of Pacific whiting to foreign countries, if appropriate.

DATE: Comments must be submitted on or before August 28, 1984.

ADDRESSES: Send comments to Dr. T. E. Kruse, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115; or Mr. E. C. Fullerton, Director, Southwest Region, NMFS, 300 Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Dr. T. E. Kruse, 206–526–6150; Mr. E. C. Fullerton, 213–548–2575.

SUPPLEMENTARY INFORMATION:

Background

The fishery management plan (FMP) for the Pacific Coast groundfish fishery was approved on January 4, 1982. Regulations to implement the FMP were first published on October 5, 1982 (47 FR 43964). Under § 611.70 and Part 663, the Secretary of Commerce (Secretary) or his designee annually specifies a numerical optimum yield (OY), domestic

annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and a reserve for Pacific whiting. Regulations at 611.70(d)(2) also establish procedures to reassess DAH and DAP on or about July 1 each year, and to increase TALFF during the season by any part of the reserve that the Secretary determines will not be harvested by U.S. fishermen during the calendar year.

For the 1984 fishing year, the Secretary made the following initial specifications for Pacific whiting (49 FR 1060, January 9, 1984):

OY—175,500 mt
DAH—110,000 mt
DAP—10,000 mt
JVP—100,000 mt
TALFF—30,500 mt
Reserve—35,000 mt

The initial DAP and JVP for 1984 were based on the projected needs of the U.S. industry, as surveyed by the NMFS Northwest Region in December 1983. The industry was surveyed again early in July 1984 to determine whether there was any change in the domestic intent and capacity to harvest and process Pacific whiting, and U.S. catch and effort and processing performance were projected to the end of the calendar year. The results of the July survey indicate that the initial DAH, DAP, and JVP are adequate to meet domestic needs during the remainder of 1984. There is no information to indicate any biological problem with the stock nor any need to reassess OY. The Secretary has determined that no part of the reserve will be harvested by U.S. fishermen during the remainder of 1984 and thus is available for release to TALFF.

The purpose of releasing the Pacific whiting reserve which is surplus to domestic needs is to provide the flexibility to allow additional allocation to foreign countries if appropriate. There is no certainty that the additional TALFF will be allocated to foreign countries during 1984. Poland was allocated 10,000 mt of Pacific whiting at the beginning of the year and a request for an additional 10,000 mt is under consideration by the U.S. Department of State. Recently, 5,000 mt of Pacific whiting was allocated to the Soviet Union, and an additional allocation of 5,000 mt to that nation is under consideration.

Based on the above information, the Secretary is proposing that all of the 35,000-mt reserve be added to TALFF.

Classification

The preliminary reassessment of DAH and DAP and the proposal to release the Pacific whiting reserve are based upon the most recent data available. The action is taken under authority of 50 CFR Parts 611 and 663, is in compliance with Executive Order 12291, and is covered by the Regulatory Flexibility Analysis and Environmental Impact Statement prepared for the authorizing regulations. The action contains no collection of information requirement for purposes of the Paperwork Reduction Act.

The public had opportunity to comment on the preliminary reassessment of DAH and DAP and on the proposed release of the Pacific whiting reserve during the July meeting of the Pacific Fishery Management Council. Public comments also will be accepted for 15 days after publication of this notice in the **Federal Register.**

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Parts 611 and 663

Fish, Fisheries, Foreign relations.

Dated: August 8, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-21425 Filed 8-10-84; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 157
Monday, August 13, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1984-Crop Sugar Beets and Sugarcane Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture proposes to determine and announce the price support loan rates with respect to the 1984 crop of sugar beets and sugarcane. The determination of these loan rates is required to be made in accordance with provisions of Section 201(h) of the Agricultural Act of 1949.

DATE: Comments must be received on or before September 12, 1984 to be assured of consideration.

ADDRESS: Interested persons may send comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447–8480. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing the selected option is available from Thomas W. Fink, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with the provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified as "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

Section 201(h) of the Agricultural Act of 1949 provides that the Secretary of Agriculture is required to support the price of the 1983 through 1985 crops of sugarcane and sugar beets through nonrecourse loans. Section 201(h) further provides that the price of the 1984 crop of sugarcane shall be supported at such level as the Secretary determines to be appropriate but not less than 17.75 cents per pound for raw cane sugar. The price of the 1984 crop of sugar beets shall be supported at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

This notice proposes a national average loan rate for the 1984 crop of sugarcane of 17.75 cents per pound, which is the minimum statutory loan rate.

It is further proposed that the loan rate for the 1984 crop of refined beet sugar be determined generally using the same methodology which was used in determining the loan rate for the 1983 crop. This was set forth in the supplementary information to the regulations for the Price Support Loan Program for the 1983 through 1985 Crops of Sugar Beets and Sugarcane, published on October 5, 1983, at 48 FR 45374. Under that methodology, the loan rate for refined beet sugar is calculated by multiplying the raw cane sugar loan rate times a determined factor and then adding the fixed marketing expenses (which are incurred by beet processors regardless of the disposition of the sugar). The factor referred to in the formula is determined by comparing the weighted average net returns for beet sugar (i.e., gross returns less all marketing expenses) to the weighted average New York spot price (#12 contract) for raw cane sugar for a specified number of years. In determining the loan rate for the 1983 crop, the weighted average New York spot price for the years 1975 through 1981 was utilized. For the 1984 crop, the weighted average New York spot price for the years 1975 through 1982 will be used.

In addition, the national average loan rate for both raw cane sugar and refined beet sugar will be further adjusted to reflect location differentials by region. The application of location differentials to loan rates are common to most price support programs administered by CCC.

Under the provisions of the regulations governing the Price Support Loan Program for the 1983 through 1985 Crops Sugar Beets and Sugarcane, the 1984 crop sugar loan rates must be announced on or before October 1, 1984. The 1984 crop is defined as the sugar processed from domestically-produced sugar beets and sugarcane during the 1984 crop year, which is the period from July 1, 1984, through June 30, 1985. It has been determined that the 1984 crop sugar loan rates should be announced as early as possible to permit sugar processors to make adequate plans with respect to the 1984 crop. Accordingly, comments with respect to this notice must be received within 30 days from the date of publication of this notice in the **Federal Register** in order to be assured of consideration. This will allow sufficient time to properly evaluate and consider the comments received before announcing the final 1984 crop loan rates for sugar beets and sugarcane.

Accordingly, it is proposed that the following determination will be made with respect to the 1984 crop of sugarcane and sugar beets:

Proposed Determination

A national average loan rate of 17.75 cents per pound, which is the statutory minimum loan rate, will be applicable to the 1984 crop of sugarcane.

The loan rate for refined beet sugar will be calculated by multiplying the raw cane sugar loan rate times a determined factor and then adding the fixed marketing expenses (which are incurred by beet processors regardless of the disposition of the sugar). The factor referred to in the formula will be determined by comparing the weighted

average net returns for beet sugar (i.e., gross returns less all marketing expenses) to the weighted average New York spot price (#12 contract) for raw cane sugar for the years 1975 through 1982.

The loan rates which are determined for both raw cane sugar and refined beet sugar will be further adjusted to reflect the processing location of the sugar offered as collateral for a price support loan. These adjustments (i.e., location differentials) will be calculated in the same manner as they have been for the two previous crop years. The loan rates for sugar processed in specific regions will be based upon the transportation costs associated with moving that sugar to the markets that are normal for those regions.

Comments with respect to the national average loan rate for the 1984 crop of sugarcane and the methodology used for determining the national average loan rate for the 1984 crop of sugar beets are invited.

Signed at Washington, D.C., on August 8, 1984.

John R. Block,

Secretary.

[FR Doc. 84-21367 Filed 8-10-84; 8:45 am]

BILLING CODE 3410-05-M

Cooperative State Research Service

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92-463, Cooperative State Research Service announces the following meeting:

Name: Animal Health Science Research Advisory Board.

Date: September 12, 1984.

Time: 8:30 a.m.

Place: Room 023, West Auditors Building, U.S. Department of Agriculture, 15th and Independence Avenue, SW., Washington, D.C. 20251.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these program.

Board Names and Agenda: Available from contact person below.

Contact Person: Earl J. Splitter, Executive Secretary, Animal Health Science Research Advisory Board, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20251, telephone (202) 447-5007.

Done at Washington, D.C., this 6th day of August 1984.

John Patrick Jordan,

Administrator.

[FR Doc. 84-21365 Filed 8-10-84; 8:45 am]

BILLING CODE 3410-22-M

Forest Service

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet at 10 a.m., Room 7G, September 18, 1984, at the Federal Building, 301 West Congress, Tucson, Arizona. The purpose of this meeting is to discuss allotment management planning including the Coronado National Forest Plan and EIS, and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602-629-6418. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

Dated: August 6, 1984.

Larry S. Allen,

Acting Forest Supervisor.

[FR Doc. 84-21393 Filed 8-10-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

Montana Advisory Commission on Civil Rights Agenda and Notice of Public Meeting

Notice of hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on September 29, 1984, at the School of Law, Room 202, Eddy and Maurice (University of Montana), Missoula, Montana 58901. The purposes of the meeting are to: (1) Report on the planning meeting in Denver, (2) review current activities in the Commission, (3) receive an update on the progress of the jails study, and (4) consider future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Rocky Mountain Regional Office at (303) 844-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-21362 Filed 8-10-84; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee to the United States Commission on Civil Rights Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on September 22, 1984, at the Knight Hall, Room 314, University of Wyoming, Laramie, Wyoming 82071. The purpose of the meeting is to discuss civil rights issues in the State, and to hear an explanation of the proposed Title IX research.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Rocky Mountain Regional Office at (303) 844-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-21361 Filed 8-10-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-407]

Certain Welded Carbon Steel Pipes and Tubes From Brazil; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether certain welded carbon steel pipes and tubes (pipe and tubes) from Brazil are being, or are likely to be, sold in the United States at less than fair value. Critical circumstances have been alleged, also.

We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 31, 1984, and we will make ours on or before December 24, 1984.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–5288.

SUPPLEMENTARY INFORMATION:

The Petition

On July 17, 1984, we received a petition in proper form filed on behalf of the Committee on Pipe and Tube Imports. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that the imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Petitioners were unable to obtain price information for U.S. sales. Therefore, they calculated United States price based on the Customs' value for Brazilian imports of the merchandise during December 1983, with deductions for estimated inland freight costs in Brazil.

Since petitioners also were unable to secure home market or third country prices for the merchandise subject to this investigation, foreign market value was based on the cost of hot-rolled coil, with extras, from Brazilian price lists. Additional adjustments were made for internal Brazilian taxes, foreign inland freight, and scrap. If the product was galvanized, estimates of zinc costs from discussions with zinc brokers are included. Using this comparison, there are apparent dumping margins ranging from 46 to 75 percent. We saw errors in the price calculations. However, after making adjustment for these errors, there are still substantial margins alleged.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We have examined the petition on pipe and tubes, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether pipe and tubes from Brazil are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 24, 1984.

Scope of Investigation

The products covered by this investigation are "certain welded carbon steel pipes and tubes," which include certain small-diameter circular welded carbon steel pipes and tubes.

Small-diameter circular welded carbon steel pipes and tubes, with an outside diameter of 0.375 inch or more but not over 4.5 inches and with a wall thickness of not less than 0.065 inch, are currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specification, most notably A–120 and A–135.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files provided it confirms that it will not disclose such information either publicly or under an administration protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 31, 1984, whether there is a reasonable indication that imports of pipes and tubes from Brazil materially injure, or threaten to material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Date: August 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-21429 Filed 8-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-469-407]

Certain Welded Carbon Steel Pipes and Tubes From Spain: Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether certain welded carbon steel pipes and tubes (pipe and tubes) from Spain are being, or are likely to be, sold in the United States at less than fair value. Critical circumstances have been alleged, also. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 31, 1984, and we will make ours on or before December 24, 1984.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone, (202) 377–5288.

SUPPLEMENTARY INFORMATION:

The Petition

On July 17, 1984, we received a petition in proper form filed on behalf of the Committee on Pipe and Tube Imports. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that the imports of the subject merchandise from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports materially injure, or threaten

material injury to, a United States industry.

Petitioners were unable to obtain price information for U.S. sales. Therefore, they calculated United States price based on the Customs' value for Spanish imports of the merchandise during December 1983, with deductions for estimated inland freight costs in Spain.

Petitioners also were unable to secure home market or third country prices for pipe and tubes. Foreign market value was based upon cost of production for four commonly sold types of merchandise. These costs were based upon published prices for hot-rolled coil, including extras, and estimates of zinc costs from discussions with zinc brokers. Additional adjustments were made for the cost of foreign inland freight and for scrap. Conversion costs were based on the U.S. industry average for non-integrated producers as determined by the ITC. Using this comparison, there are apparent dumping margins ranging from 61.5 to 83.2 percent. We saw errors in the price calculations. However, after making adjustment for these errors, there are still substantial margins alleged.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition on pipe and tubes, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether pipe and tubes from Spain are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 24, 1984.

Scope of Investigation

The products covered by this investigation are "certain welded carbon steel pipes and tubes," which include certain small-diameter circular welded carbon steel pipes and tubes and light-walled rectangular tubing.

Small-diameter circular welded carbon steel pipes and tubes, with an outside diameter of 0.375 inch or more but not over 4.5 inches and with a wall thickness of not less than 0.065 inch, are currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A–120 and A–135.

Rectangular (including square) welded carbon steel pipes and tubes having a wall thickness of less than 0.156 inch are currently classified under TSUSA item 610.4928. This product, commonly referred to in the industry as mechanical or structural tubing, is generally produced to ASTM specifications A–500 or A–513.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 31, 1984, whether there is a reasonable indication that imports of pipe and tubes from Spain materially injure, or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Date: August 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–21428 Filed 8–10–84; 8:45 am]

BILLING CODE 3510–DS–M

[C–239–006]

Cordage From Cuba; Preliminary Results of Administrative Review of Countervailing Duty Order and Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order and Tentative Determination to Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cordage from Cuba. The review covers the period January 1, 1983 through December 31, 1983. This merchandise is covered by the embargo on trade with Cuba which has been in effect since February 7, 1962. As a result of the review, the Department has tentatively determined to revoke the countervailing duty order. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long 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 August 29, 1983, the Department of Commerce ("the Department") publsihed in the **Federal Register** (48 FR 39109) the final results of its last administrative review of the countervailing duty order on cordage from Cuba (T.D. 53534, 19 FR 4560, July 23, 1954) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is cordage which the Cuban government considered "binder twine and baler twine," but which does not meet the definition contained in the Tariff Schedules of the United States Annotated (TSUSA). Normally, binder twine and baler twine, as defined by the TSUSA, enter under items 315.2020 and 315.2040 of the TSUSA. The merchandise under consideration here is currently classifiable under item 315.2500 of the TSUSA.

The review covers the period January 1, 1983, through December 31, 1983.

Preliminary Results of the Review and Tentative Determination To Revoke

As a result of our review, we preliminarily determine that the merchandise has not been imported into the United States since 1962. There are no known unliquidated entries of this merchandise and there is no likelihood of resumption of imports to the United States. This merchandise is covered by the embargo on trade with Cuba, in effect since February 7, 1962 (27 FR 1085).

Therefore, in accordance with § 355.42(c) of the Commerce

Regulations, we tentatively determine to revoke on our own initiative the countervailing duty order on cordage from Cuba. If this revocation is made final, it shall be effective for all entries of this merchandise on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with section 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Date: August 5, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-21427 Filed 8-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-408]

Initiation of a Countervailing Duty Investigation: Certain Welded Carbon Steel Pipes and Tubes From Spain

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Spain of certain welded carbon steel pipes and tubes receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of certain welded carbon steel pipes and tubes from Spain materially injure, or threaten material injury to, a U.S. industry. If our investigation proceeds normally, the ITC will make its preliminary determination on or before August 31, 1984, and we will make ours on or before October 10, 1984.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Davies, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-1784.

SUPPLEMENTARY INFORMATION:

Petition

On July 17, 1984, we received a petition from the Committee on Pipe and Tube Imports, a trade association composed of domestic pipe and tube producers, on behalf of the U.S. industry producing certain welded carbon steel pipes and tubes. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Spain of certain welded carbon steel pipes and tubes receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry. The petition also alleges that "critical circumstances" exist under section 703(e)(1) of the Act.

Spain is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of the Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for initiation of a countervailing duty invesgtigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain welded carbon steel pipes and tubes, and we have found that the petition meets those requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Spain of certain welded carbon steel pipes and tubes, as described in the "Scope of the Investigation" section of this notice, receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination by October 10, 1984.

Scope of the Investigation

The products covered by this investigation are "certain welded carbon steel pipes and tubes," specifically certain small-diameter circular welded carbon steel pipes and tubes and light-walled rectangular tubing.

Small-diameter circular welded carbon steel pipes and tubes, with an outside diameter of 0.375 inch or more but not over 4.5 inches and with a wall thickness of not less than 0.065 inch, are currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A-120 and A-135.

Light-walled rectangular (including square) welded carbon steel pipes and tubes having a wall thickness of less than 0.156 inch are currently classified under TSUSA item 610.4928. These products, commonly referred to in the industry as mechanical or structural tubing, are generally produced to ASTM specifications A-500 or A-513.

Allegations of Subsidies

The petition lists a number of practices by the government of Spain which allegedly confer subsidies on manufacturers, producers, or exporters in Spain of certain welded carbon steel pipes and tubes. We will initiate a countervailing duty investigation on the following allegations.

- Benefits Under Decree 669/1974 and Order of May 22, 1980.
- Preferential Loans Under Law 60/1978.
- Economic Assistance Under Royal Decree 878/1981.
- Benefits Under the Privileged Circuit Exporter Credits Programs.
- Warehouse Construction Loans.
- National and Regional Investment Incentive Programs.
- Excessive Rebate of Indirct Taxes on Exports Under the Desgravacion Fiscal a la Exportacion (DFE).
- Subsidized Steel Inputs.

In our final affirmative countervailing duty determination on certain carbon steel products from Spain, published on November 15, 1982 (47 FR 51438), we determined that certain programs did not confer subsidies to the companies investigated during the period calendar year 1981. Allegations concerning some of these programs are included in the current petition. Because the petition presents no new evidence or changed

circumstances with respect to these programs, we will not initiate a countervailing duty investigation on the following allegations.

• Research and Development Incentives.

Petitioners allege that firms located in Spain may receive government loans covering up to 50 percent of the cost of research and development projects. Up to 90 percent of the government loan may be forgiven, with the remaining 10 percent being treated as an interest free loan. As stated in our final determination on certain steel products from Spain, funding for such research and development loans is not awarded on a regional or industry-specific basis but is generally available on equal terms.

• Government Equity Infusions.

In our final determination on certain steel products from Spain, we found that Altos Hornos de Vizcaya, S.A. (AHV) did not receive a subsidy from a 1981 government stock purchase. Since petitioners have not presented any new evidence of government equity infusions in AHV or in any of the other Spanish pipe and tube companies, we will not examine at this time any of the petitioners' allegations on government equity infusions.

Allegation of Critical Circumstances

Petitioners allege that their petition demonstrates that imports of certain welded carbon steel pipes and tubes from Spain have benefited from Privileged Circuit Exporter Credit Programs, which constitute an export subsidy "inconsistent with the Agreement," and that there have been massive imports of this merchandise from Spain over a short period of time. Accordingly, petitioners allege that "critical circumstances" exist, as set forth under section 703(e)(1) of the Act and § 355.29(a) of the Department's Regulations.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 31, 1984, whether there is a reasonable indication that imports of certain welded carbon steel pipes and tubes from Spain materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise, the investigation will proceed to conclusion.

Date: August 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-21432 Filed 8-10-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Advisory Committee for International Legal Metrology; Open Meeting

The Advisory Committee for International Legal Metrology will meet from 9:30 a.m. to 5:00 p.m. on Tuesday, September 11, 1984, and from 9:00 a.m. to 12:00 noon on Wednesday, September 12, 1984. The meeting will be held in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Maryland.

The Committee, initially established in March 1974 (39 FR 6136), advises the Department, through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS' assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, industry and trade associations, and consumers.

The purpose of the September meeting of the Committee is to establish U.S. positions for the 20th Meeting of the International Committee of Legal Metrology (CIML) and the 7th International Conference to be held October 1–5, 1984, in Helsinki, Finland. The agenda includes the following items:

1. 7th International Conference agenda:

(a) Status of memberships by member and corresponding member nations;

(b) Developing countries;

(c) Relations with international organizations;

(d) Proposals concerning long-term planning;

(e) Action on 20 draft International Recommendations presented for sanctioning by the Conference;

(f) Work of the secretariats;

(g) OIML certification; and

(h) Administrative and financial questions.

2. Reports from the U.S. Representative to OIML and U.S. Technical Advisors on progress of U.S./OIML Work

3. Review of U.S. Government Guidelines for Participants in OIML Activities

4. Committee business including revision of Committee Bylaws:

The meeting will be open to public observation, and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before September 4, 1984. Other public statements regarding Committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David Edgerly, Standards Management Program, Office of Product Standards Policy, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301–921–3287.

Dated: August 8, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 84-21368 Filed 8-10-84; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor at Sand Point, Alaska Under Section 107 of the 1960 Rivers and Harbors Act, as Amended

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement.

SUMMARY: 1. The proposed action is to determine the feasibility of constructing an additional harbor adjacent to the present small boat harbor near the village of Sand Point. Additional

facilities are needed to harbor larger transient boats.

2. The Black Point Site, adjacent to the existing Humbolt harbor, is the only site location under consideration. The alternative is no action. The dredging would provide moorage at bottom depths from −10 feet to −20 feet Mean Lower Low Water resulting in approximately 85,000 cubic yards of material. Disposal is expected to be at sea.

3. A Reconnaissance Report was completed in September 1983. Scoping of the DEIS will include continued coordination with interested local, State, and Federal agencies and other interested parties. Scoping meetings are not planned at this time.

Anticipated subjects to be addressed include, but are not limited to: alternatives, socio-economic impacts, cultural resources, water quality, marine flora and fauna, endangered species, aesthetics, and measures to minimize adverse impacts.

4. The expected completion date of the DEIS is not known at this time.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Resources Section, U.S. Army Engineer District, Alaska, Pouch 898, Anchorage, Alaska 99506–0898.

Dated: August 1, 1984.

Leroy L. Saage,

Lieutenant Colonel, Corps of Engineers, Acting District Engineer.

[FR Doc. 84–21350 Filed 8–10–84; 8:45 am]

BILLING CODE 3710–NL–M

Defense Communications Agency

Membership of the Defense Communications Agency SES Performance Review Board

AGENCY: Defense Communications Agency.

ACTION: Notice of Membership of the Defense Communications Agency SES Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the SES Performance Review Board (PRB) of the Defense Communications Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Communications Agency.

EFFECTIVE DATE: August 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Pittman, Position Classification Division, Assistant Deputy Director for Civilian Personnel, Personnel and Administration Directorate, Defense Communications Agency, (202) 692–2794.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the SES Performance Review Board. They will serve a one-year renewable term, effective August 1, 1984.

Lautermilch, P.A., Rear Admiral, USN, Vice Director, Defense Communications Agency
Schott, Joseph D., Brigadier General, USA, Director, Defense Communications Systems Organization
Reinman, Robert A., Colonel, USAF, Director, Command and Control Systems Organization
Grimes, John G., Deputy Manager, National Communications System
Helms, Robert W., Comptroller
Israel, David R., Director, Planning and Systems Integration Center
Morriss, Benham E., Director, Joint Data Systems Support Center

P.A. Lautermilch,

Rear Admiral, USN, Vice Director.

[FR Doc. 84–21130 Filed 8–10–84; 8:45 am]

BILLING CODE 3610–05–M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Literacy Awareness Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: August 30–31, 1984, 9:00 a.m. to 5:00 p.m.

ADDRESS: Hyatt Regency, O'Hare International Airport, Chicago, Ill.

FOR FURTHER INFORMATION CONTACT: Helen Banks, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004, 202/376–8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

> Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.
>
> The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the public. The proposed agenda includes: Development of Literacy Report.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on August 6, 1984.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 84–21347 Filed 8–10–84; 8:45 am]

BILLING CODE 4000–01–M

Office of Bilingual Education and Minority Languages Affairs

Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1985 Applications for New Projects.

Applications are invited for new projects under the Bilingual Education Act (Act)—Demonstration Projects Program.

Authority for this program is contained in sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561) (20 U.S.C. 3223–3232).

This program issues awards to local educational agencies (for purposes of this program, the term "local educational agency" includes a nonprofit institution or organization of an Indian tribe that operates an elementary and secondary school in which Indian children constitute more

than 50 percent of the enrollment), institutions of higher education applying jointly with one or more local educational agencies, and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to provide financial assistance to demonstrate exemplary approaches to programs of bilingual education and to build the capacity of grantees to continue those programs when funding under the Act is reduced or no longer available.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivered by October 11, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003D, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8.00 a.m. and 4.30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The maximum project period which an applicant may propose is three years.

An applicant must meet the requirements found in the regulations applicable to this program, including, but not limited to the following:

(1) An applicant must establish an advisory council to assist in the development of its application. Requirements pertaining to advisory councils are contained in 34 CFR 502.20.

(2) An applicant must consult with appropriate private school officials in designing its application and must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade level(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 502.20.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training programs.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirement must be regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) A local educational agency, applying as either a sole or joint applicant, must provide a copy of its application to the appropriate State eduational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

An eligible school operated or funded by the Bureau of Indian Affairs (BIA) must submit its application for comment to the Secretary of the Interior or his or her designee, using procedures outlines in 34 CFR 500.20(d).

(7) An application proposing to contract with an outside organization to meet the invitational priority demonstrating parental involvement in the selection of services must give particular attention to the requirements of 34 CFR 75.701 and 75.708(b).

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local governent coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance,
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated, and

Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	Maine
Arizona	Massachusetts
Arkansas	Michigan
California	Missouri
Connecticut	Montana
Delaware	Nebraska
Florida	Nevada
Hawaii	New Hampshire
Indiana	New Jersey
Kansas	New Mexico
Louisiana	New York

North Dakota
Ohio
Oklahoma
Oregaon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam
Northern Mariana Islands
Puerto Roco

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 10, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003D, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $1,700,000 will be available for new grants under the Demonstration Projects Program in Fiscal year 1985.

It is estimated that these funds could support 10 projects.

The anticipated award for each new project is $170,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Priorities for Funding

The Demonstration Projects Program regulations authorize the Secretary to select priorities from among various target groups and components of a program of bilingual education described in 34 CFR 502.11.

The Secretary gives absolute preference to applications that meet the selected priorities. The Secretary anticipates that the funds will be reserved solely for applications submitted under the selected priorities.

Under the Education Department General Administrative Regulations (34 CFR 75.105), the Secretary may also invite applications that meet priorities established in the application notice. An application that meets an invitational priority does not receive competitive or absolute preference over applications that do not meet the invitational priority.

For Fiscal Year 1985, the Secretary selects the following priorities for the Demonstration Projects Program:

34 CFR 502.11(f)(3)—Priority for projects with exemplary approaches to instructional technology. The Secretary invites but does not require applications that demonstrate the interactive use of television and computers in acquiring literacy skills in grades four through six.

34 CFR 502.11(f)(1)—Priority for projects with exemplary approaches to community or parental involvement. The Secretary invites but does not require applications that demonstrate the role of the parents as co-learners. The Secretary also invites but does not require applications that demonstrate parental choice in the selection of providers offering the services of acquiring English language proficiency. Parents may choose providers from those outside organizations with which the applicant local educational agency (LEA), institution of higher education applying jointly with one or more LEA(s), or elementary or secondary school operated or funded by the Bureau of Indian Affairs, has contracted to provide these services.

34 CFR 502.11(e)(1)—Priority for projects with exemplary approaches to exceptional children. The Secretary invites but does not require applications that demonstrate assessment and mainstreaming techniques for physically handicapped children of limited English proficiency.

34 CFR 502.11(e)(4)—Priority for projects with exemplary approaches to preschool children. (A program proposing services to preschool children must be preparatory and supplementary to a program of bilingual education.) The Secretary invites but does not require applications that demonstrate replication of effective bilingual early childhood programs for recent immigrant children of limited English proficiency.

The Secretary anticipates that funds will be allocated to the Demonstration Projects Program in the following manner:

Approximately 30 percent of the funds will be set aside for the priority for projects with exemplary approaches to instructional technology. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

Approximately 25 percent of the funds will be set aside for the priority for projects with exemplary approaches to community or parental involvement. An application submitted under this priority competes only with other applications submitted under the priority, with not competitive or absolute preference given to applications that meet either of the invitational priorities.

Approximately 25 percent of the funds will be set aside for the priority for projects with exemplary approaches to serving exceptional children. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

Approximately 20 percent of the funds will be set aside for the priority for projects with exemplary approaches to serving preschool children. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

These allocations are only estimates and do not bind the Department of Education to a specific number of grants or to the amount of any grant unless otherwise specified by statute or regulations. The Secretary may reallocate funds if too few applications of high quality are received under a priority.

Application Forms

Application packages are expected to be ready for mailing on August 22, 1984. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 421,

Reporters Building), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 30 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1885–0003.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Demonstration Projects Program, 34 CFR Parts 500, 501 (except for 501.31), and 502.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Demonstration Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 421, Reporters Building), Washington, D.C. 20202. Telephone (202) 447–9227.

(20 U.S.C. 3223–3232)

(Catalog of Federal Domestic Assistance No. 84.003D, Bilingual Education Act)

Dated: July 30, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–21395 Filed 8–10–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 84–07–NG]

Natural Gas Imports, Reichhold Chemicals, Inc.; Application to Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 30, 1984, of an application from Reichhold Chemicals, Inc. (Reichhold), to import up to 10,000 Mcf of Canadian natural gas per day on a best-efforts basis at U.S. $3.15/MMBtu. The imported volumes are to be purchased from Czar Resources Ltd. (Czar) over a twelve-month period beginning on the date of first delivery, and thereafter on a month-to-month basis until terminated by either party or until a maximum of 3.4 Bcf has been delivered under the contract, whichever occurs first.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., September 12, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9622

Diane J. Stubbs (Office of General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION:

Reichhold owns and operates a plant near St. Helens, Oregon, which consumes natural gas as a process fuel and feedstock in the manufacture of anhydrous ammonia and by-products primarily for essential agricultural uses. Reichhold proposes to import natural gas for its own use under a contract executed on July 16, 1984, with Czar, a Canadian corporation which operates natural gas wells in the vicinity of Fort St. John, British Columbia, Canada. The contract provides for the puchase and sale, on a best-efforts basis, of up to 10,000 Mcf of natural gas per day for a twelve-month period starting with the date of first delivery, and thereafter on a month-to-month basis until terminated upon 30 days' written notice by either party, or until a total of 3.4 Bcf has been delivered, whichever occurs first. The contract contains no minimum purchase obligation or take-or-pay requirement although Reichhold has agreed to purchase all gas required for the St. Helens plant from Czar to the extent Czar is able to deliver volumes requested by Reichhold. Under the proposed import arrangement, the gas will be delivered at the interconnection of the facilities of Westcoast Transmission Company Limited (Westcoast) and Northwest Pipeline Corporation (Northwest Pipeline) at the international border between Canada and the United States in the vicinity of Sumas, Washington. Reichhold states in its application that Westcoast has existing gathering and pipeline facilities which will be utilized in bringing the gas to its interconnection with Northwest Pipeline at the border. Northwest Pipeline will transport the gas to its interconnection with Northwest Natural Gas Company (Northwest Natural) at Deer Island, Oregon. Northwest Natural will then transport the gas over its existing facilities to Reichhold's plant near St. Helens, Oregon. Reichhold will bear the cost of transporting the gas from the Canadian border to its plant.

The price of the imported gas at the international border will be U.S. $3.15/MMBtu during the initial twelve-month period, with no adjustments for any variations in the rate of exchange between U.S. and Canadian dollars. The price may be renegotiated, at the request of either party, with respect to any gas delivered after the initial twelve-month term of the contract. Czar has applied to the Canadian National Energy Board for a short-term order authorizing the export of natural gas to Reichhold at U.S. $3.15/MMBtu, the Canadian equivalent being $4.18 as of July 9, 1984.

Reichhold indicates that its St. Helens plant operates in an industry which has suffered significant hardship during recent years because of foreign competition and the rise in domestic gas prices. The company also has suffered from transportation capacity limitations experienced in the past by its suppliers. According to the application, the plant has continued operating as a result of Reichhold's successful efforts to acquire short-term gas supplies on favorable terms and conditions. In support of its application, Reichhold asserts that the fixed price of U.S. $3.15/MMBtu for twelve months will provide it with the stability necessary to plan its operations and the flexibility to limit its obligations in the event that operating, economic, or other conditions make reduced operations necessary. It also believes that the absence of minimum bill and take-or-pay obligations, the right to renegotiate the contract price, and the right to terminate or extend the contract after the initial twelve-month term provide sufficient flexibility to respond to changing market conditions. Although the sales obligation of Czar is on a best-efforts basis, Reichhold considers the reserves committed by Czar to the

project sufficient to supply the contract quantity of 3.4 Bcf. If there should be a temporary or permanent failure of supply, Reichhold states that it will be free under the terms of the contract to obtain gas supplies from other sources. Further, Reichhold believes proposed transportation arrangements will be adequate and reliable.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should address in their comments the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

Any person wishing to become a party to the proceeding must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Any protests received will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., September 12, 1984.

This application is intended to be processed on the basis of a record developed through written comments and replies. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, oral presentation, a conference, or a trial-type hearing. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending. If no party files a motion requesting additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed pursuant to this notice.

A copy of Reichhold's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 7, 1984.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-21359 Filed 8-10-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-248-005, et al.]

Central Illinois Public Service Co.; Compliance Filing

August 8, 1984.

The filing Company submits the following:

Take notice that on July 3, 1984, in compliance with the Commission's Orders of June 4, 1984 and April 5, 1984 in this proceeding, Central Illinois Public Service Company (CIPS) tendered for filing an amended service agreement between CIPS and Mt. Carmel Public Utility Company (Mt. Carmel), executed by both parties, which provides for service by CIPS under CIPS' Rate Schedule W-5. In addition, CIPS has refunded to Mt. Carmel the amounts ordered by the Commission. Finally, pursuant to the service agreement, as of March, 1984 CIPS will charge Mt. Carmel monthly for newly installed metering facilities.

Copies of the filing have been sent to all parties of record.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211, 385.214). All such motions or protests should be filed on or before August 21, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21411 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-569-000]

Interstate Power Co.; Filing

August 8, 1984.

The filing Company submits the following:

Take notice that on July 30, 1984, Interstate Power Company (IPW) tendered for filing proposed changes in its rates and charges applicable to twenty municipal customers, as embodied in proposed Rate Schedule No. 499. IPW proposes to place the proposed rate schedule into effect as of October 1, 1984. The revised rates and charges would increase revenues from jurisdictional sales by $666,598 based on the 12 month period ending December 31, 1984 (Period II).

IPW states that the proposed increase in sales-for-resale rate is intended primarily to increase the rate of return to an adequate level and reflects the inclusion in rate base of IPW's share of investment in the 650 MW coal-fired generating unit at the Louisa Generating Station as well as IPW's additional 25 MW share of investment in the 600 MW coal-fired generating unit at the George Neal Steam Electric Station. The proposed rates and charges are designed to enable IPW to earn a rate of return of 10.29% on rate base during calendar year 1984, which is Period II.

IPW further states that copies of the appropriate portions of the filing have been served upon IPW's jurisdictional customers and the State Commissions of Iowa, Illinois and Minnesota.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

should be filed on or before August 22, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21412, Filed 8-10-84; 8:45 am]

BILLING CODE 6717-0-M

[Docket Nos. ER80-592-000 et al. and ER80-588-001]

Kansas Gas and Electric Co.; Refund Report

August 8, 1984.

Take notice that on July 22, 1984, Kansas Gas and Electric Company (KG&E) submitted for filing its compliance refund report pursuant to the Commission's letter order dated May 30, 1984.

KG&E states that interest was computed from the date payment was received through July 13, 1984 in accordance with 18 CFR 35.19(a). KG&E also enclosed copies of the transmittal letters to the affected Cities as evidence of refund payment.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 24, 1984. Comment will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21413 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-136-003]

Kansas Gas and Electric Co.; Refund Report

August 8, 1984.

Take notice that on July 20, 1984, Kansas Gas and Electric Company (KG&E) submitted for filing its refund report pursuant to the Commission's order dated June 1, 1984.

KG&E states that interest is included on the refund amounts from the date payment was received through July 13, 1984 at the appropriate interest rate as required by 18 CFR 35.19(a). KG&E enclosed copies of the transmittal letters to the Cities of Chanute, Fredonia, and Lola, as its evidence of refund payment.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before August 22, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21414 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-414-000]

Mason Dixon Farms, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 8, 1984.

On July 12, 1984, Mason Dixon Farms, Inc. (Applicant), of 1750 Mason Dixon Road, Gettysburg, Pennsylvania 17325, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 250 kW facility located at 1750 Mason Dixon Road, Gettysburg, Pennsylvania 17325, will generate electric power from biomass as a primary energy source. The facility is owned by Mason Dixon Farms, Inc.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21415 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-573-000]

Mississippi Power & Light Co.; Filing

August 8, 1984.

The filing Company submits the following:

Take notice that on July 30, 1984, Middle South Services (MSS) as agent for Mississippi Power & Light Company (MP&L), tendered for filing proposed changes in its FPC Rate Schedule No. 35. The proposed changes would increase the specified rate for payment of emergency power under Service Schedule A of the Interconnection Agreement dated September 1, 1951, as amended between MP&L and the Tennessee Valley Authority (TVA), from a rate of "7.5 mills per kilowatthour or 115% of the supplying party's cost whichever is higher" to a rate of "100 mills per kilowatthour or 115% of the supplying party's cost whichever is higher" and would increase revenues from jurisdictional sales and service by $16,632.59 based on the twelve-month period ending June 30, 1984.

MSS requests an effective date of June 29, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to TVA, MP&L and the Mississippi Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21416 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-26-002]

Natural Gas Pipeline Company of America; Change in Rates

August 8, 1984.

Take notice that on August 3, 1984, Natural Gas Pipeline Company of America (Natural) tendered for filing as

part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective September 1, 1984:

Substitute Fifty-sixth Revised Sheet No. 5

Substitute Twenty-third Revised Sheet No. 5A

The purpose of this filing is to amend Natural's July 20, 1984 PGA filing in Docket No. TA84-2-26-000. This filing would reduce the 32.45¢ proposed commodity rate increase contained in the July 20, 1984 filing to 26.72¢. This 5.73¢ decrease reflects gas cost savings occasioned by the elimination of purchases from Great Lakes Gas Transmission Company and replacement of the Great Lakes' gas with less costly, recently attached supplies. The changes are the result of information recently obtained concerning the availability of the newer gas supplies during this PGA period.

Natural requests any waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on September 1, 1984.

A copy of this filing has been mailed to Natural's jursidictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such petitions or protests must be filed on or before August 16, 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. 84-21417 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-62-001]

New England Power Service; Refund Report

August 8, 1984.

Take notice that on July 27, 1984, New England Power Service (NEP) submitted for filing its refund compliance report pursuant to the Commission's order issued June 21, 1984.

The report sets out the monthly billing determinants and revenues under the present and settlement rates, the monthly revenue refund and the monthly interest refund for the refund period January 1, 1984 through May 31, 1984.

NEP states that a copy of the report is being furnished to each person on the service list in this proceeding and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 21, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21418 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

[Docket No. QF84-422-000]

Zond-PanAero Windsystem Partners I; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 8, 1984.

On July 19, 1984, Zond-PanAero Windsystem Partners I (Zone-PanAero), 1693 Mission Drive, Suite 297, Solvang, California 93463, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal consitutes a complete filing.

The proposed facility will be located in the San Gorgonio Pass, near Palm Springs, California and will consist of an initial installation of 100 wind turbine generators, each having a rated capacity of 65 kw. Zond-PanAero intends to install additional units until the total rated capacity of the installation is equal to 19.5 MW (300 units).

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. 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. 84-21419 Filed 8-10-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Definition of "Package" Under the Carriage of Goods by Sea Act; Filing Clarification of Petition for Rulemaking

By Notice published in the Federal Register of June 22, 1984 (49 FR 25679), the Commission requested comment on a petition filed by Dow Chemical Company (Dow) to institute a rulemaking proceeding for the purpose of defining the term "package" under the Carriage of Goods by Sea Act. Dow has not "clarified" its petition by informing the Commission that, as further authority for issuing such a rule, it also refers to sections 10(b)(6)(E), 10(d)(1) and 17 of the Shipping Act of 1984 (46 U.S.C. 1709(b)(6)(E), 1709(d)(1) and 1716).

In view of this further submission, interested persons may submit further replies to the petition to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 11, 1984. An original and fifteen copies of such replies shall be submitted. A copy of such replies shall also be served on filing counsel: Robert R. Tiernan, Esq., Shack & Kimball, P.C., 1129 20th Street, NW., Suite 500, Washington, D.C. 20036.

Francis C. Hurney,

Secretary.

[FR Doc. 84-21407 Filed 8-10-84; 8:45 am]

BILLING CODE 6730-01-M

Applications To Engage de Novo, In Permissible Nonbanking Activities; RIHT Financial Corp., et al.

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 impress 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 August 31, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *RIHT Financial Corporation*, Providence, Rhode Island; to engage *de novo* through its subsidiary, Hospital Trust Financial of Connecticut, Inc., Wethersfield, Connecticut, in making, acquiring and/or servicing of loans and other extensions of credit of all types described in the pertinent subsection of Regulation Y, except that given Applicant's existing subsidiary already located in the Proposed service area (RIHT Mortgage Corporation) substantial activities involving mortgage lending are not anticipated. These activities would be conducted in the State of Connecticut.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Norwest Financial Services, Inc., Des Moines, Iowa, in selling, on an agency basis, involuntary unemployment insurance related to extensions of credit.

2. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Norwest Financial services, Inc., Des Moines, Iowa, in the Servicing of loans or other extensions of credit for the accounts of others.

Board of Governors of the Federal Reserve System, August 7, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21336 Filed 8-10-84; 8:45 am]

BILLING CODE 6210-01-M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; The Maybaco Co., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) 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 September 4, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Maybaco Company*, Baltimore, Maryland; to acquire at least 38.9 percent of Class B Common Stock of Equitable Bancorporation, Baltimore, Maryland, thereby indirectly acquiring Equitable Bank, N.A., Baltimore, Maryland and Farmers & Merchants National Bank, Hagerstown, Maryland.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Golden Sands Bankshares, Inc.*, Neshkoro, Wisconsin; to become a bank holding company by acquiring 97.8 percent of the voting shares of Farmers Exchange Bank of Neshkoro, Neshkoro, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Trigg Bancorp, Inc.*, Cadiz, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Trigg County Farmers Bank, Cadiz, Kentucky. Comments on this application must be received not later than August 28, 1984.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Menomonie Financial Services, Inc.*, Menomonie, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of First Bank and Trust, Menomonie, Wisconsin.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Valley Bancorporation, Inc.*, Sumner, Washington; to become a bank holding company by acquiring at least 90 percent of the voting shares of Bank of Sumner, Sumner, Washington.

Board of Governors of the Federal Reserve System, August 7, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21337 Filed 8-10-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organizations, Functions and Delegation of Authority; Order of Succession

Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Sevices, Office of the Secretary (44 FR page 31045, dated May 30, 1979) is amended to add the following provisions to Chapter AA, Section AA.40, Order of Succession:

C. In the event that the Secretary and the Under Secretary are unable to designate a successor, the Assistant Secretaries who were appointed to their office by the President and confirmed by the Senate shall, in order of seniority according to the dates of their commissions, act as Secretary. In the event that the commissions of two or more Assistant Secretaries bear the same date, the Secretary will, at the

time of their commissions, establish an order of seniority.

D. During the absence or disability of the Under Secretary and the Assistant Secretaries, the General Counsel shall act as Secretary (Pub. L. 94–852, section 2(b)).

E. After the General Counsel, the successors to the Secretary are the Regional Directors in the following order: Regions III, VI, I, IV, VIII, X, V, IX, VII, II.

Dated: August 2, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-21371 Filed 8-10-84; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF JUSTICE

Attorney General

Voting Rights Act; Certification of the Attorney General; Baldwin County, GA

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Baldwin County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the Federal Register on August 7, 1965 (30 FR 9897).

Dated: August 7, 1984.

Carol E. Dinkins,

Acting Attorney General of the United States.

[FR Doc. 84-21373 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 80P-0234/P; 83N-0369]

Report on In Vitro Screening Devices; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report entitled "Report on In Vitro Screening Devices," prepared by FDA's Center for Devices and Radiological Health (CDRH). The report was prepared in response to the December 29, 1982 final decision of the Deputy Commissioner of Food and Drugs, denying a petition submitted by the Health Research Group (HRG), to withdraw premarket approval for three gonorrhea antibody screening test kits (GAT's). The report summarizes the issues discussed at a meeting held November 18, 1983, in response to the final decision. The participants in the meeting identified and discussed key factors for evaluating the safety, effectiveness, and utility of in vitro screening devices.

ADDRESS: Single copies of the report may be obtained by submitting a written request to Tracy Summers, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas M. Tsakeris, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 4, 1983 (48 FR 335), the Deputy Commissioner of Food and Drugs issued a final decision denying the Health Research Group's petition requesting withdrawal of premarket approval of three GAT's (Docket No. 80P–0234/P). Among other things, the decision directed CDRH to articulate the factors to be considered in assessing the adequacy of the performance of particular screening devices. Among the possible factors are the prevalence and seriousness of the disease or condition that is the subject of the screening; whether the disease or condition is acute, chronic, or progressive; and the availability of other diagnostic tools. The decision also directed CDRH to explore the feasibility of developing minimum performance standards for screening devices.

Consistent with the Deputy Commissioner's directive, CDRH, on November 18, 1983, held a public meeting of the chairpersons or their representatives of the then Immunology Device Section and the Microbiology Device Section of the Immunology and Microbiology Devices Panel and of the Clinical Chemistry Device Section, the Clinical Toxicology Device Section, and the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel (see 48 FR 50417; November 1, 1983; Docket No. 83N–0369). The purpose of the meeting was to solicit the views of these individuals and of other interested persons regarding the establishment of guidelines for evaluating the safety, effectiveness, and utility of in vitro screening devices.

In addition to the opportunity for interested persons to submit written or oral comments for consideration at the public meeting, the agency also provided until December 30, 1983, for interested persons to submit written comments on the matters discussed at the meeting.

Based in part on data, information, and comments submitted in regard to the November 18, 1983 meeting, CDRH prepared a report entitled "Report on In Vitro Screening Devices." This report discusses fundamental screening factors that CDRH considers when assessing the safety and effectiveness of in vitro screening devices, how a device's projected utility affects CDRH's consideration of the device's safety and effectiveness, and CDRH's views on development of standards for screening devices.

The Deputy Commissioner's final decision, transcript of the November 18, 1983 meeting, all written comments on matters discussed at the meeting, and a single copy of the report are on file under Docket No. 83N–0369 and in the GAT's file, Docket No. 80P–0234/P, in the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available for public review between 9 a.m. and 4 p.m., Monday through Friday. Single copies of the report may be obtained by submitting a written request to Tracy Summers (address above).

Dated: August 6, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-21345 Filed 8-10-84; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. September 10 and 11, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine,

National of Institutes Health, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, September 10, 9 a.m. to 10 a.m.; open committee discussion, September 10, 10 a.m. to 5 p.m.; September 11, 9 a.m. to 5 p.m.; A. T. Gregoire, Center for Drugs and Biologics (HFN–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in metabolic and endocrine disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss the safety and efficacy of methionyl growth hormone (investigational new drugs, 18–172, 21–035, 22–041).

Science Advisory Board to the National Center for Toxicological Research

Date, time and place. September 26 and 27, 9 a.m., Director's Conference Room, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open public hearing, September 26, 9 a.m. to 5 p.m and September 27, 9 a.m. to 12 m.; Ronald F. Coene, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, Rm. 14–101, Rockville, MD 20857, 301–443–3155.

General function of the board. The board advises the Director, NCTR, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his regulatory responsibilities. The board provides the extra-agency review in ensuring that research programs and methodology development at NCTR are scientifically sound and pertinent to its stated goals and objectives.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues before the committee.

Open board discussion. The board will discuss the three research program areas of NCTR: biomarkers, reproductive and developmental toxicology, and the investigation of the assumptions underlying risk assessment.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guildeline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or othewise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an oppportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 6, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–21344 Filed 8–10–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Proposed Redesignation of Three Health Service Areas In Illinois

AGENCY: Health Resources and Services Administration, Public Health Services, HHS.

ACTION: Notice of decision on health service areas in Illinois and invitation to apply for health systems agency designation.

SUMMARY: This notice announces the following decisions of the Administrator, Health Resources and Services Administration (HRSA), on the requests of Governor Thompson of Illinois to designate or redesignate three health service areas in Illinois:

1. The request to revise the boundary of health service area 8 (Kane, Lake, and McHenry Counties) by adding DuPage County is denied;

2. The request to establish Surburban-Cook County as a single health service area is denied; and

3. The request to designate a health service area for southwestern Illinois, to include Clinton, Madison, Monroe and St. Clair Counties, is approved.

Through this Notice, entities are being invited to apply for designation as the health systems agency for the new southwestern Illinois health service area.

DATE: Entities interested in applying for designation as a health systems agency for southwestern Illinois must file a

letter of intent to apply for such designation with HHS Regional Office V by September 12, 1984, and an application by November 13, 1984.

ADDRESS: Application materials may be obtained from the Regional Health Administrator, HHS Regional Office V, 300 South Wacker Drive, Chicago, Illinois 60606, 312–353–1385.

FOR FURTHER INFORMATION CONTACT: John F. Belin, Director, Division of Agency Operations and Management, BHMORD, 5600 Fishers Lane, Room 9A–19, Rockville, Maryland 20857, 301–443–6680.

SUPPLEMENTARY INFORMATION: On December 22, 1983, Governor James R. Thompson of Illinois requested that the Secretary of Health and Human Services consider the redesignation of two health service areas in northern Illinois and establish a health service area for southwestern Illinois to include Clinton, Madison, Monroe and St. Clair Counties. The southwestern Illinois counties were previously part of the interstate (Illinois-Missouri) Greater St. Louis health service area which was abolished when Missouri was granted designation under section 1536 of the Public Health Service Act (the Act). The Administrator, to whom the authority involved has been delegated, reviewed the three proposals and determined that the two proposals that involved removing DuPage County from the Surburban Cook County and DuPage County health service area (area 7) and placing it in the Kane, Lake and McHenry Counties health service area (area 8) did not meet the statutory criterion under section 1511(b)(4) of the Act that the proposed revised areas would meet the requirements of section 1511(a) of the Act in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts. The Administrator reviewed the proposal to establish a new health service area for Clinton, Madison, Monroe, and St. Clair Counties and determined that the proposed area met the requirements of section 1511(a). That proposal was, therefore, approved as submitted. Pursuant to section 1511 of the Act, the following counties in the State of Illinois shall constitute a new health service area numbered 11:

Clinton
Madison
Monroe
St. Clair

With respect to the new health service area, the Secretary intends to designate, in accordance with section 1515 of the Act, a health systems agency whose primary responsibility will be the provision of effective health planning for that health service area and the promotion of the development of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. Pursuant to section 1515 of the Act, notice is hereby given that application materials are now available in HHS Regional Office V for entities interested in applying for designation as the health systems agency for the above listed counties. Once a health systems agency is designated for this area, it will be entitled to receive a planning grant under, and in an amount determined pursuant to, section 1516 of the Act.

Dated: August 6, 1984.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

[FR Doc. 84-21338 Filed 8-10-84; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-84-1432]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposal Information Collection to OMB

Proposal: Title I Property Improvement and Mobil Home Programs (24 CFR 201)

Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 174,601
Status: Revision
Contact:
James L. Anderson, HUD, (202) 755–6880
Robert Neal, OMB, (202) 395–7316

Proposal: Sales–Insured Home Mortgage Monthly Reports–HUD Rental Housing Programs

Office: Fair Housing and Equal Opportunity
Form Number: HUD–935.1 and 935.4
Frequency of Submission: Monthly
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 6,000
Status: Extension
Contact:
Peter Kaplan, HUD, (202) 755–7727
Robert Neal, OMB, (202) 395–7316

Proposal: Cooperative Membership Exhibit Section 213

Office: Housing
Form Number: HUD–93203
Frequency of Submission: On Occasion
Affected Public: Individuals or Households
Estimated Burden Hours: 2,500
Status: Extension
Contact:
C. Edward Lewis, HUD, (202) 755–6223

Robert Neal, OMB, (202) 395–7316

Proposal: Supplement to Subscription Agreement for Cooperative Housing Applicants Under Section 213 and 221(d)(3)
Office: Housing
Form Number: HUD–93232A
Frequency of Submission: On Occasion
Affected Public: Individuals or Households
Estimated Burden Hours: 7,000
Status: Extension
Contact:
C. Edward Lewis, HUD, (202) 755–6223
Robert Neal, OMB, (202) 395–7316

Proposal: State/Local Referral Agency Report
Office: Fair Housing and Equal Opportunity
Form Number: HUD–948
Frequency of Submission: Monthly
Affected Public: State or Local Governments and Federal Agencies or Employees
Estimated Burden Hours: 2,500
Status: Extension
Contact:
Steven J. Sack, HUD, (202) 426–3500
Robert Neal, OMB, (202) 395–7316

Proposal: HUD Supplemental EEO–4 Form
Office: Fair Housing and Equal Opportunity
Form Number: EEO–4
Frequency of Submission: Annually
Affected Public: State or Local Governments and Federal Agencies or Employees
Estimated Burden Hours: 1,290
Status: Extension
Contact:
Leon Garrett, Hud, (202) 755–6540
Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 31, 1984.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 84–21388 Filed 8–10–84; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–84–1431]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Fair Housing Assistance Survey
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: Single-Time
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 287
Status: New
Contact:
Steven Sacks, HUD, (202) 426–3500
Robert Neal, OMB, (202) 395–7316

Proposal: Project Applications and Review of Applications; Closing Documents—Category B and C Documentation—Section 221
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 69,000
Status: New
Contact:
James Hamernick, HUD, (210) 755–6720
Robert Neal, OMB, (202) 395–7316

Proposal: Application for Approval as a Coinsuring Lender—Category A Documentation—Section 221
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 4,800
Status: New
Contact:
James Hamernick, HUD, (202) 755–6720
Robert Neal, OMB, (202) 395–7316

Proposal: Manufactured Home Procedural and Enforcement Regulations
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 96,300
Status: New
Contact:
James C. McCollom, HUD, (202) 755–6920
Robert Neal, OMB, (202) 395–7316

Proposal: Manufactured Home Procedural and Enforcement Regulations
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 120,540
Status: New
Contact:
James C. McCollom, HUD, (202) 755–6920
Robert Neal, OMB, (202) 395–7316

Proposal: Contract and Subcontract Reporting for Housing's Multifamily and Single Family Programs
Office: Housing
Form Number: HUD–2516
Frequency of Submission: Quarterly
Affected Public: State or Local Governments, Businesses or Other For-Profit, Non-Profit Organizations,

and Small Businesses or Organizations
Estimated Burden Hours: 64,068
Status: New
Contact:
David Nimmer, HUD, (202) 755–6142
Robert Neal, OMB (202) 395–7316

Proposal: Certification/Recertification of Tenant Eligibility and Worksheets for Computing Gross/Net Family Contribution
Office: Housing
Form Number: HUD–50059, HUD–50059A, B, C, and D
Frequency of Submission: Annually
Affected Public: Individuals or Households and Businesses or Other For-Profit
Estimated Burden Hours: 3,571,256
Status: Extension
Contact:
Paul Williams, HUD, (202) 755–6614
Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 27, 1984.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 84–21389 Filed 8–10–84; 8:45 am]
BILLING CODE 4210–10–M

Office of Environment and Energy

[Docket No. I–84–126]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following projects under HUD programs as described in the appendix: City of Lansing, Michigan and City of St. Joseph. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register**, a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., July 31, 1984.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Environmental Impact Statement for the Michigan Biotechnology Institute, City of Lansing, Michigan

The City of Lansing intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description: The proposed Michigan Biotechnology Institute project will be a research and development center dealing with research problems in high value materials from renewable resources, plant and crop growth control and bioengineering. The 10 acre site is located at the interseciton of Collins and Jolly roads.

Approximate project cost is $12,500,000.

Federal funding for the project is expected to be from the United States Department of Housing and Urban Development (HUD) UDAG and Community Development Block Grant.

Need: A decision to prepare an EIS has been based upon effects on ground water and social concerns.

Alternatives being considered at this time include: (1) Construction of the research facility as planned, (2) construction of a convention office development, and (3) no action.

The HUD alternatives include: (1) Accept the project as proposed; (2) accept the project with conditions or modifications; and (3) no project.

Scoping: This notice is part of the process of scoping the EIS. Responses should be used to: (1) Make a determination of the need to prepare a full EIS, (2) help determine significant environmental issues, (3) identify data that will be used in the EIS, and (4) identify agencies, groups and individuals that will participate in the EIS process.

A public scoping meeting will be held as follows: Fifteen (15) days after publication in the **Federal Register** at 1:00 p.m.–3:00 p.m. and 7:00 p.m.–9:00 p.m. at City Hall, City of Lansing, Michigan, Ninth Floor, Lansing, Michigan.

Comments: Submission of comments and information prior to the public scoping meeting either in writing or by telephone should be directed to: Mr. Thomas Gottheimer, Economic Development Corporation, Ninth Floor, City Hall, Lansing, Michigan 48933, (517) 483–4140.

Environmental Impact Statement for the St. Joseph Foundry Corporation City of St. Joseph, Berrien County, Michigan

The City of Benton Harbor intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description: The proposed St. Joseph Foundry Corporation proposes to purchase the existing foundry, including land, buildings and equipment for the purpose of renovating and repairing the former facility and existing equipment, and the installation of new equipment. This facility would reopen as a jobber foundry producing casting for the automobile, truck and appliance industry. The 13 acre site is located at the northern tip of the City of St. Joseph and approximately ¼ mile East of Lake Michigan. Approximate project cost is $8 million dollars.

Federal funding for the project is expected to be from the United States Department of Housing and Urban Development (HUD) UDAG and Community Development Block Grant, as well as the Michigan Economic Development Agency, Small Cities Grants.

Need: A decision to prepare an EIS has been based upon effects on air quality from point source emission.

Alternatives being considered at this time include: (1) Purchase of the existing foundry for renovation of and repair of equipment as proposed, (2) rehabilitation of the existing building for alternative use, i.e., assembly of parts related to adjacent plant facilities, and (3) no action.

The HUD alternatives include: (1) Accept the project as proposed; (2) accept the project with conditions or modifications; and (3) no project.

Scoping: This notice is part of the process of scoping the EIS. Responses will be used to: (1) Make a determination of the need to prepare a full EIS, (2) help determine significant environmental issues, (3) identify data that will be used in the EIS, and (4) identify agencies, groups and individuals that will participate in the EIS process.

A public scoping meeting will be held as follows: Fifteen (15) days after publication in the **Federal Register** at 1:00 p.m.–3:00 p.m. and 7:00 p.m.–9:00 p.m. at City Hall, City of Benton Harbor, Michigan, 200 Wall Street, Lula Lee Commission Chambers.

Comments: Submission of comments and information prior to the public scoping meeting either in writing or by telephone should be directed to: William Lilly, City Hall, City of Benton Harbor, 200 Wall Street, Benton Harbor, Michigan (616) 927–8420.

[FR Doc. 84–21392 Filed 8–10–84; 8:45 am]

BILLING CODE 4210–29–M

Office of Administration

[Docket No. N–84–1433]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension of reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Manufactured Home Construction and Safety Standards, 24 CFR 3280
Office: Housing
Form number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households, State or Local Government, and Businesses or Other For-Profit
Estimated burden hours: 180,908
Status: Revision
Contact: Richard A. Mendlen, HUD, (202) 755–5798, Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 27, 1984.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 84–21422 Filed 8–10–84; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 58977]

New Mexico; Legal Notice

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 58977, members of the public are hereby invited to participate with Carbon Coal Company, on a pro rata cost-sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The land is located in McKinley County, New Mexico and is described as follows:

New Mexico Principal Meridian

T. 16 N., R. 19 W.,
Sec. 34, SW¼
Containing 160.00 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Carbon Coal Company, P.O. Box 481, Mentmore, New Mexico 87319. Such written notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. A copy of the exploration plan as submitted by Carbon Coal Company may be examined at the Bureau of Land Management, New Mexico State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Bureau of Land Management, 900 La Plata Highway, Caller Service 4104, Farmington, New Mexico 87499.

Monte G. Jordan,

Associate State Director.

[FR Doc. 21355 Filed 8–10–84; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fifth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes the time, place, and draft provisional agenda for the fifth meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and invites the public to provide information and comments on provisional agenda items. The fifth meeting has been scheduled for April 22 through May 3, 1985, in Buenos Aires, Argentina.

The Service also announces the first of two public meetings to receive information and comments on the provisional agenda; and on species for the purpose of determining if the United States will propose amendments to the lists of species controlled by the Convention.

ADDRESSES: Information and comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203. Information and comments are open to public inspection from 8:00 a.m. to 4:15 p.m., Monday through Friday, except holidays, at the Federal Wildlife Permit Office, Room 620, 1000 N. Glebe Road, Arlington, Virginia.

DATES: The Service will consider information and comments concerning the provisional agenda for the Buenos Aires meeting received by September 18, 1984, except that information and comments concerning suggested new agenda items will be considered if received by August 31, 1984. A public meeting concerning the provisional agenda including species proposals will be held on August 29, 1984. (See "Announcement of Public Meeting Concerning Provisional Agenda Including Species Proposals.")

FOR FURTHER INFORMATION CONTACT: Thomas J. Parisot, Chief, Federal Wildlife Permit Office, U.S. Management Authority for CITES, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 2203, telephone (703) 235–1937.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES or the Convention, is an international agreement designed to control international trade in certain listed animal and plant species which are or may become threatened with extinction. Currently, 87 nations, including the United States, are CITES Parties. The Convention calls for biennial meetings of the Conference of the Parties to review its implementation, make provisions enabling the Secretariat of CITES to carry out its functions, consider adopting amendments to Appendices I and II to CITES (2 of the 3 lists which contain the names of species and other taxonomic categories controlled by CITES; the third list, Appendix III, may be amended unilaterally), consider any reports presented by the Secretariat, any Part or a committee of the Conference of the Parties, and make recommendations for the improved effectiveness of CITES.

This is the first of a series of notices which, together with public meetings, provide the public with an opportunity to participate in the development of the United States negotiating positions for the fifth regular meeting of the Conference of the Parties to CITES. The Service's regulations governing this process are found in Title 50 of the Code of Federal Regulations §§ 23.31 through 23.39.

Notice of the Fifth Regular Meeting of the Conference of the Parties and the Meeting's Provisional Agenda

The Service sent representatives to a Standing Committee meeting in Gland, Switzerland, July 3–6, 1984. This meeting developed a provisional agenda for the fifth regular meeting of the Conference of the Parties which will be held in Buenos Aires, Argentina, from April 22 through May 3, 1985. A draft of the provisional agenda has been obtained by the Service and, although subject to change, is here printed in full:

Convention of International Trade in Endangered Species of Wild Fauna and Flora

Fifth Meeting of the Conference of the Parties

Buenos Aires, Argentina, 22 April to 3 May 1985

Agenda

(Provisional)

I. Opening Ceremony by the Authorities of Argentina
II. Welcoming addresses
III. Establishment of the Credentials Committee and other committees
IV. Adoption of the Agenda and Working Programme
V. Report of the Credentials Committee
VI. Adoption of the Rules of Procedure
VII. Admission of Observers
VIII. Matters related to the Standing Committee
  1. Report by the Chairman
  2. Revision of the membership of the Standing Committee
  3. Election of new members of the Standing Committee
IX. Report of the Secretariat
X. Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties
  1. Financial report for 1983–84
  2. Budget for 1986–87 and Medium Term Plan for 1988–89
  3. External Funding
  4. Headquarters Matters
XI. Relationship with other international agreements and organizations
XII. Committee reports and recommendations
  1. Technical Committee
  2. Identification Manual Committee
  3. Nomenclature Committee
XIII. Interpretation and implementation of the Convention
  1. Report on national reports under Article VIII, paragraph 7, of the Convention
  2. Trade in raw and worked ivory
  3. Trade in plant specimens
  4. Significant trade in Appendix II species ("High trade-volume")
  5. Control of "readily recognizable" parts and derivatives
  6. Control of specimens that are "personal or household effects"
  7. Captive-breeding and long maturing species
  8. Definition of "primarily commercial purposes"
  9. Time validity of import permits
  10. Definition of "pre-Convention specimens"
  11. A CITES Register of traders in live specimens of wild fauna
  12. Interpretation of Article VII, paragraphs 4 and 5
  13. Relationship between CITES Transport Guidelines for Live Animals and IATA Live Animals Regulations
XIV. General matters of principle relating to the appendices
  1. Ten Year Review of the Appendices
  2. Criteria for the inclusion of species in Appendix III
XV. Consideration of proposals for amendment of Appendices I and II
  1. Proposals submitted pursuant to Resolution on Ranching
  2. Other proposals
XVI. Conclusion of the Meeting
  1. Determination of the time and venue of the next regular meeting of the Conference of the Parties
  2. Closing remarks

Explanation of Provisional Agenda Items

Provisional agenda items I through VIII and X are largely procedural or administrative in nature and will not be explained here. Items XIV.1, and XV deal with admendments to the species appendices and will be dealt with in a series of separate notices. Item XVI needs no discussion. The following are brief explanations of the balance of the provisional agenda items:

IX. Report of the Secretariat

At its tenth meeting held in November 1983, the attention of the Standing Committee was drawn to the relationship established between UNEP, IUCN, and CITES with respect to the provision of the CITES Secretariat by UNEP through the IUCN under the provisions of CITES. The Executive Director of UNEP has the responsibility for providing the Secretariat with matters of concern related to finances, administration, office accommodations, staff relationships, and associated matters.

At its eleventh meeting held in July 1984, the Standing Committee recommended to the Executive Director by letter that:

(1) The CITES Secretary General directly controls the CITES financial account under supervision of the Executive Director and within the financial decisions of the Conference of the Parties.

(2) The CITES Secretariat be moved to a location separate from the WWF/

IUCN building but remain in or near Gland, Switzerland.

(3) Secretariat staff be taken over as a functional unit by UNEP.

XI. Relationship With Other International Organizations

Implementation of CITES relates to the work of other international agreements and organizations. The CITES Secretariat has established relationships with such organizations as the International Air Transport Association with regard to shipment of live animals and plants (see agenda item XIII.13), the International Whaling Commission with regard to concern for the survival of cetaceans, the United Nations Food and Agriculture Organization (FAO) with regard to the International Plant Protection Convention (see XIII.3), and with Interpol with regard to illegal trade in wildlife and wildlife products.

XII. Committee Reports and Recommendations

1. Technical Committee

The first formal Technical Committee meeting was held in Brussels, Belgium, on June 25–30, 1984. A number of issues were discussed, most of which will be described below. Ranching and other species proposals will be discussed in a separate **Federal Register** notice. A meeting of regional Technical Committee coordinators will be held in conjunction with an Asia/Oceania implementation seminar which is scheduled for October 1–12, 1984, in Kuala Lumpur, Malaysia. The Technical Committee's report to the fifth meeting of the Conference of the Parties will probably include subcommittee recommendations made by the Plant Working Group and the CITES Transport Guidelines Working Group.

2. Identification Manual Committee

A species identification manual for the use by Parties developing their own manuals for use by border and port official continues to be developed by the Secretariat and an international committee. Funding has come from the United Nations Environment Programme and from country and private contributions. Since the fourth meeting of the Conference of the Parties, the committee has printed portions of sections of the manual pertaining to: Rhinocerotidae (Switzerland), Crocodylia and Crocodile skins (Federal Republic of Germany), Fur Skins, general notes on Carnivora, and Fur Skins, Family Felidae (Switzerland).

The United States is coordinating the development of portions of the section pertaining to reptiles, and is also cooperating with New York Zoological Society in the development of a color plate identifying CITES species of Caribbean amazon birds.

3. Nomenclature Committee

A committee of experts chaired by the United States has produced a computer program to maintain a standard reference of mammal species names. The Group is working on a similar project for amphibians and reptiles, and will develop the references for mammals to the level of subspecies if the subspecies is listed in the Convention appendices. The committee is also updating the mammal list and will begin work on a bird list. Funding for the project is provided, in part, by UNEP.

XIII. Interpretation and Implementation of the Convention

1. Report on National Reports Under Article VIII, Paragraph 7, of the Convention

The fourth meeting of the Conference of the Parties recommended that the Technical Committee form a working group to make recommendations to improve the accuracy of annual reports. The working group met in Gland, Switzerland, on April 3, 1984, and made the following recommendations:

(1) The Secretariat should ask those Parties that have failed to submit annual reports for their reasons for such failure and seek to provide assistance, if appropriate, in the form of blank annual report forms, technical advice or processing assistance.

(2) Where Parties are unwilling to provide annual reports, the Secretariat should initiate correspondence through diplomatic channels to remedy the situation.

(3) The Technical Committee should discuss the application of sanctions to Parties that fail to meet their annual reporting obligations.

(4) The Secretariat should determine, with assistance from the Wildlife Trade Monitoring Unit (WTMU), which reports contain substantial omissions and the Technical Committee should recommend remedies.

(5) With regard to improperly compiled reports, the Secretariat should review annual reports for compliance with Conf. 3.10 and should transmit the results to the Technical Committee. The Secretariat should clarify its "Guidelines for the preparation of CITES annual reports" especially with regard to reporting actual trade, standard units of quantity and specification of re-exports, country of origin, and the standard terms and purpose codes.

(6) European Economic Community ("EEC") countries that are not CITES members should either submit annual reports or be urged to become CITES members. The chairman of the Technical Committee should seek a statement from the EEC on the effects of its CITES Regulation on implementation of CITES within the EEC, including its effect on reporting.

(7) The Technical Committee should consider whether it is necessary to increase financial support for WTMU or reduce the work demanded of it.

2. Trade in Raw and Worked Ivory

It has been proposed that raw ivory not be accepted for export or import if it is not properly marked, that the Secretariat assist in the implementation of a quota system adopted under the recommendation on ivory agreed to by the Working Party on Wildlife Management and National Parks of the African Forestry Commission of FAO in September 1983 (Arusha, Tanzania) and that Parties not accept raw ivory originating in nonparty countries unless they adhere to an "Arusha quota."

It has been proposed that complete or substantially complete tusks and worked ivory or consignments of worked ivory weighing ½ kilogram (1.1 pounds) or less be considered not readily recognizable and, therefore, not covered by CITES. It was also recommended that Parties indicate the number of tusks and also show the weight of each consignment over ½ kilogram in their annual reports of trade in CITES specimens. This proposal was opposed by many Parties at the June Technical Committee Meeting.

3. Trade in Plant Specimens

On the recommendation of the Technical Committee at the fourth meeting of the Conference of the Parties, a working group met in Tucson, Arizona, on February 27 through March 3, 1984, to discuss how monitoring and control of international trade in plants included in the CITES appendices could be made more effective. The recommendations of this group are summarized as follows:

(1) Producers of artificially propagated plants should be subject to inspection and licensing.

(2) Phytosanitary certificates with validated invoices as permits should be used for trade in artificially propagated Appendix II plants (some consideration is being given to extending this to artificially propagated Appendix I plants).

(3) Reporting of trade data on artificially propagated orchid hybrids need not be done on a "species" level.

(4) There should be continued support for current higher taxa listings, including Orchidaceae and Cactaceae, with re-assessment of this listing as the Parties' ability to fulfill their CITES obligations improves.

(5) The Plant Working Group should review the current plant listings.

(6) The Technical Committee should consider further guidance to the Parties on listing and delisting. For plants, the effect of trade on survival of the species depends, in part, on the form in which it is traded; the extent to which plants can be artificially propagated may need to be considered.

(7) The Plant Working Group, functioning as a subgroup of the existing Nomenclature Committee, should develop a standard plant names list.

(8) The Identification Manual Committee should develop an easy to use identification manual for inspectors at ports of entry and exit. Assistance should be provided by the Plant Working Group.

(9) A proposal should be prepared to formally implement Conf. 4.24 wherein it is recommended that all Appendix II and III plant listings be considered as specifying coverage of all parts and derivatives except those specificially exempted and that seeds, spores and tissue cultures of all Appendix II and III plants and cut flowers of artificially propagated Appendix II and III orchids be specifically exempted.

(10) The Secretariat should be provided with information on the Parties' experience in maintaining seized plants. Such information should be distributed to all of the Parties.

(11) The fifth meeting of the Conference of the Parties should discuss the possibility of establishing a committee to deal with the concerns of Scientific Authorities, and also discuss the relationship between Scientific Authority and the Management Authority of the same country.

(12) Enforcement of CITES plant trade should be reviewed to assure that enforcement officers are adequately informed of CITES requirements and inspection, clearance and detection methods.

(13) Measures should be taken to educate staff implementing CITES, concerned organizations, and the public about CITES and trade and conservation of plants covered by CITES.

4. Significant Trade in Appendix II Species ("High Trade Volume")

The United States prepared a paper on United States data on "high trade volume" in Appendix II species at the fourth meeting of the Conference of the Parties which was referred to the Technical Committee for further consideration. Subsequently, the WTMU provided world trade data for those species. Appendix II includes the species not necessarily threatened with extinction, but which may become so unless strictly regulated and monitored to avoid utilization incompatible with their survival. They may be traded commercially. Permits for export may only be issued if the Scientific Authority of the country of origin has advised the Management Authority of that country that export will not be detrimental to the survival of the species. The Scientific Authority may also advise that exports should be limited in order to maintain that species at a level consistent with its role in the ecosystems in which it occurs and well above the level at which it might become eligible for inclusion in Appendix I. While analysis of trade data alone may not be indicative of the impact that trade is having on the species, it is a first step in identifying Appendix II species that may be detrimentally affected by trade. At the June Technical Committee meeting, a working group was established to develop a proposed procedure for identifying potential problems of relative high trade volume for consideration by the fifth meeting of the Conference of the Parties. The United States will chair the working group. The United States has identified to the Technical Committee ten so called high trade volume taxa.

1. *Varanus Salvator*
2. *Tupinambis* sp.
3. *Varanus exanthematicus*
4. *Caiman crocodilus*
5. Species of the Boidae family
   (a) *Python reticulatus*
   (b) *Python molurus bivitattus*
   (c) *Constrictor constrictor*
   (d) *Eunectes* sp.
6. *Manis javanica* (Malaysian Pangolin)
7. *Psittacus eirthacus*
8. *Iguana iguana* (Common iguana)
9. *Dracaena guianensis* (Caiman lizard)
10. *Macaca fasicularis* (Philippine or crab-eating macaque)

5. Control of Readily Recognizable Part and Derivatives

The Convention only covers readily recognized parts and derivatives of listed species. The European Community countries are proposing that the Parties adopt a uniform list of readily recognizable parts and derivatives. All parts and derivatives not on such a list would not be controlled by the Convention, except that if a part was named on the label, package or an accompanying document, it would also be covered. A similar resolution was proposed at the second meeting of the Conference of the Parties, but was defeated by a narrow margin. The United States controls all parts and derivatives of species listed in the CITES appendices or those parts of certain listed species specified therein. At the June Technical Committee meeting this proposal was withdrawn, but it may be resubmitted.

6. Control of Specimens That Are "Personal or Household Effects"

The Convention provides an exemption under certain circumstances for perosnal and household effects. If a specimen meets the terms of the exemption, no CITES permits or certificates are required to import, export, or re-export the specimen, except if the specimen was acquired in a country of origin which requires an export permit. The Parties have never clarified the term personal or household effects.

A proposal forwarded by the Federal Republic of Germany would apply those terms to specimens accompanying travelers or contained in their personal luggage or are part of the removal of effects of individuals settling in another country, or are small consignments of an occasional nature for personal or family use by the consignees which have been sent to them without payment, and are not to be used for commercial purposes and are non-living. The proposal would eliminate the need for export permits for Appendix II personal and household effects and would substitute a requirement that trade statistics for personal and household effects be reported on an annual basis to the Secretariat.

7. Captive Breeding and Long Maturing Species

Conf. 2.12 sets forth criteria for determining whether a specimen has been bred in captivity and thus is eligible for one of the certificated exemptions in Article VII, paragraphs 4 and 5. The United Kingdom has submitted a ranching proposal for the green sea turtle (Cayman Turtle Farm) (see item XV, 1). The United Kingdom may also submit a resolution at the Buenos Aires meeting proposing a change in or an addition to the Conf. 2.12 criteria.

8. Definition of "Primarily Commercial Purposes"

Unless an Article VII exemption applies, import of an Appendix I specimen requires an export permit and an import permit. One of the requirements for the issuance of an

import permit is that the specimen "is not to be used for primarily commercial purposes." Interpretation of this requirement leads to questions such as: Would import of an Appendix I specimen for display at a public zoo satisfy the noncommercial requirement if the importing zoo was purchasing the specimen rather than receiving it as a donation? This sort of question has been raised by Denmark.

9. Time Validity of Import Permits

The Parties have recommended that export permits and re-export certificates contain an expiration date no later than 6 months from the date of issuance and that importation shall be made within that period. The European Community has also applied a 6-month period of validity to its import permits. Italy has raised the issue as to whether a 6-month limit on import permits is desirable, but subsequently withdrew it at the Technical Committee meeting.

10. Definition of "Pre-Convention Specimen"

It has been proposed that if the parental breeding stock of an operation breeding specimens in captivity was established with specimens qualified for the pre-Convention exemption (Article VII, paragraphs 4 and 5) or with specimens taken at the time they were listed on Appendix II, the operation should not have to meet the test that it is demonstrably capable of reliably producing second generation offspring (see Conf. 2.12).

11. A CITES Register of Traders in Lives Specimens of Wild Fauna

At the fourth regular meeting of the Conference of the Parties, a proposal was submitted that would have established an international directory of bona fide traders of wildlife. This was to include all persons buying, selling, trading or exchanging live wildlife in international trade in the course of and related to a business or professional endeavor. The directory, therefore, would include, zoos, medical research facilities and entertainment groups, as well as commercial dealers, but would exclude airlines, freight forwarders, and other carriers. The proposal was referred to the Technical Committee for further consideration. The June 1984 Technical Committee meeting did not address the proposal.

12. Interpretation of Article VII, Paragraph 4 and 5

Switzerland has produced a paper which poses the following issues:

a. Is the sale, by a breeding zoo, of a zoo-bred Appendix I animal *per se* the sale of a specimen "* * * bred in captivity for commercial purposes * * *"? In general, what is the meaning of the quoted language?

b. Must countries which use regular CITES export permits which merely indicate "bred in captivity" as certificates of exemption for Appendix I specimens under Article VII paragraph 5 determine prior to issuance whether the importing country requires an import permit?

c. Are zoos to be treated the same as commercial captive breeding operations when applying the F–2 generation criterion of Conf. 2.12?

Denmark also submitted a proposed resolution to the June Technical Committee meeting. To save time, it was agreed that they would be combined and that the United States would draft the resolution.

13. Relations Between CITES Transport Guidelines for Live Animals and IATA Live Animals Regulations

The fourth meeting of the Conference of the Parties stated that the International Air Transport Association Live Animals Regulations are deemed to meet the CITES Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants, that a continuing dialog be established between the Secretariat/Technical Committee and IATA for the purpose of making the two guidelines compatible, and that the Technical Committee prepare amendments to the CITES guidelines and suggest appropriate amendments to the IATA guidelines. At the Technical Committee meeting, Canada and the United States agreed to serve as a Technical Committee working group to develop a procedure for assuring compatibility of IATA guidelines with the requirements of CITES to "* * * minimize the risk of injury, damage to health or cruel treatment * * *."

A meeting was held between CITES and IATA representatives in August 1983. Amendments to the 1984 addition of the IATA guidelines which would provide updated information on CITES species and Management Authorities were accepted. A working group of the Technical Committee, consisting of Canada (chair) and the United States, will meet to consider amendments to the CITES and IATA Guidelines.

XIV.2 Criteria for Inclusion of Species in Appendix III

The Parties have adopted criteria by which to judge whether species should be listed or delisted from Appendices I and II. No such criteria have been adopted for Appendix III. A proposal has been made that would limit such listings to species native to the listing country. Readily recognizable parts and derivatives could only be excluded from the listing if this was necessary "for reasons of difficulties in controlling such items." It should be noted that Article II, paragraph 3, calls for Appendix III listing where "the cooperation of other Parties in the control of trade" is needed.

XV. Consideration of proposals for Amendment of Appendices I and II

1. Proposals Submitted Pursuant to Resolution on Ranching

The Service has received a copy of a United Kingdom proposal to transfer from Appendix I to Appendix II the captive population of *Chelonia mydas* (green sea turtle) in the Cayman Islands in accordance with the terms of the resolution on ranching (Conf. 3.15) adopted by the third regular meeting of the Conference of the Parties. The Service understands that other ranching proposals have also been submitted, namely:

Party	Population of—
Reunion (France)	*Chelonia mydas* (green sea turtle).
Surinam	*Chelonia mydas* (green sea turtle).

As with species proposals generated by the Plant Working Group and proposals for other amendments to Appendices I and II, ranching proposals will be treated in a separate series of Service notices published in the **Federal Register**. The most recent of such notices was published on February 24, 1984 (49 FR 6951).

Request for Information and Comments

The Service invites information and comments on the draft provisional agenda items and suggestions for additional agenda items. Suggestions for additional items should contain sufficient detail to enable the Service to evaluate appropriateness for inclusion in the agenda of the fifth regular meeting of the Conference of the Parties.

Announcement of Public Meeting Concerning Provisional Agenda Including Species Proposals

The Service announces that it will conduct a public meeting on August 29, 1984, from 1:00 p.m. to 4:30 p.m. in room 7000–A and 7000–B of the U.S. Department of the Interior (Main Building), at 18th and C Streets, N.W., Washington, D.C., for the following purposes:

(1) To receive information and comments on the provisional agenda

items for the fifth regular meeting of the Conference of the Parties.

(2) To receive suggestions for additional agenda items for the fifth regular meeting of the Conference of the Parties.

(3) To receive information on animal and plant species for the purpose of determining if the United States should propose any amendments to the lists of species in CITES Appendices I and II. The Service has recently published or will publish shortly a notice in the **Federal Register** discussing species identified as candidates for U.S. proposals to amend Appendices I and II. Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with Thomas J. Parisot, Chief, Federal Wildlife Permit Office, U.S. Mangement Authority for CITES, 1000 North Glebe Road, Room 620, Arlington, Virginia, telephone (703) 235–1937.

Observes: Article IX, Paragraph 7 of the Convention provides:

Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by the observers, shall be admitted unless at least one-third of the Parties object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) National non-government agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted these observers shall have the right to participate, but not to vote.

Those bodies or agencies wishing to send observers to the fifth regular meeting of the Conference of the Parties are responsible for so informing the Secretariat. In the past, the Secretariat has required such information to be received at least 1 month prior to the meeting. The Secretariat may be contacted at the following address: Mr. Eugene Lapointe, Secretary General c/o IUCN, avenue do Mont-Blanc, CH–1196 Gland, Switzerland, Telex: 22618 iucn ch, Cable: IUCNATURE GLAND.

Persons wishing to be observers representing the United States national non-governmental agencies must also receive prior approval of the Fish and Wildlife Service. Requests for such approval should include evidence of technical qualification in protection, conservation or management of wild fauna and flora and should be sent to the Federal Wildlife Permit Office (see **"ADDRESSES"** above).

Other Meetings and Notices

The Service plans to publish a notice of proposed negotiating positions on or about January 20, 1985, to hold a public meeting on such positions on or about February 15, 1985, and to publish a notice of negotiating positions on or about April 1, 1985.

This notice was prepared by Arthur W. Lazarowitz, Federal Wildlife Permit Office.

Dated: August 7, 1984.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 84–21366 Filed 8–10–84; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Gulf of Mexico OCS Region; Availability of Draft Environmental Impact Statement and Intent To Hold Public Hearings Regarding Proposed Gulf of Mexico Lease Sales 94, 98, and 102

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Mangement Service (MMS) has prepared a draft environmental impact statement (EIS) relating to proposed 1985 oil and gas lease sales in the Eastern, Central, and Western Gulf of Mexico.

Eastern Gulf Sale 94 offers for lease all unleased blocks within the Eastern Gulf of Mexico planning area with the exception of the following deferred areas: 23 blocks in the Florida Middle Ground; 186 blocks containing seagrass beds; and 99 blocks within the 20 meter isobath zone south of 26 °N. latitude. The proposed area consists of approximately 56.2 million acres. Central Gulf Sale 98 offers for lease all unleased blocks within the Central Gulf of Mexico planning area and consists of approximately 32.7 million acres. Western Gulf Sale 102 offers for lease all unleased blocks within the Western Gulf of Mexico planning area with the exception of Blocks A–398 and A–375 in the High Island Area, East Addition, South Extension. The proposed area consists of approximately 30.6 million acres.

Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Regional Office, P.O. Box 7944, Metarie, Louisiana 70010. The telephone number is (504) 837–4720.

Copies of the draft EIS will also be available for review in the following libraries:

Austin Public Library, 401 W. 9th Street, Austin, TX
Rosenburg Library, 2310 Sealy Street, Galveston, TX
Brazoria County Library, 410 Brazosport Blvd, Freeport, TX
Texas Southmost College Library, 80 Fort Brown Street, Brownsville, TX
Louisiana State Library, Louisiana State University, Baton Rouge, LA
Calcasieu Parish Library, Downtown Branch, Lake Charles, LA
Mobile Public Library, 701 Government Street, Mobile, AL
St. Petersburg Public Library, 3745 North Avenue North, St. Petersburg, FL
Northwest Regional Library System, 25 W. Government Street, Panama City, FL
Houston Public Library, 500 McKinney Street, Houston, TX
Dallas Public Library, 1954 Commerce Street, Dallas, TX
LaRatama Library, 505 Mesquite Street, Corpus Christi, TX
New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA
Lafayette Public Library, 301 W. Congress Street, Lafayette, LA
Harrison County Library, 21st Avenue & Beach Street, Gulfport, MS.,
Montgomery Public Library, 445 S. Lawrence Street, Montgomery, AL
West Florida Regional Library, 200 West Gregory Street, Pensacola, FL
Leon County Public Library, 127 N. Monroe Street, Tallahassee, FL
Lee County Library, 3355 Fowler Street, Fort Myers, FL
Tampa–Hillsborough County Public Library System, 800 North Ashley Street, Tampa, FL
Charlotte-Glades Regional Library, 801 N.W. Aaron Street, Port Charlotte, FL

In accordance with 30 CFR 256.26, public hearings pertaining to these proposed sales will be held to receive comments and suggestions relating to the EIS. The hearings will be held on the following dates at the locations and times indicated:

September 11, 1984

Sala Granda #1, La Quinta Royal Inn, 601 North Water Street, Corpus Christi, Texas, (10:00 a.m.)

September 13, 1984

Flagship Room Sheraton Miracle Mile Inn, 9450 South Thomas Drive, Panama City, Florida, (10:00 a.m.)

September 14, 1984

Room 437, Imperial Office Building, 3301 Causeway Boulevard, Metarie, Louisiana, (10:00 a.m.)

The hearing will provide the Secretary of the Interior with information from both public and private sectors to help evaluate the potential effects of leasing

for oil and gas proposed in the Gulf of Mexico.

Interested individuals, representtives of organizations, and public officials wishing to testify at the hearings are asked to contact Mark Rouse, Gulf of Mexico Region, at the address and telephone number above by 4:00 p.m. Friday, September 7, 1984. Time limitations may make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of oral presentations or by mail until October 9, 1984. This will allow those unable to testify at a public hearing an opportunity to make their views known and for those presenting oral testimony to submit supplemental information and comments. To the extent that time is available after presentation of oral statements by those who have given advance notice, others will be given an opportunity to be heard.

Written comments concerning the draft EIS will be accepted until October 9, 1984 and should be addressed to the Regional Manager, Minerals Management Service, P.O. Box 7944, Metarie, Louisiana 70010.

Dated : August 8, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 84-21402 Filed 8-10-84; 8:45 am]

BILLING CODE 4310-MR

Development Operations Coordination Document; Pennazoil Exploration and 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 Pennzoil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2115, Block 330, Eugene Island 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 Intercoastal City Louisiana.

DATE: The subject DOCD was deemed submitted on August 6, 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 Managment 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. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

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: August 6, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-21394 Filed 8-10-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-82X)]

Baltimore and Ohio Railroad Co.; Abandonment in Trumbull County, OH; Exemption

Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR 1152, Subpart F—*Exempt Abandonments*. The line to be abandoned, a portion of the Newton Falls Subdivision, is between milepost 81.26 near Girard, OH and milepost 85.96 near Niles, OH, a distance of 4.70 miles, in Trumbull County, OH.

B&O has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, (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 Ohio 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 September 11, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by August 20, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 30, 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 applicant's representatives:

Rene J. Gunning, Suite 2204, 100 North Charers St., Baltimore, MD 21201

and

Peter J. Shudtz, Terminal Tower, Cleveland, OH 44101

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: August 2, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-21405 Filed 8-10-84; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P–78]

Passenger Train Operation; The Atchison, Topeka and Santa Fe Railway Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks near Bowie, Arizona, are temporarily out of service because of a derailment. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company between El

Paso, Texas, and Los Angeles, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. § 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with the Southern Pacific Transportation Company (SP) at El Paso, Texas, and Los Angeles, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 10:30 a.m. (EDT), July 29, 1984.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), July 31, 1984, unless modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 29, 1984.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 84-21404 Filed 8-10-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Voting Rights Act; Certification of the Attorney General; Chattahoochee County, GA

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Chattahoochee County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: August 7, 1984.

Carol E. Dinkins,

Acting Attorney General of the United States.

[FR Doc. 84-21374 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-01-M

Voting Rights Act; Certification of the Attorney General; Jefferson County, GA

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Jefferson County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: August 7, 1984.

Carol E. Dinkins,

Acting Attorney General of the United States.

[FR Doc. 84-21375 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-01-M

Voting Rights Act; Certification of the Attorney General; Pike County, GA

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Pike County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: August 7, 1984.

Carol E. Dinkins,

Acting Attorney General of the United States.

[FR Doc. 84-21376 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-01-M

Voting Rights Act; Certification of the Attorney General; Worth County, GA.

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Worth County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897)

Dated: August 7, 1984.

Carol E. Dinkins,

Acting Attorney General of the United States.

[FR Doc. 84-21377 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances; Proposed Aggregate Production Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Proposed 1984 Aggregate Production Quotas.

SUMMARY: This notice proposes 1984 Aggregate Production Quotas for controlled substances in Schedules I and II which will be used as analytical standards.

DATE: Comments or objections should be received on or before September 12, 1984.

ADDRESS: Send comments or objections in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537. Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537. Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The Drug Enforcement Administration received applications from Alltech Associates, Inc., Applied Science Labs of State College, Pennsylvania to manufacture in 1984 a number of Schedule I and II controlled substances. These chemicals will be used in the preparation of analytical standards.

The Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code, section 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes 1984 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous base:

Proposed 1984 Aggregate Production Quotas

Basic Class:	
Schedule I:	
Dihydromorphine	5
Lysergic acid diethylamide	10
Mescaline	5
Normorphine	5
Schedule II:	
Benzoylecgonine	50
1-Piperidinocyclohexanecarbonitrile	15
Phencyclidine	50
1-Phenylcyclohexylamine	15

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by September 12, 1984. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to section (3)(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States.

Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Dated: August 3, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-21391 Filed 8-10-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Officer of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 31st day of July 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Louis Lefkowitz & Bros. (Int'l Leather Goods Wkrs)	Milltown, NJ	7/20/84	6/22/84	TA-W-15,389	Leather goods—photography bags, OEM products.
Outboard Marine Corp. (OPEIU))	Galesburg, IL	7/10/84	7/3/84	TA-W-15,390	Tanks—gas and component parts for outboard motors.
Talbott Knitting Mills (company)	New York, NY	7/26/84	7/18/84	TA-W-15,391	Office, design work shop.
Talbott Knitting Mills (company)	Morgantown, PA	7/26/84	7/18/84	TA-W-15,392	Sweaters—synthetic.
Talbott Knitting Mills (company)	Reading, PA	7/26/84	7/18/84	TA-W-15,393	Sweaters—synthetic.
Union Carbide Corp., Metals Div., Uravan Mill (company)	Uravan, CO	5/21/84	5/16/84	TA-W-15,394	Uranium mill.
Union Carbide Corp., Metals Div., Uravan Mine (company)	Uravan, CO	5/21/84	5/16/84	TA-W-15,395	Uranium mine.
Union Carbide Corp., Metals Div., LaSal Mine (company)	LaSal, UT	5/21/84	5/16/84	TA-W-15,396	Uranium mine.
Union Carbide Corp., Metals Div., Gas Hills Mill (company)	Gas Hills, WY	5/21/84	5/16/84	TA-W-15,397	Uranium mill.
Union Carbide Corp., Metals Div., Gas Hills Mine (company).	Gas Hills, WY	5/21/84	5/16/84	TA-W-15,398	Uranium mine.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Union Carbide Corp., Metals Div., Rifle Mill	Rifle, CO	5/21/84	5/16/84	TA-W-15,399	Uranium mill.
American Thread Co. (ACTWU)	Willimantic CT	7/23/84	7/19/84	TA-W-15,400	Industrial thread and hand knitting yarn.
Cheney Brothers, Inc. (ACTWU)	Manchester, CT	7/23/84	7/19/84	TA-W-15,401	Velvet and velour upholstery fibrics.
Flower Classics, Inc. (workers)	Hialeah, FL	7/13/84	7/6/84	TA-W-15,402	Artificial flowers and novelty ribbons.
(The Hanover Shoe Inc. workers)	White Sulphur Springs, WV.	7/19/84	7/17/84	TA-W-15,403	Shoes, men's casual and dress.
Old Diminion Manufacturing Co., Inc., LAV Div. (workers)	Culpeper, VA	7/23/84	7/16/84	TA-W-15,404	Gun turrets.
Oscar Schmidt, Div. of Fretted Industries (Brotherhood of Carpenters).	Union NJ	7/10/84	6/19/84	TA-W-15,405	Autoharps.
Union/Butterfield Div., Litton Industries (UE)	Athol, MA	7/17/84	7/6/84	TA-W-15,406	Metal cutting tools.

[FR Doc. 84-21320 Filed 8-10-84; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4363 et al.]

Proposed Exemptions; Nasco, Inc. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons: Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Nasco, Inc. Amended and Restated Retirement Plan (the Retirement Plan) and Nasco, Inc. Amended and Restated Profit Sharing Plan (the Profit Sharing Plan; Collectively, the Plans) Located in Springfield, Tennessee [Application Nos. D-4363 and D-4364]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed transfer of a group annuity contract from the Retirement Plan to the Profit Sharing Plan, the concurrent transfer of cash from the Profit Sharing Plan to the Retirement Plan and the assumption by the Profit Sharing Plan of benefits due certain participants, as described herein.

Summary of Facts and Representations

1. The Retirement Plan is a defined benefit pension plan with 253 active participants (the Participants) and total assets of $700,000 as of December 1, 1982. The Profit Sharing Plan is a defined contribution profit sharing plan with 317 active participants, which include the Participants, and total assets of $1,907,012 as of June 30, 1983. The Plan are sponsored and maintained by Nasco, Inc. (the Employer), a Tennessee corporation engaged in the manufacture and sale of emblems for apparel. The trustees of both Plans are Messrs. James B. Smith, Don K. Darragh, and Bill F. Cook (the Trustees), each of whom is also an officer of the Employer. The Retirement Plan was terminated (the Termination) by the Employer as of July 1, 1982 in accordance with the terms of the Retirement Plan. The Employer represents that the Termination occurred in the manner as provided under section 4044 of the Act. Notice of Termination was filed by the Trustees with the Pension Benefit Guaranty Corporation, which issued to the Trustees a Notice of Sufficiency dated December 10, 1982. On September 15, 1982, the Trustees filed Applications for Determination with the Internal Revenue Service (the Service) regarding the effect of amendments of both Plans and the effect of the Termination. On June 21, 1983 and August 11, 1983, the Service's District Director in Atlanta, Georgia issued favorable determinations

on such Applications. The Trustees represent that the Plans are not parties in interest with respect to each other.

2. Upon the Termination, each of the Participants was granted an election with respect to the Participants' accrued benefits in the Retirement Plan. Each Participant was given the choice: (1) To have his or her accrued benefits in the Retirement Plan preserved by the purchase of an individual annuity contract for his or her benefit, or (2) to have the present value of his or her accrued benefits in the Retirement Plan transferred to his or her individual account in the Profit Sharing Plan. All but one of the Participants elected to have their accrued benefits in the Retirement Plan transferred to their individual accounts in the Profit Sharing Plan. One Participant elected to have his accrued benefits in the Retirement Plan paid by the purchase of an individual annuity contract for his benefit. The Retirement Plan is also obligated to seven former employees of the Employer who have accrued vested benefits under the Retirement Plan.

3. The principal asset of the Retirement Plan is a fixed dollar account noncontributory participating group annuity contract (the Contract) issued by the New York Life Insurance Company as Contract No. GA–1904, effective as of April 1, 1982. The Contract was purchased with $496,481.80 of Retirement Plan assets and accrues interest at a guaranteed rate of 15.64 percent per annum, less 0.25 percent administrative charge, for a period of five years. The Trustees wish to transfer the Contract from the Retirement Plan to the Profit Sharing Plan. The excess of the Contract's face value (original cost plus accrued interest) as of the date of transfer over the sum of the transferred Retirement Plan liabilities, valued as of the date of transfer, will be returned by the Profit Sharing Plan to the Retirement Plan. The Trustees represent that the face value of the Contract is the appropriate method of valuation since the Contract can be redeemed for that amount at any time from the issuer of the Contract. The cash payment to the Retirement Plan will be among the other remaining assets of the Retirement Plan which will be used to purchase an individual annuity contract for the one active Participant who elected not to have his benefits transferred to the Profit Sharing Plan and to satisfy the liabilities with respect to the seven former employees with vested benefits. The Trustees represent that the proposed transfer of the Contract to the Profit Sharing Plan is advantageous to the Participants because it would preserve the Contract's favorable guaranteed yield of 15.64 percent per annum. The Trustees maintain that if the Contract were to be surrendered for cash and that cash were to be invested in a comparable group annuity contract bearing a guaranteed rate of interest, the yield would be significantly lower due to current market conditions. The Trustees also represent that the transfer of the Contract to the Profit Sharing Plan will in no way be to the detriment of other current participants in the Profit Sharing Plan or the Retirement Plan. After transfer of the Contract to the Profit Sharing Plan, the annual earnings on the Contract will be allocated annually among the accounts of all Profit Sharing Plan participants in proportion to the account balances of such participants.

4. In summary, the Trustees represent that the criteria of section 408(a) of the Act will be satisfied in the proposed transfer of the Contract from the terminated Retirement Plan to the Profit Sharing Plan because: (1) The Participants' rights will be unaffected; (2) the proposed transfer will preserve for the benefit of the Participants an asset with a favorable rate of return which is unavailable in a comparable investment under current market conditions; and (3) the proposed transfer of the Contract would constitute a one-time transaction which would preserve all accrued benefits of the Participants and would in no way be to the detriment of current participants in the Profit Sharing Plan or the Retirement Plan.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

APX Group, Inc. Profit Sharing Retirement Plan and Trust (the Profit Sharing Plan) and the Toledo Division, AP Parts Company Division, APX Group, Inc.—U.A.W. Retirement Plan and Trust (the UAW Plan) Located in Toledo, Ohio

[Application Nos. D–4706 and D–4707]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the sale of certain assets by the Profit Sharing Plan to the UAW Plan provided that the price paid for the assets is their fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Profit Sharing Plan is an employee pension benefit plan with approximately 149 participants. It had total assets of $4,451,536 as of August 31, 1883. The Profit Sharing Plan is sponsored by APX Group, Inc., (APX) a Ohio corporation, and provides retirement benefits to salaried employees of APX.

2. The UAW Plan is an employee benefit pension plan with approximately 681 participants. The UAW Plan is co-sponsored by APX and Local No. 14 of the United Automobile Workers. It had total assets of $9,060,855 as of August 31, 1983.

3. The Ohio Citizens Bank is the independent trustee (the Trustee) of the Profit Sharing Plan and the UAW Plan.

4. As of January 1, 1979, the Profit Sharing Plan was frozen and no new employees of APX were admitted to participation in the Profit Sharing Plan. The Trustee has determined, in accordance with the Profit Sharing Plan document, to transfer all assets of the Profit Sharing Plan to Travelers Insurance Company (Travelers) pursuant to a group annuity contract whereby all monies will continue to be productively invested for the sole and exclusive benefit of the participants in the Profit Sharing Plan.

5. Arrangements have been made to transfer all of the assets of the Profit Sharing Plan to Travelers except for three assets which Travelers is unable to accept because of their limited marketability and liquidity. These assets are:

(a) Suburban Motor Freight, Inc. mortgage loan (the Mortgage). The Mortgage, dated July 31, 1975, was originally $335,000, and is due on July 1, 1990. The current principal balance of the Morgage is approximately $234,554 payable in monthly installments of $4,021, including interest at the rate of 12% per annum computed on the declining balance paid as a part of said monthly payments;

(f) Phoenix Mutual Life Insurance Company pension deposit contract (the Contract) with a face value of $250,000. The Contract, is dated December 31, 1979 and due December 31, 1984, with interest at 11.4% per annum payable annually on the anniversary date of the Contract and principal return together with interest at the Contract maturity date; and

(c) Real Property. The real property (the Property) consists of approximately 9.22 acres located in Brookpark, Ohio, and is currently leased to Associated Truck Lines, Inc. (ATL) under a 25-year

lease agreement (the Lease). (ATL is not a party interest with respect to the Plans.) The Lease includes an option to purchase the Property.

6. The Trustee has determined that the Mortgage, the Contract and the Property (collectively, the Assets) should be transferred to the UAW Plan. The Trustee is familiar with the Assets and is of the opinion that they are proper investments for the UAW Plan. The Trustee represents the the Profit Sharing Plan and the UAW Plan are not parties in interest with respect to one another.

7. It is proposed that the Profit Sharing Plan sell the Mortgage to the UAW Plan. The Purchase price will be the fair market value of the Mortgage as determined by an appraisal of the Mortgage. By letter dated November 8, 1983, Wm. C. Roney & Company, a member of the New York Stock Exchange, stated that the fair market value of the Mortgage was $214,709 as of October 31, 1983. The purchase price will be paid in cash at closing.

8. It is also proposed that the Profit Sharing Plan sell the Contract to the UAW Plan. The purchase price will be the fair market value of the Contract. By letter dated January 16, 1984, Kidder, Peabody & Co., an independent appraiser, established the fair market value of the Contract at $250,452. The purchase price will be paid in cash at closing.

9. It is further proposed that the Profit Sharing Plan sell the Property to the UAW Plan. The purchase price will be $288,000. An independent appraisal of the Property performed by Herbert R. Chisling, S.R.P.A., A.S.A. (the Appraiser), established the total fair market value of the Property at $1,092,000 and the fair market value of the Profit Sharing Plan's interest in the Property to be $288,000. The Appraiser determined that the present lessee of the Property has an advantageous lease in that it has a rent saving of $82,910 per year. The Appraiser determined the value of the Profit Sharing Plan's interest in the Property by adding the present value of the income stream under the lease and the reversion value of the Property based upon the price at which the lessee has the option to purchase the Property.

10. The Trustee has determined that the sale of the Assets of the UAW Plan would be in the interests of the Profit Sharing Plan and the UAW Plan and its participants and beneficiaries. The Trustee states that its decision to make this transfer is in accord with its fiduciary duties under the Act. In setting forth the reasons for its decision, the Trustee has represented:

(1) The Mortgage—The UAW Plan's purchase of the Mortgage presents a unique opportunity for the UAW Plan. At the present time, the UAW Plan has no real estate investments. Over the last few years, the Trustee has noted the increase in real estate investments as a proper form of diversification and alternate form of fixed income investment for employee benefit plans and desires to take advantage of this opportunity on behalf of the UAW Plan. The Trustee represents that it has made a detailed credit investigation of the mortgagor (Surburban Motor Freight, Inc.) and has determined that it is a creditworthy debtor. The Trustee's investigation of the payment record of the Mortgage indicates that all payments have been made on a timely basis. The Trustee is familiar with the property underlying the mortgage and believes it is valuable property with a good location and will hold its value. The UAW Plan's purchase of the Mortgage will afford it a 13 percent per annum rate of interest. The trustee has determined that a rate of return of approximately 13 percent per annum for a real estate mortgage loan of comparable quality and maturity, including but not limited to the location and character of the underlying property, the credit of the borrower and the general market conditions, represents the fair market value rate of return for such an investment at this time and in this market. Therefore, the Trustee has determined that the UAW Plan's acquisition of the Mortgage would round out the Plan's portfolio diversification, provide a fair market rate of return and carry a negligible credit risk.

(2) The Contract—The Trustee has determined that the Contract is a fixed income investment with a short maturity, being due and redeemable December 31, 1984. The Trustee represents that the value determined by Kidder, Peabody and Co. is the fair market value of the Contract and that the UAW Plan will pay no more and the Profit Sharing Plan will receive no less than fair market value. The Trustee has had numerous dealings with the issuer of the Contract (Phoenix Mutual Life Insurance Company) and has, for its other customers, purchased numerous guaranteed insurance contracts from this issuer. In every instance, the Trustee has had the issuer's full cooperation and prompt payment at maturity. The Trustee has determined that the UAW Plan's purchase of an extremely low risk, fixed income security with a short maturity creates a unique opportunity to enhance the investment return of the UAW Plan with negligible risk.

(3) The Property—The Trustee has represented that the Property is located in Brook Park, Cuyahoga County, Ohio, a highly successful industrial area. The Property is subject to the Lease which expires in June, 1988. The Trustee believes that it is appropriate to expand the diversification of the UAW Plan's portfolio, and, as it now contains no real estate investments, this secure real estate-type fixed investment is advisable for the UAW Plan. The Trustee made a full credit investigation of the lessee of the Property (ATL) and believes it to be of a high creditworthy character. The Trustee further states that, as a resut of its own investigation of the Property, it believes that should ATL not exercise its option to purchase the Property and/or to renew the Lease, the Property could be sold and/or leased on favorable terms and without undue expense or delays.

11. The proposed purchase of the Assets by the UAW Plan has been approved by its Board of Trustees (the Board). By letter dated October 14, 1983, the Board stated that it is aware of all aspects of the proposed purchase of the Assets, and intends to complete the purchase subject to the granting of the requested exemption.

12. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Profit Sharing Plan will receive fair market value for the Assets;

(2) The UAW Plan will purchase the Assets at their fair market values;

(3) This will be a one-time cash transaction;

(4) The Assets fit within the UAW Plan's investment needs and objectives;

(5) It is to the advantage of the Profit Sharing Plan to liquidate its assets because it is a frozen plan; and

(6) The Trustee has determined that the proposed transaction is in the interest of and protective of the Profit Sharing Plan and the UAW Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed; upon by the applicant and the Department within 30 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing. Comments and/or hearing

requests are due 60 days after the date of publication in the Federal Register.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wilson Clinic Profit Sharing Plan (the Profit Sharing Plan) and Wilson Clinic, P.A. Pension Plan (the Pension Plan, Collectively, the Plans) Located in Wilson, North Carolina

[Application No. D–4809 and D–4810]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed purchase (the Purchase) by the Plans of a parcel of unimproved real property (the Property) from Wilson Clinic, P.A. (the Employer), the sponsor of the Plans; (2) incident to the Purchase, the assumption by the Plans of the Employer's obligation under an existing mortgage on the Property; (3) the proposed lease (the Lease) of the Property by the Plans to the Employer; and (4) the possible repurchase of the Property by the Employer pursuant to the terms of the Lease, provided that the terms and conditions of the transactions are at least as favorable to the Plans as those obtainable from an unrelated third party.

Summary of Facts and Representations

1. The Plans are defined contribution pension plans with 151 participants in each Plan. On December 31, 1983, the Pension Plan had $2,852,812.39 in total assets and the Profit Sharing Plan had $1,980,695.55 in total assets. Branch Banking and Trust Company (the Bank) is the trustee of the Plans. The Bank has sole responsibility for the investment of the assets of the Plans. The Employer is a medical clinic with 16 shareholders.

2. In August, 1983, the Employer purchased the Property from Parkwood Development Corporation (Parkwood), a party unrelated with respect to the Plan, for $410,000. The Employer paid $50,000 in cash at closing and gave a $360,000 promissory note (the Note) secured by a purchase money deed of trust on the Property. The Note carries an 11% interest rate and requires three payments. The first payment, for $60,000 plus interest, due on January 2, 1984, has been paid. The second payment, for $70,000 plus interest, is due on January 2, 1985, and the final payment, for $230,000 plus interest is due on January 2, 1986. The Note prohibits prepayment of any of the installments. The Property adjoins one of the Employer's medical clinics.

3. The Plans seek an exemption to permit the Purchase of the Property and its subsequent Lease to the Employer. The Plans will pay $110,000 in cash and assume the $300,000 balance due to the Note. On June 30, 1983, Mack D. Bissette, Jr., M.A.I. appraised the Property and determined that it had a fair market value of $360,000 as of that date. In an addendum dated November 7, 1983, Mr. Bissette stated that a $410,000 purchase price is justified contingent upon the completion of a certain road (the Road) as guaranteed by Parkwood in its contract for sale of the Property (the Contract) to the Employer. Failure by Parkwood to complete the Road will result in the Employer repurchasing the Property from the Plans, as more fully discussed below. The Profit Sharing Plan will own a 41% undivided interest in the Property and the Pesnion Plan will own a 59% undivided interest in the Property. The applicant represents that the cash flow to the Plans from Employer contributions is more than enough to make the scheduled Note payments and it is not anticipated that the Plans will have to liquidate assets to pay for the Property.

4. Following the Purchase, the Plans propose to lease the Property to the Employer. The Lease runs through December 31, 2003. The Lease provides for an initial rent through December 31, 1986, of $4,100 per month, payable in advance on the first day of each month. On January 1, 1987, and each three years thereafter, the rent shall be adjusted by an M.A.I. appraiser, chosen by the Bank, to reflect the fair market rental value. However, in no case will the rent be less than 12% of the fair market value of the Property. The Lease permits the Employer, with the Plans' consent to construct one or more buildings on the Property. The Lease provides both the Plans and the Employer with an option to require the other to purchase the Property at any time for cash at its appraised value as determined by an M.A.I. appraiser chosen by the Bank. The Employer may not exercise its option to require the Plans to sell the Property unless the Bank determines that such sale is in the best interests of the Plans. The Lease is subject to the clause in the Contract whereby Parkwood agreed to build the Road by August, 1985. The Lease requires the Employer to repurchase the Property for cash at the greater of (a) $410,000; (b) or its then appraised value, unless Parkwood has completed the Road by August 31, 1985, or in the Bank's opinion, Parkwood has substantially completed the Road and its appears certain that completion will occur within a short time after August 31, 1985. The Employer shall bear the costs of any appraisals performed pursuant to the Lease.

5. The Bank, as independent trustee of the Plans, has reviewed the terms and conditions of the proposed transactions and determined that they are in the best interests of the Plans and that they are appropriate and desirable for the Plans. The Bank represents that the Employer and 13 of the stockholders of the Employer have banking relationships with the Bank. These relationships in the aggregate amount to less than a small fraction of one percent of the Bank's assets. Dr. W.C. Grine, a stockholder of the Employer, serves as a member of the Bank's local advisory board in Wilson, N.C. The Bank represents that this board has no policy-making authority. The Bank further represents that three of the stockholders of the Employer own shares in the Bank. Their shareholdings in the aggregate amount to less than a small fraction of one percent of the Bank's total shares outstanding.

6. The Bank represents that it determined that the proposed transactions are appropriate, desirable and in the best interests of the Plans for the following reasons: (a) The size of the Plans is large enough to consume a real estate investment; (b) the rent, as determined by Mr. Bissette, is fair market value; (c) the requirement for a periodic rent appraisal will cause the investment to keep a currnt rate of return consistent with the marketplace; (d) the Plans' ability to require the Employer to purchase the Property at any time at its appraised valué provides the Plans with a ready market for the Property at a fair market value; (e) the Bank reviewed the financial statement of the Employer and determined that the Employer is financial sound; (f) the improvements that the Employer proposes to construct will enhance the value of the Property, which is located in one of the most desirable locations in the community; (g) the clause requiring the Employer to purchase the Property if Parkwood fails to construct the Road frees the Plans from having to expend money to enforce Parkwood's agreement; and (h) based on the cash flow into the Plans, there is no likelihood that the Plans will have to luquidate assets to pay for the Property. The Bank represents that it will enforce

each and every provision of the proposed transaction on behalf of the Plans.

7. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The Purchase price and initial rate were determined by a qualified independent appraiser; (b) future rental rates will be determined by a qualified independent appraiser; (c) if the Employer repurchases the Property, the repurchase price will be determined by a qualified independent appraiser and will be paid in cash; (d) the terms and conditions of the proposed transactions have been reviewed by the Bank, the independent trustee of the Plans; and (e) the Bank has determined that the proposed transactions are appropriate, desirable and in the best interests of the Plans.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Family Health Program Money Purchase Pension Plan (the Plan) Located in Fountain Valley, CA

[Application No. D-4925]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the prior cash sale of a four acre parcel of real property (the Property) by the Plan to FHP, Inc. (the Employer), provided that the price paid for the Property was no less than its fair market value at the time the sale was consummated.

Effective Date: The effective date of this exemption, if granted, will be December 29, 1983.

Summary of Facts and Representations

1. The Plan is a defined contribution plan established by the Employer effective November 1, 1963. As of June 30, 1983, the Plan had approximately 876 participants. On June 30, 1983, the Plan had $11,466,855 in assets. The Plan is divided into two trusts. Trust 1 accumulates Employer contributions and earnings thereon. Trust 2 accumulates the participants' voluntary contributions and related earnings. The Plan's real estate assets are held by Trust 1.

2. The Plan's trustees (the Trustees), W.W. Price III, William Rosecrans and Dale Baguhn, D.D.S. are employees of the Employer. The Plan's administrators (the Administrators), Robert Grumbiner, M.D., Victor Lazzaro, Jr., Harold Johnson, III, and Raymond Pingle, D.D.S., are employee of the Employer. The Trustees and the Administrators together with Michael Thornhill, Corporate Counsel of the Employer and Virginia Belt, Ph.D., a financial consultant, constitute the Corporate Investment Committee (the Committee). Dr. Belt has no relationship to the Employer except as a member of the Committee. All members of the Committee discuss the investment of Plan assets. The Administrators alone have voting rights as to the investment of Plan assets and the Trustees carry out the orders of the Administrators.

3. Among the assets of the Plan are parcels of real estate located in Guam, Arizona, Utah and California. The parcels of real estate located in California were contributed to the Plan as a contribution in kind in June, 1982. The Plan and the Employer will file an application for an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code with respect to this contribution. The applicant represents that if that application is denied, the Employer will pay all applicable excise taxes in connection with the contribution in kind within thirty days of a receipt of a final denial from the Department.

4. The Property is located in Salt Lake City, Utah and is divided into four adjacent one acre parcels. All parcels constituting the Property were acquired from parties unrelated with respect to the Plan.[1] The first two parcels were acquired in July, 1980, at which time the Plan acquired options on the third and fourth parcels. The option on the third parcel was exercised and it was acquired in August, 1981. The Plan intended to construct mini-warehouses on the Property for public rental. In early 1982, the Plan abandoned this idea as the area had become saturated with mini-warehouses. On April 15, 1982, the Committee decided to exercise the Plan's option on the fourth one acre parcel, which was acquired in August, 1982. The Committee believed that the acquisition of the fourth parcel would facilitate development of the three contiguous parcels previously acquired by the Plan. The Plan's total acquisition cost for the Property was $412,001.10. The holding costs associated with the Property amounted to $5,244.24 in property taxes. The Property has produced no income for the Plan. In September, 1982, the Employer acquired a 2.25 acre site adjacent to the Property. In September, 1983, the Utah Division of Environmental Health informed the Employer that the Property was contaminated with low level radioactive waste. The applicant represents that the Plan was not aware that the Property was contaminated with radioactive waste when it was purchased.

5. In February, 1983, the Employer, after attempting to acquire other vacant land and existing medical buildings, determined that it wished to acquire two of the four one-acre parcels which constitute the Property, in order to construct a medical center. On September 30, 1983, the Employer submitted an exemption application to the Department to permit the sale by the Plan of those two parcels, which includes the parcel adjacent to the Employer's property. The Department tentatively denied this request on November 8, 1983. In December, 1983, the Employer amended its application, seeking to purchase the entire Property. On December 29, 1983, the Plan sold the Property to the Employer for $429,000 in cash (the Sale). The applicant represents that the Sale was entered into prior to the grant of an exemption in order to accommodate financing the construction of the medical center through Industrial Development Bonds that were issued December 23, 1983. Legislation was and is pending before the U.S. Congress which might have impaired the Employer's ability to finance the construction of the medical center through the issuance of Industrial Development Bonds issued after December 31, 1983. The applicant further represents that the availability of an unrelated purchaser willing to purchase property containing radioactive waste was remote and that the Plan would likely have incurred the expense of removing the radioactive waste before any such sale could take place. The Plan incurred no real estate commissions or any other costs in connection with the Sale.

6. On September 22, 1983, Raymond S. Fletcher, MAI appraised that half of the Property which the Employer originally sought to purchase and determined that it had a fair market value of $200,000 as of that date. Upon the Employer's decision to purchase the entire Property, Mr. Fletcher was asked to appraise the other half of the Property. On November

[1] In this proposed exemption, the Department expresses no opinion as to whether the Plan's acquisition or holding of the Property violates any provision of Part 4 of Title I of the Act.

23, 1983, Mr. Fletcher appraised the other half of the Property and determined that it too had a fair market value of $200,000. In a subsequent addendum to his appraisals, Mr. Fletcher stated that the Property as a whole has an appraised value of $400,000 and that no premium payment for plottage value should be considered. Mr. Fletcher further stated that he was unaware that the Property was contaminated with radioactive waste at the time of his appraisals and that once that waste is removed, the value of the land will be as stated in his appraisals.

7. In preparing the amendment to its original exemption application, the Employer, at the advice of Washington, D.C. counsel, requested the First Interstate Bank of Utah (the Bank), a party unrelated with respect to the Plan, to evaluate the transaction in terms of its fairness to the Plan. As part of its evaluation, the Bank secured an independent appraisal from Wallace W. Myers, MAI. Mr. Myers determined that the Property had a fair market value of $380,000 as of November 21, 1983. In a subsequent addendum to his appraisal, Mr. Myers stated that a premium purchase price may be warranted because the Employer owns a parcel of real estate adjacent to the Property and that the $429,000 purchase price was adequate consideration for the Property. Mr. Myers further stated that he was unaware of the contamination of the Property when he performed his appraisal and that the removal of the radioactive material should not affect his appraisal. The Bank concluded that the $429,000 purchase price exceeds the price which could be obtained in the open market and that it is even more beneficial to the Plan since the transaction is not subject to real estate commission. The Bank further concluded that the Plan and the Plan beneficiaries would not be penalized by the Sale, but would, in fact, receive more than fair value.

8. The applicant represents that the Sale satisfied the criteria of section 408(a) of the Act because (a) the Plan converted a non-income producing asset into cash; (b) the Plan disposed of property contaminated with radioactive waste without paying to clear that waste; (c) the Plan received a price greater than the appraised fair market value as determined by two independent appraisers; (d) the Plan incurred no costs in connection with the Sale; and (e) the Bank, an unrelated party with respect to the Plan, reviewed the Sale and determined that the purchase price exceeded that which could be obtained in the open market and that the Plan would receive more than fair value.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Esly M. Barreras, M.D., Inc. Defined Benefit Pension Plan (the Plan) Located in Oakland, California

[Application No. D–4989]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, for a period of five years, to the proposed loans by the Plan of up to 25% of its assets to Esly M. Barreras, M.D., Inc. (the Employer), provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plan may hold loans originated during this five year period until the loans are repaid. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Employer adopted both a Money Purchase Pension Plan and a Profit Sharing Plan effective April 1, 1979. In order to increase the Employer's contribution level, the Plan was adopted on April 1, 1982. In conjunction with the adoption the other plans were terminated and their assets subsequently transferred to the Plan. The Plan has net assets as of March 31, 1983 of $102,836.67. The Plan's trustee is Dr. Esly M. Barreras. The Employer is a California corporation involved in the practice of medicine.

2. The Plan proposes to make a series of loans to the Employer involving up to 25% of the Plan's assets. The loans will initially be used by the Employer in conjunction with the purchase, installation and maintenance of an X-ray unit.

3. The proposed loans will be repaid on a quarterly basis with a pro rata portion of the principal amount of the loans plus interest on the total unpaid balance accrued to date, being repaid to the Plan at the end of each quarter. The loan agreement would provide that the Employer could borrow up to an aggregate of 25% of the Plan's assets. The loans will occur over a period of 5 years and each loan would have a maturity date which will not exceed 5 years beyond the exemption period.

The interest rate for such loans will be prime plus 2% adjusted quarterly by the independent fiduciary appointed by the Plan (see representation 7) with a guaranteed minimum rate of 10%.

4. The loans will be secured by the Employer's accounts receivable and the x-ray equipment purchased by the Employer (the Collateral).[2] The applicant represents that the Employer's accounts receivable is presently approximately $274,000. The Employer's turnaround time for its accounts receivable is represented to be approximately 3 months and the Employer's bad debts amount to about 4% of accounts receivable. The Plan will have a perfected first security interest in the Collateral through the execution and filing by the Employer of security agreements on behalf of the Plan. The Employer will incur all costs necessary to obtain and preserve the Collateral, including, but not limited to, the paying of all taxes, assessments and insurance premiums. The Employer will warrant to own throughout the term of the loans all Collateral free from any adverse claims, security interest or encumbrances. The Collateral will be kept fully insured throughout the term of the loans, and the Plan will be named the insured to the extent necessary to collateralize outstanding loans.

[2] The applicant represents that the total value of the x-ray unit installed is $25,000.

5. The loan documents executed between the Plan and the Employer will indicate that the loans are secured by the Collateral in an amount not less than 200% of the outstanding amount of the loans. The principal balance of the loans will be reduced in amount if the Collateral ever falls below an amount equal to 200% of the outstanding principal balance of the loans so that the Collateral will always be not less than 200% of the outstanding principal balance of the loans. The Employer will have the Collateral indepndently valued no less frequently than once a year to determine the value of the Collateral. The Employer will bear all and any expense to have such valuation made.

6. Mr. Randolph J. Pundyk (Mr. Pundyk), an accountant with the firm of West & Associates of Oakland, California, has agreed to serve as an independent fiduciary for the proposed loans.[3] Mr. Pundyk represents that he has been advised by legal counsel of his duties, responsibilities and potential liabilities in serving as an independent fiduciary.

Mr. Pundyk represents that after examining the terms of the proposed loans and the history of the Employer and the Plan, he has determined that such loans would be appropriate and suitable for the Plan. Mr. Pundyk represents that he will make the same determination immediately prior to the consummation of each loan transaction taking into account the facts and circumstances at the time of such proposed loan transaction. In arriving at this conclusion he has reviewed the proposed loans with respect to: (a) The Plan's overall investment portfolio, (b) the cash flow needs of the Plan, (c) the necessity of the sale of any of the Plan's assets, (d) the diversification of the Plan's assets, both before and after each loan and (e) the terms of the loan as such terms conform with the Plan's investment policy. Mr. Pundyk represents that the proposed interest rate of prime plus 2% with a guaranteed minimum of 10% is appropriate given the type of loans, the term of the loans, the collateral used to secure the loans and the amount of the loans.

Mr. Pundyk has agreed to accept the responsibility to enforce the terms of the loan agreement between the Employer and the Plan, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event of default, and keeping accurate records and reporting annually to the Plan's trustee on the performance of the loans. Mr. Pundyk will take whatever steps are necessary during the year to ensure that the value of the Collateral remains equal to at least 200% of the outstanding balance of the loans during the duration of the loans.

7. In summary the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by Collateral which at all times will be at least equal to 200% of the outstanding loan balances;

(c) The exemption will be for a 5 year period with a repayment date not to exceed 10 years from the date of grant of the exemption; and

(d) The Plan's independent fiduciary has determined that the transactions are appropriate and suitable for the Plan, in the best interests of the Plan's participants and beneficiaries, and protective of their rights.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Randall W. Smith, M.D., A. P.C., Defined Benefit Pension Plan (the Plan) Located San Diego, California

[Application No. D–5043]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed lease (the Lease) by the Plan of a six acre parcel of unimproved real property (the Property) to Randall W. Smith, M.D. and Florence E. Smith (the Smiths), disqualified persons with respect to the Plan; the possible purchase by the Plan of the Smiths' leasehold interest in the Property pursuant to the terms of the Lease; and a guarantee by the Smiths to the Plan with respect to the future disposition of the Property by the Plan, provided that the terms of such transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party.[4]

Summary of Facts and Representations

1. The Plan is a defined benefit plan with two participants, the Smiths, who are co-trustees of the Plan. As of November 30, 1983, the Plan had total assets of $436,935 and net assets of $211,935. The Property constitutes approximately 9% of the Plan's assets. The Employer is engaged in the practice of neurosurgery and microsurgery.

2. On November 4, 1983, the Plan purchased a 30.23 acre parcel of unimproved real property (the Land) from Ruth Blankenship, an unrelated third party. The Plan paid $295,000, including a $50,000 downpayment with the balance subject to an installment note bearing a 12% interest rate and payable in equal monthly installments of principal and interest of $2,500 through November 15, 1989, when the entire remaining principal and accrued interest shall be due and payable. The applicant represents that the Land consists of approximately nine income-producing acres of Hass avocado groves which are being operated solely by the Plan with no participation by the Smiths, fifteen acres of raw land being held for appreciation and potential residential subdivision, and the Property, six acres or raw land suitable for the cultivation of avocados. The Land is adjacent to approximately 20 acres of mature groves owned and developed from raw land by the Smiths.

3. The applicant seeks an exemption to permit the Lease of the six acres by the Plan to the Smiths. The Lease provides for a 20 year term. The Lease is triple net with the Smiths paying all taxes, insurance and utilities. In addition, the Smiths shall pay all of the cultural development costs of the Property. The initial rental rate is the greater of: (a) 25% of the annual gross income produced by the Property minus harvesting costs, payable yearly in arrears; or (b) a minimum annual rent of $600, payable in advance of the first day of each year of the term. Every two years following the commencement of the Lease, an independent appraiser shall adjust the minimum and percentage rental rates to equal the fair market rental rate. The cost of the appraisal shall be borne by the Smiths.

[3] The applicant represents that Mr. Pundyk's accounting firm conducts an annual examination of the Employer's financial statements and that this is the only relationship it has with the Employer. This work comprises less than 1 percent of the firm's business ($500 out of $100,000 in billings).

[4] Since Dr. Smith is the sole shareholder of Randall W. Smith, A. P.C. (the Employer), and the only participants in the Plan are Dr. Smith and Florence E. Smith, his wife, there is no jurisdiction under Title I of the Employee Retirement Security Income Act of 1974 (the Act), pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

In no event will the rental rate be decreased. The lease provides the Plan with an option to purchase the Smiths' leasehold interest, or any portion thereof, at any time upon six months written notice. The purchase price shall be paid in cash and shall be based on the fair market value of the interest to be purchased as determined by an MAI appraiser. The Plan may not exercise this purchase options unless the Plan's independent fiduciary (as discussed below) determines that the purchase is appropriate for and in the best interests of the Plan. The Lease further provides that the Smiths will indemnify and hold the Plan harmless against any and all loss to the Plan resulting from the sale of the Property by the Plan during the term of the Lease.

4. On March 1, 1984, William B. Anderson, M.A.I. appraised the fair market rental value of the Property and determined that it was $100 an acre as of that date. Mr. Anderson reviewed the Lease and in a letter dated March 14, 1984, he represented that it was typical and representative of other agricultural leases on this type of property, especially with respect to structuring a base ground lease amount plus a percentage of the profits over and above a gross income amount. Mr. Anderson further represented that this percentage rental will not take affect until harvesting of the fruit occurs, usually four to five years after planting.

5. The Lease requires the Smiths to appoint an independent fiduciary to represent the Plan with respect to the Lease. Jack Lehberg, a CPA, has accepted such appointment. Mr. Lehberg represents that he has been engaged in the practice of public accounting for over 25 years and that during this period he has provided accounting services, served as a trustee and prepared and filed various required tax forms for pension and profit sharing plans. Mr. Lehberg further represents that he has reviewed and analyzed numerous real estate transactions and lease agreements for clients and for his own personal financial planning and investing. Mr. Lehberg represents that his sole relationship with the Smiths and the Employer is that he provides accounting services for Dr. Smith's personal and corporate needs and that the fees for such services constitute less than 1% of the gross revenue of Mr. Lehberg's firm, Lehberg Accountancy Corporation. Mr. Lehberg represents that he has been advised by legal counsel of the duties, responsibilities and liabilities involved in accepting the position of independent fiduciary with respect to the Lease.

6. Mr. Lehberg represents that he made an independent determination as to the advisability of the Plan entering into the Lease and as to its appropriateness and suitability for the Plan. Mr. Lehberg further represents that after a review of the Lease in its entirety, other leases of comparable property and Mr. Anderson's appraisal, be determined that the Lease is in the best interests of the Plan because it generates fair market rental value for a Plan asset that otherwise would be nonproductive and because it improves the value of the Property at no cost to the Plan. In addition, Mr. Lehberg represents that he will monitor and enforce the Plan's rights under the terms of the Lease, including the selection of the appraiser where an appraisal is required under the Lease.

7. The applicant represents that in the event new participants enter the Plan, a new trust will be established to fund the benefits of the new participants. Thus, the only persons affected by the transactions are the Smiths and they desire and will cause the Lease to be consummated.

8. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 4975(c)(2) of the Code because: (1) An independent fiduciary has reviewed the Lease in its entirety and determined that it is in the best interests of the Plan; (2) a qualified independent appraiser has determined that the rental rate is at fair market value; (3) the rent will be adusted every two years to reflect the fair market value rent; (4) the Smiths will improve the Property at no cost to the Plan; (5) the independent fiduciary will monitor and enforce the terms of the Lease; and (6) the Plan shall not exercise its right to purchase the Smith's leasehold interest in the Property unless the independent fiduciary determines that such a purchase would be appropriate and in the best interests of the Plan.

Notice to Interested Persons

Because Dr. Smith is the sole shareholder of the Employer and the Smiths are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of the proposed exemption.

For Further Information Contact: Davis M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Mayfair Super Markets, Inc. Employees Retirement Plan (the Plan) Located in Elizabeth, New Jersey

[Application No. D-5048]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sales on May 4, 1981, April 21, 1982, and November 12, 1982 of certain bonds (the Bonds) by the Plan to Mayfair Super Markets, Inc. (the Employer), a party in interest with respect to the Plan, provided the sales prices, which aggregated $91,000, were not less than the aggregate fair market value of the Bonds on the date of each sale.

Effective Date: If the proposed exemption is granted, the exemption will be effective May 4, 1981, April 21, 1982, and November 12, 1982.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan which, as of December 31, 1982, covered 168 participants and had total assets of $1,430,896. Investment decisions for the Plan are made either by its trustees, who are officers of the Employer, or by M.D. Sass Investors, an individual investment counsellor who has discretionary authority with regard to most of the Plan's assets and who is in no way related to the Employer or any of its principals, according to the applicant.

2. The Bonds were all coupon bonds bearing interest on their face values (which equalled their par values) at a fixed annual rate ranging from 4% to 5½%. They were issued by the State of Israel as Development Investment Bonds (DIB) and Reconstruction and Development Bonds (R&DB)—First, Second, Third, Fourth, and Fifth Issues—and bore maturity dates ranging from March 1, 1986 to March 1, 2001. Their face (or par) values totalled $91,000, which was the aggregate amount paid by the Plan to purchase them and was also the aggregate amount paid by the Employer to the Plan to purchase them on the dates mentioned above. The Plan purchased the Bonds for investment purposes at various dates from December 1966 to May 1981 from the

Jewish Federation of Raritan Valley, acting for the State of Israel, neither of whom were parties in interest with respect to the Plan. The Plan has incurred no costs relating to the Bonds after it purchased them and had received the above-mentioned interest income specified by the Bonds during the period in which the Plan held the Bonds.

3. On May 4, 1981, the Plan sold Bonds whose face values aggregated $30,000 (i.e., a Fourth DIB, a Third DIB, a 4.75 DIB, and a Second DIB) to the Employer for a sales price of $30,000. On April 21, 1982, the Plan sold Bonds whose face values aggregated $25,000 (i.e., four Fourth DIBs, a 4.75 DIB, and a Second DIB) to the Employer for a sales price of $25,000. On November 12, 1982, the Plan sold Bonds whose face values aggregated $36,000 (i.e., two Fifth DIBs and a R&DB) to the Employer for a sales price of $36,000. In each case, the Employer paid the entire sales price in cash (by check) on the date of the sale. No selling expenses were charged to the Plan. The Plan has invested the proceeds of these sales at substantially higher yields than those earned from the Bonds.

4. Approximately one week prior to each sale, in May 1981, April 1982, and November 1982, the Plan trustees discussed the valuation of the Bonds with Mr. Timothy Donath, of Bache Halsey Stuart Shields, Inc., the Plan's broker at that time. Mr. Donath is independent of the Employer and has no other relationship with the Plan. Mr. Donath advised the Plan trustees that the Bonds were selling below par value. The Plan trustees accordingly determined that the Plan would not be injured in any way if the Employer purchased the Bonds at par value from the Plan. They concluded that the Plan would benefit by selling low yield securities at a price in excess of market value and would be able to reinvest the sales proceeds at a higher yield.

5. Brager & Company, Inc. (Brager), Specialists in Israeli stocks and bonds and members of the NASD, is an Israeli securities trading firm which has been buying and selling Israeli securities on the secondary market since 1960. Brager represents that it has no relationship to the Employer. According to Brager, the fair market value of:

Each of the Bonds sold by the Plan to the Employer on May 4, 1981 equalled 91% of its face value;

Each of the Bonds sold by the Plan to the Employer on April 21, 1982 equalled 88% of its face value;

Each of the Fifth DIBs sold by the Plan to the Employer on November 12, 1982 equalled 87% of its face value;

The R&DB sold by the Plan to the Employer on November 12, 1982 equalled 86% of its face value.

(As noted in 2, above, the Employer paid face value for each of the Bonds it purchased from the Plan.)

6. In summary, the applicant represents that these sales satisfied the exemption criteria set forth in section 408(a) of the Act because: (a) Each sale was a one-time cash transaction, (b) in each case, the sales price was no less than the fair market value of the Bonds, (c) no selling expenses were charged to the Plan, and (d) the sales have enabled the Plan to invest the sales proceeds in higher yielding assets.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Plumbers' Union Local 690 Health and Welfare Plan (the Welfare Plan), Plumbers' Union Local 690 Vacation Plan (the Vacation Plan), Plumbers' Union Local 690 Apprenticeship Plan (the Apprenticeship Plan), Plumbers' Union Local 690 Metal Trades Division Health and Welfare Plan (the Metals Welfare Plan), Plumbers' Union Local 690 Pension Plan (the Pension Plan), Plumbers' Union Local 690 Metal Trades Division Pension Plan (the Metals Pension Plan; Collectively, the Plans), Located in Philadelphia, Pennsylvania

[Application Nos. L–5078 and D–5079]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the past and proposed leased by the Plans of certain real property from the Plumbers' Union Local 690 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (the Union), provided that such lease is on terms at least as favorable to the Plans as the Plans could obtain in an arm's-length transaction with an unrelated party.

Effective Date: This exemption, if granted, will be effective as of January 1, 1984.

Summary of Facts and Representations

1. The Plans are jointly administered, collectively bargained plans established under section 302(c) of the Labor Management Relations Act of 1947, as amended, providing benefits to employees covered by agreements between participating employers and the Union. Together, the Plans had approximately 2,495 participants as of January 1, 1984. Each Plan is administered by six trustees (the Trustees) three of whom are representatives of the Union (the Union Trustees) and three of whom are representatives of contributing employers. The Union recently constructed an office building (the Building) located at 2791 Southampton Road in Philadelphia, Pennsylvania. The Building was designed to accommodate offices of the Union and the Plans. The Union and the Plans entered into a lease (the Lease) of 50 percent of the Building (the Leased Space) effective May 1, 1983. The Leased Space is allocated in the following proportions:

The Apprenticeship Plan: 50%
The Pension Plan: 26%
The Welfare Plan: 15%
The Vacation Plan: 1%
The Metals Pension Plan: 4%
The Metals Welfare Plan: 4%

The Lease includes a provision which provides for its cancellation in the event that the parties fail to obtain an exemption from the prohibited transaction provisions of the Act. The Trustees represent that the Lease constitutes the payment by a plan for office space to a party in interest within the meaning of section 408(b)(2) of the Act, that the Lease meets the requirements of 29 CFR 2550.408b–2, relating to section 408(b)(2) of the Act, and that the Lease is therefore statutorily exempt from the prohibitions of section 406(a) of the Act by virtue of section 408(b)(2) of the Act.[5] However, because the Union Trustees participated in the decision for the Plans to enter into the Lease with the Union, the Trustees believe that the Lease may constitute a violation of section 406(b)(2) of the Act. The Trustees are requesting an exemption, effective January 1, 1984 (for reasons discussed below), to permit the Lease and its proposed continuation according to its terms.

2. The Lease is a five year lease under which the Union provides electricity, water, heating and air-conditioning for the Leased Space and the Plans pay for 50 percent of all other utilities, repairs and maintenance costs relating to the Leased Space. The Lease grants to the

[5] The Department expresses no opinion as to whether the Lease constitutes the payment by a plan for office space to a party in interest within the meaning of section 408(b)(2) of the Act or whether the Lease is statutorily exempt from the prohibitions of section 406(a) of the Act by virtue of section 408(b)(2) of the Act.

Plans the right to renew the Lease upon the expiration of the initial term for an additional term of five years. Annual rental during the initial term is set at $12,000. The Trustees represent that the rental during the initial term was agreed to by the Trustees after obtaining the opinion of a qualified, independent professional real estate broker as to the fair market rental value of the Leased Space. Francis T. Roddy, a realtor with the commercial realty firm of Lanard and Axilbund, Inc. in Philadelphia offered his opinion on April 2, 1983 that the fair market rental value of the Leased Space was $16.50 per square foot. Based on the annual rental of $12,000 during the initial term, the Plans are paying approximately $14.50 per square foot. Rental during any renewal term will be negotiated between the Union and the Plans' independent fiduciary (discussed below) at arm's length, but in no event will the rental be greater than the fair market rental value of the Leased Space as determined by a qualified independent real estate appraiser selected by the independent fiduciary upon commencement of such renewal term.

3. The Trustees represent that the office space which the Plans had occupied prior to completion of the Building had become critically deficient of the needs and requirements of the Plans and was located in a building which had been listed for sale by its owner. Additionally, the Trustees represent that the rental rates offered by the Union are substantially lower, and the quality of the Leased Space much higher than in space previously occupied by the Plans. The Trustees represent that the Plans entered into the Lease prior to obtaining an administrative exemption for these reasons and the failure to have entered into the Lease and to have occupied the newly-available Leased Space would have been tantamount to a breach of their fiduciary duties to the Plans.

4. Effective January 1, 1984, the Trustees appointed an independent fiduciary, John A. Erickson, Esq. (Erickson) of Philadelphia, Pennsylvania to represent the interests of the Plans with respect to the Lease for all purposes. Erickson represents that he has substantial fiduciary experience under the Act as well as substantial experience in management of commercial real property. Erickson also represents that he is wholly independent of and unrelated to the Union and the Trustees. According to the terms of the Trustees' appointment of Erickson to represent the Plans, Erickson will monitor the Union's performance as lessor under the Lease, enforce the Lease terms and conditions on behalf of the Plans and represent the Plans in the pursuit of appropriate remedies, if necessary, in the event of any default or deficiency in the Union's performance. Erickson has reviewed and evaluated the terms and conditions of the Lease on behalf of the Plans and he represents that the Lease is favorable to and protective of the Plans. Erickson states that the rental rate paid by the Plans is substantially more favorable to the Plans than that available in a comparable facility in a comparable location. Erickson further represents that the Plans' participants will benefit from the Plans being located in the same facility as the Union, due to the improved communication and increased efficiency in processing of benefit applications. Because the appointment of Erickson as independent fiduciary became effective January 1, 1984, the requested exemption proposed herein would be effective as of that date.

5. In summary, the Trustees represent that the criteria of section 408(a) of the Act are satisfied by the Lease because: (1) At the time the Leased Space became available, the office space then leased by the Plans was critically deficient of needs of the Plans and was not available for further leasing; (2) the rental paid for the Leased Space is lower, and the quality is higher, than in the space previously leased by the Plans; (3) the Plans' independent fiduciary has determined that the rental paid for the Leased Space is lower than the fair market rental value of comparable facilities in a comparable location; and (4) the interests of the Plans under the Lease are represented by Erickson, an experienced independent fiduciary who will monitor the Union's compliance under the Lease and pursue remedies, if necessary, on behalf of the Plans.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Adams, Levin, Kehoe, Bosso, Sachs & Bates, a Professional Corporation Profit Sharing Plan (the Plan) Located in Santa Cruz, California

[Application No. D–5109]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed cash purchase by the Plan of a parcel of land (the Land) currently owned by Eugene J. Adams (Mr. Adams), a retired Plan participant; (2) the subsequent lease of the Land (the Ground Lease) to the five shareholders (the Shareholders) of Adams, Levin, Kehoe, Bosso, Sachs & Bates, A Professional Corporation (the Employer), the sponsor of the Plan; (3) the possible cash purchase of the Land by the Shareholders from the Plan pursuant to the terms of the Ground Lease; and (4) a guarantee by the Shareholders to the Plan with respect to the future disposition of the Property by the Plan, provided that the terms and conditions of the proposed transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with 14 participants. The Plan had $510,981.38 in assets as of January 31, 1984. The Shareholders, Alan J. Levin, Dennis J. Kehoe, Robert E. Bosso, Philip M. Sachs and Philip R. Bates, each of whom owns 20% of the stock of the Employer, constitute the Plan's administrative committee and direct the investment of Plan assets. County Bank and Trust (the Bank) serves as the directed trustee of the Plan. The Employer is a law firm.

2. Mr. Adams owns both the Land and the building thereon, which houses the Employer's office. The Shareholders propose to purchase the building and improvements from Mr. Adams and lease them to the Employer. The Plan proposes to purchase the Land for $80,000 in cash from Adams and lease it to the Shareholders pursuant to the Ground Lease. The Shareholders will then lease the Land to the Employer under the same terms and conditions as contained in the Ground Lease. The Plan will incur no expenses in connection with the proposed purchase of the Land.

3. H. Rich Bramwell, M.A.I. appraised the Land on March 8, 1984, and determined that it had a fair market value of $80,000 as of that date. On March 21, 1984, Bramwell determined that the fair market value rent of the Land was $8,000 per year triple net.

4. The Ground Lease has a 30 year term with an initial rent of $667.67 per month. The Ground Lease provides for reappraisal of the Land by an

independent MAI appraiser at two year intervals with an adjustment in rent to correspond to any changes in fair market rental values. However, the rent shall never be adjusted downwards and shall not be less than 10% per annum of the fair market value of the Land. The Ground Lease is triple net with the Shareholders responsible for all utility, tax, insurance and maintenance costs. At the end of each two year period during the term of the Ground Lease, the Plan shall have the option to require the Shareholders to purchase the Land for cash (the Sale Option) and the Shareholders shall have the option to require the Plan to sell them the Land for cash (the Purchase Option). The Ground Lease provides that any purchase price paid under the Sale and Purchase Options shall be determined by an independent MAI appraiser. The Sale Option shall be exercised solely by the Plan's independent fiduciary (as discussed below) who must also approve any exercise of the Purchase Option by the Shareholders. Such independent fiduciary will select the appraiser in each case where an appraisal is required. Additionally, the Shareholders have agreed to indemnify the Plan against loss should the Plan sell the Land at a loss.

5. The Bank has agreed to act as independent fiduciary on behalf of the Plan with respect to the proposed transactions. The Bank represents that it has no relationships with the Employer or the Shareholders with the following exceptions: (a) Three of the Shareholders own shares in the Bank, which in the aggregate are less than one-half of one percent of all the outstanding shares of the Bank; and (b) the Employer and all of the Shareholders have checking and savings accounts with the Bank which in the aggregate are less than one-half of one percent of the Bank's deposits.

6. The Bank represents that it is familiar with the Plan's portfolio and investment practices and that after reviewing the Ground Lease and Bramwell's appraisal of the Land, it determined that the proposed transactions are appropriate and protective of the Plan and its participants given the Plan's liquidity, pay-out and diversification needs. The Bank represents that the provisions of the Gound Lease, including the Plan's option to sell the Land to the Shareholders, the guarantee against reduced rent, the provision for increased rent if the fair market value rental rate increases, the absence of any subordination provisions, as well as the indemnification against loss should the Plan sell the Land, provide considerable protection to the Plan. Further, the provision for appraisal and rental adjustment, if appropriate, together with the Plan's option to compel the Shareholders to purchase the Land protect the Plan from becoming enmeshed in a long term uneconomic investment. The Bank represents that it will monitor and enforce the terms and conditions of the Ground Lease. The Bank further represents that it will only approve a sale of the Land pursuant to the Purchase Option if the Bank determines that such a sale will be in the best interests of the Plan.

7. In summary, the applicant represents that the proposed transactions meet the statutory criteria for exemption under section 408 of the Act because: (a) The Bank, acting as an independent fiduciary on behalf of the Plan, has determined that the proposed transactions are appropriate and protective of the Plan and its participants; (b) a qualified independent appraiser has determined the fair market rental rate for the Land; (c) the rental rate will be adjusted every two years to reflect the fair market rental rate as determined by an independent M.A.I. appraiser; and (d) the Shareholders have agreed to indemnify the Plan from any loss incurred as a result of the sale of the Land.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Far West Federal Bank Retirement Plan and Trust (the Plan) Located in Portland, Oregon

[Application No. D-5142]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective October 31, 1979, to fourteen interest-bearing loans to the Plan from Far West Federal Bank, the sponsor of the Plan.

Effective Date: If the proposed exemption is granted, it will be effective October 31, 1979.

Summary of Facts and Representations

1. Far West Federal Bank (Far West) is a federally chartered savings bank which sponsors the Plan for its employees. The Plan had 501 participants and net assets of $5,965,696 as of December 31, 1982. The current trustees of the Plan (the Trustees) are three employees and officers of Far West and one individual who also serves as outside corporate counsel for Far West.

2. Immediately prior to the Loans, the bulk of the assets of the Plan were invested in certificates of deposit (C.D.s) issued by Far West and other banks. Fourteen of the C.D.s, which had been purchased between Janaury 2, 1975 and August 1, 1979, were bearing interest at or between 6.75% and 8.775%. After purchase of these fourteen C.D.s, interest rates payable on C.D.s and other investments rose significantly. The Trustees determined that it was in the best interest of Plan participants and beneficiaries to increase the rate of return on Plan investments by borrowing against the old C.D.s to buy new, higher-rate C.D.s.

3. On October 31, 1979, the Plan borrowed a total of $1,752,092 from Far West in fourteen transactions. The fourteen loans (Loans 1 through 14), which were secured by fourteen C.D.s bearing interest at rates between 6.75% and 8.775%, carried interest rates between 8.75% and 10.775%, exactly 2 percentage points higher than the rates on the C.D.s securing them. These rates were the lowest rates of interest which Far West could charge under regulations of the Federal Home Loan Bank Board. Far West did not charge the Plan any fees for Loans 1 and 14. The proceeds from Loans 1 through 14 were used to invest in C.D.s issued by Far West and other banks bearing interest at or between 12.5% and 14.5% and maturing during 1980, 1981, and 1982.

Nine of the loans were repaid during 1980 when the C.D.s securing those loans matured. Two of the loans were repaid on January 5, 1981 and February 20, 1981, respectively, when the C.D.s securing these loans matured. The remaining three loans were repaid in January and April, 1982 when the C.D.s securing them matured.

4. The Internal Revenue Service (the Service) in an audit of the Plan took the position that Loans 1 through 14 were prohibited transactions and assessed an excise tax against Far West as a result of the loans.

The Service has also taken the position that the interest earned on the C.D.s acquired from the loan proceeds is unrelated debt-financed income. The Service calculates that the borrowed funds invested in C.D.s produced $39,308 of net unrelated debt-financed income

which results in a tax of $14,549. This tax has been paid by the Plan. Even with payment of this tax, the C.D.s acquired from the loan proceeds will have produced $24,758 of additional income for the Plan that would not have been received if the Trustees had failed to act to increase the return on Plan investments.

5. As a result of the Loans and reinvestment of the proceeds in higher yielding C.D.s, the Plan earned additional income of $39,308 (before the payment of the tax on unrelated debt financial income). If the old, low rate C.D.s had been cashed in, the Plan would have suffered early withdrawal penalties amounting to $118,019. Prior to engaging in the loans, the Trustees calculated that it would be more expensive to the Plan to pay early withdrawal penalties than to pay interest on the loans at the low rate offered by Far West. The Trustees were aware of the exemption in section 408(b)(4) of the Act permitting investment of Plan assets in a supervised bank or similar financial institution, and they assumed that they could use a transaction that took the form of a loan to obtain the highest possible rates of return on the Plan's investments in C.D.s. They viewed the substance of the transactions as amendments of rates paid on outstanding C.D.s from old, low rates to new, high rates, as transactions which were to the benefit of Plan participants and beneficiaries and to the detriment of Far West.

6. In summary, the Trustees represent that the transactions satisfied the statutory criteria of section 408(a) of the Act for the following reasons: (1) The loans were obtained to enable the Plan to increase its investment return; (2) the loans were made at an interest rate which was the lowest rate Far West could charge under Federal banking regulations; and (3) the Trustees determined prior to engaging in the loans that they were in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Mr. Ron Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

DIAL ONE of Northern California Retirement Plan (the Plan) Located in Sacramento, California

[Application No. D-5154]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash purchase from Mr. Oliver F. Speraw (Mr. Speraw) by the Transferred Account (the Account) of Mr. Speraw under the Plan of 100,000 shares of common stock (the Stock) of DIAL ONE International, Inc. (the Franchisor), provided the purchase price of the Stock does not exceed its fair market value on the date of the purchase.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan which became effective February 1, 1983 and covered two participants as of January 31, 1984. The present funds of the Plan consist entirely of the Account, which represents the "rollover" of funds received from the terminated plan of an unrelated company. Due to an operating loss, no contribution has been or will be made to the Plan for the year ended January 31, 1984. Although accounting for said Plan year has not yet been completed, the applicant's representative, Mr. Richard E. Cohn, a certified public accountant, estimates that the fair market value of the Plan's assets (i.e., the fair market value of the Account's assets) is between $1,000,000 and $1,200,000.

2. The Plan has been amended to provide that effective February 1, 1984, the Plan shall maintain in a separate account those assets and the earnings thereon of a participant that have been transferred from any other plans and trusts qualified under the Code. The investments made from such account shall be segregated from the other participants' accounts. Any net earnings, gains, or losses of such account and changes in the fair market value of the account assets shall be credited (or debited) only to such segregated account and shall not be taken into account when determining net earnings, gains or losses, and changes in fair market value of assets of other accounts. Such transferred account shall be 100% vested and nonforfeitable at all times.

3. Mr. Speraw, a participant of the Plan, is also the trustee of the Plan and the sole stockholder of DIAL ONE of Northern California, Inc., the Plan sponsor. Mr. Speraw owns approximately 14% of the capital stock of the Franchisor, which issued only common stock. He wishes to sell the Stock to the Account for a purchase price of $150.000, or $1.50 per share, to be paid in full in cash on the date of the sale. The proposed transaction would involve no more than 15% of the total fair market value of the Account's assets. No commissions will be paid in connection with the proposed transaction.

4. On February 28, 1984, Mr. Norb Zink, Senior Vice President of Investments at Paine, Webber, Jackson & Curtis, of Long Beach, California, stated that he deems the fair market value of the Stock to be $1.50 per share. based upon his review of the Franchisor's records and of 1983 sales of the common stock of the Franchisor. Mr. Zink states that he has been an investment executive for 18 years and has exceptional experience and resources regarding growth stock. He also states that he has been able to witness the Franchisor's growth first hand as it is based in Long Beach. In his capacity as a securities broker, Mr. Zink has bought and sold listed securities for the account of Mr. Speraw but has no other relationship to Mr. Speraw or the Franchisor, according to the applicant.

5. In summary, the applicant represents that the proposed transaction satisifies the exemptions criteria set forth in section 408(a) of the Act because: (a) The purchase price equals the fair market value of the Stock as determined by a qualified independent expert, Mr. Zink, (b) no commissions will be paid in connection with the proposed transaction, and (c) the only Plan participant affected by the proposed transaction will be Mr. Speraw, and he desires the transaction to be consummated.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Money Purchase Pension Plan of Charles C. Osborn, M.D., Inc. (the Plan) Located in Verdugo City, California

[Application No. D-5306]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of $62,000 on October 1, 1983 by the Plan to Kathleen Eason and David Anthony Yaniro (the

Borrowers), to enable the Borrowers to purchase property (the Property) from Dr. Charles C. Osborn (Dr. Osborn), under the terms described in this notice, provided the terms of the loan were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of the loan.[6]

Effective Date: If the proposed exemption is granted, it will be effective October 1, 1983.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with one participant, Dr. Osborn, who is the sole shareholder of the Employer. As of September 30, 1983, the Plan had total assets of $269,832.

2. The Property consists of a residential condominium located at 2211 Cahuilla Street, Colton, California. On October 1, 1983, the Plan made a $62,000 loan to the Borrowers to enable them to purchase the Property. The Borrowers are unrelated to the Plan and the Employer. The Borrowers paid a total of $72,000 for the Property, making a $10,000 down payment and using the $62,000 they borrowed from the Plan.

3. The terms of the loan provide for an interest rate of 12½%. Payments of principal and interest are to be made on the first of each month. The loan provides for a 25 year amortization schedule, and the loan is to be repaid in full within 5 years from the date of the loan.

4. The primary collateral for the loan is the Property. The Property has been appraised by Mr. Ray E. O'Bier, M.A.I., an independent appraiser located in San Bernardino, California, as having a fair market value of $77,500 as of November 3, 1983. In addition to the primary collateral, the Borrowers have also posted a trust deed as secondary collateral. The trust deed represents David Anthony Yaniro's equity interest in certain real property which is equal to over $25,000. Therefore, the sum of the value of the collateral securing the loan is at least $102,500.

5. The assets of the Plan are managed and invested by an independent fiduciary, Trust Services of America, Inc. (TSA). TSA has represented that it reviewed the subject transaction and determined that the loan was appropriate for the Plan and in the best interests and protective of the Plan, its participant and beneficiaries. TSA represents that given the short term nature of the loan, the extra collateral, and the fact that the loan was processed totally without cost to the lender, 12½% was a rate that a commercial lending institution would have charged for such a loan. TSA will monitor the loan and take whatever action is necessary to enforce the Plan's rights, including foreclosure and seizure of the condominium in event of default by the Borrowers.

6. In summary, the applicant represents that the subject transaction satisfies the criteria of section 4975(c)(2) of the Code because: (1) The loan represents about 23% of the Plan's assets; (2) the terms of the loan were negotiated at arm's-length between the Plan and the Borrowers, who are unrelated to the Plan and the Employer; (3) the collateral-to-loan ratio is approximately 165%; (4) the Plan's independent fiduciary, TSA, reviewed the transaction before it was entered into, and determined that the transaction was appropriate for the Plan and in the Plan's best interest; (5) TSA will monitor and enforce the loan; and (6) Dr. Osborn is the only participant to be affected by the transaction, and he desired that the transaction be consummated.

Notice to Interested Persons: Because Dr. Osborn is the sole shareholder of the Employer and the only participant in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Dalton Obstetrics & Gynecology, P.C. Money Purchase Pension Plan (the Money Purchase Plan) and Dalton Obstetrics & Gynecology, P.C. Profit Sharing Plan (the Profit Sharing Plan; Collectively, the Plans) Located in Dalton, Georgia

[Application Nos. D-5355 and D-5356]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) of a certain parcel of real property (the Property) by the individually directed accounts (the Accounts) of J. Larry Sanders, M.D. in the Plans to Dr. Sanders, a trustee of the Plans, at the higher of: (a) The appraised fair market value of the Property or (b) the total expenditures incurred by the Accounts in connection with the acquisition and holding of the Property.

Summary of Facts and Representations

1. The Plans are defined contribution pension plans with 8 participants in each of the Plans. The Plans had combined assets of $249,479.09 as of June 30, 1983. The Plans permit each participant to select the investment medium in which his or her account, or any portion therof, shall be invested. Among the investments permitted to be earmarked by the individual participants are insurance policies, government insured savings accounts, listed securities, mutual funds and real estate. As of June 30, 1983, Dr. Sanders' account in the Money Purchase Plan had $55,027.83 in assets and his account in the Profit Sharing Plan had $84,051.26 in assets. The trustees of the Plan (the Trustees) are Dr. Sanders and Jacob R. Harrison, Jr., M.D.

2. The Plans own the Property, a 163 acre parcel of unimproved real estate, as tenants in common with Dr. Sanders' account in the Money Purchase Plan holding a 41% interest in the Property and his account in the Profit Sharing Plan holding a 59% interest. Dr. Sanders purchased the Property on behalf of the Accounts on September 30, 1982, for $98,000 in cash from Ernest C. Charles and Beulah White, parties unrelated with respect to the Plans.[7] The applicant represents that Dr. Sanders purchased the Property on behalf of the Accounts with the intent of leasing the Property to himself and farming it. Also on September 30, 1982, Dr. Sanders individually purchased 29 acres which adjoin the Property (the Adjoining Property). The applicant represents that the Accounts did not have sufficient resources to buy the Adjoining Property at the time that the Property was purchased. On June 29, 1983, the applicant submitted a request for an exemption to permit the Accounts to purchase the Adjoining Property from Dr. Sanders and to lease both Properties to Dr. Sanders. That application was

[6] Since Dr. Osborn is the sole stockholder of Charles C. Osborn, M.D., Inc. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[7] In this proposed exemption, the Department expresses no opinion as to whether the Plans' acquisition or holding of the Property violates any provision of Part 4 of Title I of the Act.

subsequently withdrawn and the applicant now seeks an exemption to permit the sale to Dr. Sanders for cash at the higher of: (a) Its appraised fair market value or (b) the total expenditures incurred by the Accounts in connection with the acquisition and holding of the Property. The Plans will incur no expenses with respect to the sale.

3. The applicant represents that prior to the Accounts' purchase of the Property, the previous owner had cultivated approximately 50 acres of the Property and logged the remainder, leaving the Property littered with stumps and other debris. Since the purchase of the Property by the Accounts, the Accounts have expended $11,940.48 to clear approximately 30 acres of stumps and debris. The Accounts have expended a further $2,954.50 to seed and fertilize the 50 acres previously under cultivation and the Accounts have paid $693.02 in property taxes. As of May 24, 1984, the Accounts' total cost to acquire and hold the Property amounted to $113,588.00.

4. On January 11, 1984, Dixon D. White, R.M., S.R.A. appraised the Property and determined that it had a fair market value of $110,400. In an addendum to his appraisal dated May 2, 1984, Mr. White determined that no premium value should be paid for the Property, which lies to the rear of the Adjoining Property. Mr. White represented the Adjoining Property has sufficient utility such that no more property would have to be purchased in order to make the Adjoining Property a marketable tract of land.

5. The Trustees represent that the Sale will be in the best interests of the Plans because the Accounts will achieve a higher rate of return on the cash proceeds of the Sale, which will be reinvested in more liquid assets and any rental income on the Property from an unrelated party would be modest unless significant capital expenditures are made for improvements to the Property.

6. In summary, the applicant represents that the proposed Sale meets the statutory criteria of section 408(a) of the Act because: (a) This is a one time transaction for cash; (b) the Plans will incur no expenses in connection with the Sale; (c) the Accounts will receive at least fair market value for the Property as determined by a qualified appraiser; and (d) the only person affected by the transaction is Dr. Sanders and he desires that the transaction be consummated.

Notice to Interested Persons: Since the only assets of the Plans involved in the proposed transaction are those in Dr. Sanders' individually directed Accounts and since he is the only participant in the Plans affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Mr. David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Blackfoot Medical Clinic, Inc., P.A. Employee Retirement Trust (the Plan) Located in Blackfoot, Idaho

[Application No. D–5383]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the continuation beyond June 30, 1984 of a lease of certain real property by the Plan to Blackfoot Medical Clinic, Inc., P.A. (the Employer), the sponsor of the Plan, provided that such lease is on terms and conditions at least as favorable to the Plan as those obtainable by the Plan in an arms'-lenght transaction with an unrelated party.

Effective Date: If the proposed exemption is granted, it will be effective July 1, 1984.

Summary of Facts and Representations

1. The Plan is a qualified profit sharing plan with 33 participants and total assets of $2,459,349 as of February 28, 1984. The Employer is an Idaho professional corporation engaged in the general practice of medicine in Blackfoot, Idaho. Among the Plan's assets is a parcel of real property (the Property) located at 625 W. Pacific, Blackfoot, Idaho. The Property represented approximately 20 percent of the Plan's assets as of February 28, 1984. The Property includes a medical office building and other improvements owned by the Plan which are maintained as the Employer's principal place of business. The Employer leased the Property from the Plan under a lease (the Original Lease) dated January 31, 1970. The Employer asserts that the Original Lease was a lease involving a party in interest pursuant to a binding contract in effect on July 1, 1974, as defined under sections 414(c)(2) and 2003(c)(2)(B) of the Act, and therefore, was statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.[8] The Employer recognizes that the statutory exemption for the Original Lease expired on June 30, 1984, and therefore entered into a new lease (the New Lease) of the Property by the Plan to the Employer that would extend beyond that date.

2. The New Lease is a triple net lease for a term of 15 years. The interest of the Plan under the New Lease for all purposes will be represented by T. Layne Van Orden (the Trustee), a certified public accountant whose office is located at 131 N. Oak, Blackfoot, Idaho 83221. The Trustee represents that he is independent of and unrelated to the Employer and that he has substantial fiduciary experience under the Act. The Trustee acknowledges his fiduciary relationship to the Plan and understands his duties, liabilities and responsibilities as a Plan fiduciary under the Act. The annual rental under the New Lease is payable in equal monthly installments. The initial annual rental under the New Lease is $60,000, such amount having been determined to be the fair market rental value of the Property on June 5, 1984, by Elwood Manwaring (Manwaring), a professional real estate appraiser whose office is located in Blackfoot, Idaho and who is unrelated to and independent of the parties to the New Lease. The New Lease provides for a review of the annual rental every five years on the anniversity date of the commencement of the New Lease to provide for increases in annual rental under the New Lease commensurate with any increases in the fair market rental value of the Property. Such review will be conducted by an independent, unrelated professional real estate appraiser selected by the Trustee. The New Lease provides that any adjustment of rental resulting from such review shall be upward only and that any decrease in the fair market rental value of the Property shall not result in any decrease in the rental under the New Lease. The New Lease requires the Employer to pay all repair and maintenance costs of the Property, to pay all real estate taxes on the Property, and to carry fire, extended

[8] The Department expresses no opinion as to whether the Original Lease was statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.

coverage and public liability insurance on the Property to the full extent of the insurable value of the Property with the Plan as the named insured. Under the New Lease the Employer will indemnify the Plan and hold the Plan harmless from all claims, demands, liens, losses and liabilities of any nature arising from the Employer's use of the Property. The New Lease provides that upon the expiration of the initial 15 year term of the New Lease, with the approval of the Trustee, the Lessee may extend the New Lease for up to two additional terms of 5 years each upon written notice to the Trustee at least six months prior to the expiration of the initial term or the expiration of the first 5 year renewal term, whichever is applicable. Rental under such extended 5 year term(s) will be determined through appraisal by an independent professional appraiser selected by the Trustee under the same procedure required by the New Lease for rental review every 5 years during the initial 15 year term of the New Lease.

3. The Trustee will monitor on behalf of the Plan the performance of the Employer under the New Lease and will represent the Plan in the enforcement of the terms and conditions of the New Lease. The Trustee represents that he has examined the terms and conditions of the New Lease, including appraisals of the Property's fair market value and fair market rental value, and has determined that, as of June 30, 1984, the terms are equivalent to an arm's-length transaction between unrelated parties. The Trustee represents that the New Lease contains adequate protections for the participants and beneficiaries of the Plan and that the lease constitutes a prudent investment for the Plan. The Trustee further represents that the Plan's investment in the Property does not adversely affect the Plan's liquidity needs and that with the investment in the Property the Plan is appropriately diversified. The fair market value of the property has been appraised by Manwaring, who represents that as of February 28, 1984, the Property had a fair market value of approximately $489,000. The Employer represents that, other than the Property, there are no Plan assets to which the Employer is lessee or user.

4. In summary, the Employer represents that the New Lease will satisfy the statutory criteria of section 408(a) of the Act because: (1) The New Lease is a triple net lease requiring the Employer to pay all costs of repair and maintenance and all taxes and insurance on the Property; (2) the interests of the Plan under the New Lease will be represented by the Trustee, an independent fiduciary who is unrelated to the Employer and who will monitor performance of the terms and conditions of the New Lease on behalf of the Plan; (3) the New Lease will require periodic assessments to ensure that the rental remains at least the fair market rental value of the Property; and (4) the Trustee has evaluated the New Lease on behalf of the Plan and has determined that it is on terms and conditions which are equivalent to an arm's-length transaction between unrelated parties and that it contains adequate protections for the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

R. L. Fitzwater & Son, Inc. Profit Sharing Plan (the Plan) Located in Pennsauken, New Jersey

[Application No. D–5396]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan by the Plan of cash in the amount of $200,000 to R.L. Fitzwater & Sons, Inc. (the Employer), provided that the terms and conditions of the proposed transaction are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which had 87 participants and net assets of approximately $2,056,914 as of May 31, 1983. The trustee of the Plan is the trust asset management committee of Heritage Bank, N.A. (the Bank) located in Cherry Hill, New Jersey. Investment decisions for the Plan are made by a plan administrative committee consisting of persons appointed by the Employer. The Employer is in the food brokerage business.

2. The Employer proposes to borrow the sum of $200,000 (the Loan) from the Plan for the purpose of constructing an addition (the Addition) adjoining the Employer's current office and warehouse facilities (the Building), which are located at 5880 Magnolia Road, Pennsauken, New Jersey. This amount represents approximately 9.7% of the Plan's current assets. The Loan proceeds will be disbursed in stages as construction of the Addition is completed. The Addition is expected to cost approximately $250,000. The Loan will be for a fifteen year term and will bear interest at the rate of ½% over the prime rate as determined by the commercial department of the Bank, adjusted semi-annually, but will in no event be less then 10% per annum. Any change in the interest rate of the Loan will be effective as of the first day of the month in which such adjustment occurs. The Loan will be repaid in monthly installments of principal and interest amortized over the fifteen year term of the Loan. The Employer will pay all expenses incurred in the preparation and closing of the loan. An independent fiduciary for the Plan (see below), at his sole discretion, will have the option to either call for the full repayment of the outstanding balance of the Loan or for an adjustment in the method of computing the rate of interest at each five year anniversary date from the original date of closing, such that the Plan could receive a different percentage over the prime rate but in no event less than the prime rate, provided that 120 days notice of such intent is provided to the Employer. The Bank has represented, in a letter dated January 10, 1984, that it would make a second mortgage loan to the Employer at the same interest rate and under identical terms and conditions.

3. The Loan will be secured by a second mortgage on the Building and the Addition. The Building is currently subject to a first mortgage held by the Bank in the amount of $235,000, which had an outstanding balance of approximately $95,906 as of December 31, 1983. The Building is otherwise unencumbered. The Building was appraised on June 10, 1983, by Mr. William J. Kennedy (Mr. Kennedy), an M.A.I., S.R.P.A. appraiser located in Gibbsboro, New Jersey. Mr. Kennedy determined that the fair market value of the Building as of June 6, 1983 was $315,000 and that, after completion of the Addition, the Building and Addition would have a fair market value of $550,000. The applicants represent that the Plan's secured interest in the Building and Addition will be properly recorded under the laws of the State of New Jersey and that the Building and Addition will be insured against fire and other hazards over the entire term of the Loan at no expense to the Plan in an amount not less than the outstanding

balances of the first and second mortgages. The Plan will be named as an additional loss payee on such insurance policy to the extent of the outstanding balance of the Plan's Loan plus any accrued interest. Additionally, the applicants represent that the value of the collateral securing the Loan will at all times be equal to or greater than 150% of the aggregate outstanding balances of the first and second mortgage loans on the Building and Addition.

4. Michael A. Kulzer, Esq. (Mr. Kulzer) has agreed to act as an independent fiduciary for the Plan with respect to the proposed transaction. Mr. Kulzer is a member of the New Jersey bar and a certified public accountant who has had substantial experience in the management and administration of qualified employee benefit plans. Mr. Kulzer represents that he is independent of the Employer and its principals and that he has a thorough understanding of his responsibilities and liabilities as a fiduciary under the Act. Mr. Kulzer, as the independent fiduciary for the Plan, at his sole discretion, will have the option to either call for the full repayment of the outstanding balance of the Loan or for an adjustment to the method of computing the rate of interest at each five year anniversary date from the original date of closing, provided that 120 days notice of such intent is provided to the Employer. Mr. Kulzer has examined the overall investment portfolio and funding policy of the Plan, considered the ongoing cash flow and liquidity needs of the Plan, considered which assets of the Plan will be used to fund the Loan, examined the diversification of the Plan's assets and reviewed the terms of the proposed transaction as such terms comport with the overall investment performance and funding policy of the Plan. Based on this review, Mr. Kulzer has determined that the proposed Loan is appropriate and suitable for the Plan and in the best interest of the Plan's participants in that it will provide the Plan with a favorable floating rate of return from an investment which involves little risk, the Loan will at all times be secured by collateral valued at 150% or more of the balances of the outstanding mortgage loans on the Building and Addition, and because it is the obligation of a corporation having a net worth substantially in excess of the value of such loans.

5. Mr. Kulzer will be empowered and directed to enforce the terms of the Loan, including the duties of demanding payment and bringing suit or other appropriate process against the Employer in the event of default. Additionally, Mr. Kulzer will monitor the interest rate of the Loan as well as any other Loan terms and conditions and will ensure that the value of the collateral securing both mortgage loans on the property remains at least equal to 150% of the total outstanding balances of both loans.

6. In summary, the applicants represent that the proposed Loan will satisfy the criteria of section 408(a) of the Act because: (a) The Loan will at all times be secured by collateral having a value equal to or in excess of 150% of the outstanding balances of the loans secured by the Property; (b) the Loan will provide a favorable rate of return at little risk to the Plan; (c) Mr. Kulzer, as the independent fiduciary for the Plan, has reviewed the terms and conditions of the proposed Loan and represents that it is appropriate for and in the best interest of the Plan's participants and beneficiaries; and (d) Mr. Kulzer will monitor the terms and conditions of the Loan and take any enforcement actions necessary to protect the rights of the Plan with regard to the Loan.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 7th day of August 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–21328 Filed 8–10–84; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Availability of Board Decision Volume 14

AGENCY: Merit Systems Protection Board.

ACTION: Notice of availability of *Decisions of the United States Merit Protection Board,* Volume 14.

SUMMARY: The purpose of this notice is to inform Federal agencies that the Merit Systems Protection Board publication entitled *Decisions of the United States Merit Systems Protection Board,* Volume 14 (covering the period April 1, 1983 through June 30, 1983) will be available on riders to the Government Printing Office. Departments and agencies may order this book by riding the Merit Systems Protection Board's printing requisition No. 4–00165.

DATE: Agency requisitions (Standard Form 1) should be submitted to the U.S. Government Printing Office, Requisitions Section, Room 836, Washington, D.C. 20401, no later than September 30, 1984 through the agency's Washington, D.C. headquarters office authorized to procure printing for the agency. Agencies may estimate cost by using the current Government Printing Office price list of printing services.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Information Services

Division, Office of the Secretary, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, D.C. 20419, (202) 653–8891.

SUPPLEMENTARY INFORMATION: This volume includes an index based on the Board's key number system. Other volumes in the series of published Board decisions which are still in print may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They are: *Decisions of the United States Merit Systems Protection Board,* Volumes 5 through 7, covering the period January 1, 1981 through September 30, 1981 (stock number 062–000–00011–2; $40), and *Decisions of the United States Merit Systems Protection Board,* Volumes 8 through 11, covering the period October 1, 1981 through September 30, 1982 (stock number 062–000–00014–7; $53). Volume 12 (October 1, 1982 through December 31, 1982) and Volume 13 (January 1, 1983 through March 31, 1983) are being printed, and will be announced in the **Federal Register** when available for sale.

Dated: August 8, 1984.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 84–21397 Filed 8–10–84; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by September 7, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

—to take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct)
—to collect any plant native to Antarctica in specially protected areas
—to enter any Specially Protected Area or certain Sites of Special Scientific Interest
—to import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area
—to introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The regulations amend Title 45 of the Code of Federal Regulations by adding Part 670.

The application received by the National Science Foundation is as follows:

1. Applicant: Alfred F. Giddings, Ocean Images, Inc., Berkeley, California 94705.

A. Activities for Which Permit Requested

The applicant requests permission to enter protected areas in Antarctica and to approach protected species solely for the purpose of filming and photographing the wildlife and scenery of Antarctica.

Approximately 50% of all filming will be done underwater with four to six divers underwater at a time. At no time will plants or animals, underwater or above be harassed or manipulated during filming operations. Entry into protected areas will be for filming purposes only and will involve no collecting or destruction of wildlife.

In addition to standard modes of filming on foot or while diving, the crew will be making use of a tethered hot-air balloon for aerial filming. This technique eliminates engine noise and vibrations which might otherwise harass and frighten native species. Underwater, the crew will use a remotely operated vehicle (R.O.V.) equipped with a video camera for filming at depths of up to 400 feet. The R.O.V. is small (less than 6 cubic feet, and approximately 60 lbs.) and electrically powered from a smaller generator and will cause little or no disturbance to underwater life.

B. Location

McMurdo Sound area and Antarctica Peninsula area.

C. Dates

October 1, 1984 to November 30, 1984.

Authority to take action under the Antarctica Conservation Act of 1978 including publication of this notice, has been delegated by the Director, NSF to the Director, Division of Polar Programs.

A. N. Fowler,

Acting Director, Division of Polar Programs.

[FR Doc. 84-21398 Filed 8-10-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-413 and 50-414]

Duke Power Company, et al.; Catawba Nuclear Station, Units 1 and 2; Availability of Partial Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Partial Initial Decision dated June 22, 1984, by the Atomic Satety and Licensing Board in the above-captioned proceedings is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Based on the record developed in the public hearing in the above-captioned matter, the Partial Initial Decision modified in certain respects the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed operation of the Catawba Nuclear Station, Units 1 and 2.

Pursuant to the provisions of § 51.102(c) of 10 CFR Part 51, the Final Environmental Statement is deemed modified to the extent that the Findings and Conclusions contained in the Partial Initial Decision differ from those contained in the Final Environmental Statement. As required by § 51.102(c) of 10 CFR Part 51, a copy of the Partial Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.93 of 10 CFR Part 51.

The Partial Initial Decision and the Final Environmental Statement are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730. Copies of the Final Environmental Statement (Document No. NUREG-0921) may be purchased at current costs, from the National Technical Information Center, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 7th day of August 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84-21420 Filed 8-10-84; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials; Westinghouse Electric

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has recieved the following application for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 8th day of August 1984, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC IMPORT/EXPORT APPLICATIONS

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Westinghouse Electric, Aug. 2, 1984–Aug. 3, 1984, XSNM02165.	3.7 percent	47,108	1,743	Replacement in kind for material of slightly higher enrichment to be imported from Eurodif by Westinghouse.	France.

[FR Doc. 84-21409 Filed 8-10-84; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Combined Subcommittees on Millstone Nuclear Power Station; Unit 3 and Reliability and Probabilistic Assessments; Meeting

The ACRS Subcommittees on Millstone Nuclear Power Station Unit 3 and Reliability and Probabilistic Assessment will hold a combined meeting on August 28 and 29, 1984, at the Howard Johnson's Conference Center in the Yankee Trader West Room, I-91 Exit 41 Center Street, Windsor Locks, Hartford, Connecticut.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, August 28, 1984—2:00 p.m. until the conclusion of business
Wednesday, August 29, 1984—8:00 a.m. until the conclusion of business

The Subcommittees will review the application by the Northeast Nuclear Energy Company for a license to operate Millstone Nuclear Power Station Unit 3 and the associated probabilistic safety study.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the Northeast Nuclear Energy Company, the NRC Staff, their consultants, and other invited persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for opportunity to present oral statements and the time alloted therefor can be obtained by a perpaid telephone call to the cognizant ACRS staff member, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 8, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-21408 Filed 8-10-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-260]

Tennessee Valley Authority, Browns Ferry Nuclear Plant, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 to Tennessee Valley Authority (the licensee), for the Browns Ferry Nuclear Plant, Unit 2, located in Limestone County, Alabama.

Environmental Assessment

Identification of Proposed Action

The exemption would extend by up to 36 days the two year test period for performing Type B and C tests of some bellows, electrical penetrations, and double O-ring seals and valves. The exemption is responsive to the licensee's application for exemption dated April 2, 1984 as supplemented by letter dated July 25, 1984.

The Need for the Proposed Action

The proposed exemption is needed to avoid the simultaneous shutdown of Browns Ferry Units 2 and 3. Browns Ferry Unit 3 has been shutdown for NRC modifications and inspections since September 6, 1983. Projected startup has slipped from May 12, 1984 to September 7, 1984. Unit 2 has been operating at 60 to 62% power since April 1, 1984 to stretch the shutdown date for refueling from June 8, 1984 to September 15, 1984. The two year test interval on a few primary system components runs out starting August 10, 1984. For most of the components for which an exemption was requested, the two year test period ends in early September 1984. Thus, the extension of the test period for most components in the exemption will be for less than two weeks. Out of the two year test period, Browns Ferry Unit 2 was in cold shutdown for over ⅓ of the time; during this period, the components were not subjected to any significant temperature, pressure or radiation that might possibly degrade the components.

Environmental Impacts of the Proposed Action

The slight extension in the two year test interval for the specific components identified in the licensee's letter will not result in any significant reduction in a margin of safety. The proposed exemption will not involve a significant increase in the probability or consequences of any previously evaluated accident nor create the possibility of an accident of a type different from any previously evaluated. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (operating license stage) for the Browns Ferry Nuclear Plant, Units 1, 2, and 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no significant impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated April 2, 1984, and supplement dated July 25, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated at Bethesda, Maryland, this 9th day of August 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-21553 Filed 8-10-84; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Computer Matching Program; Railroad Payroll Records/RUIA Master Benefit Records

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: The Railroad Retirement Board hereby gives notice that it is conducting a series of matching programs with AMTRAK and such other railroad employers that in the future agree to participate in such programs. The matches will compare payroll records from various participating railroads with RRB records of benefits paid under the Railroad Unemployment Insurance Act. The purpose of the matches is to identify railroad employees who received either unemployment or sickness benefits for days for which their employing railroad reported they received a type of remuneration which would disqualify them from receiving such benefits. In addition, where such information is available from a railroad's payroll records, the match will attempt to identify railroad employees who received unemployment benefits for days which the records of the employing railroad show that they were not able to work or were not available for work. The goals of the matching programs are to identify and eliminate the methods by which individuals obtain benefits without entitlement, to recoup the dollar-value of the benefits received by individuals who were not entitled to receive them, and to deter erroneous and fraudulent receipt of unemployment and sickness benefits. As prescribed by the OMB Revised Guidelines for the Conduct of Matching Programs, published at 47 FR 21656–58 (May 19, 1982), the text of the matching program report follows. In accordance with these guidelines, copies of this report have been sent to OMB, the Speaker of the House, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: James Verplaetse, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Telephone (312) 751–4830.

Dated: August 6, 1984.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Report of Matching Program: Railroad Payroll Records/RUIA Master Benefit Records

A. Authority

Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

B. Description of the Matching Program

1. *Organizations Involved:* The involved components are the Railroad Retirement Board (RRB) and AMTRAK and such other railroad employers that in the future agree to permit the RRB to match their payroll records against its RUIA master benefit records.

2. *Purpose:* The Railroad Unemployment Insurance Act (RUIA) provides for the payment by the RRB of sickness and unemployment benefits to qualified railroad employees. However, such benefits are not payable for any day for which, with a few exceptions, the employee receives remuneration from his or her railroad employer. In addition, unemployment benefits are not payable for any day the employee is either not able to work or not available for work. The purpose of the matching programs is to identify railroad employees who received either unemployment or sickness benefits for days for which their railroad employer reported that they received a type of remuneration which would disqualify them from receiving such benefits. In addition, where such information is available from a railroad's payroll records the match will attempt to identify railroad employees who received unemployment benefits for days which the records of the employing railroad show that they were not able to work or were not available for work. The goals of the matching programs are to identify and eliminate the methods by which individuals obtain benefits without entitlement, to recoup the dollar-value of the benefits received by individuals who were not entitled to receive them, and to deter erroneous and fraudulent receipt of such benefits.

3. *Procedures:* AMTRAK and such other railroad employers that agree to participate in such a matching program will furnish the RRB with a tape file of their payroll records. The RRB will use the following categories of information contained in the tape file in the matching operation: SSN; day date to which remuneration is attributable and labor category code that indicates the type of payment attributable to the day. The railroad payroll tape file will be processed against the RRB's RUIA master benefit tape file. Matches will be sought first on SSN; for hits, a second match will be sought on the day dates for which RUIA benefits were paid and for which remuneration is reported (or, where such information is available, for which the employee is shown to have been possibly unable to work or unavailable for work). Certain codes indicating the type of payment attributable to the day will cause a discrepancy not to be recorded. Certain payroll ID codes that indicate salaried employees paid on a biweekly or monthly basis will likewise cause a discrepancy not to be recorded. For discrepancies involving the payment of unemployment benefits, the procedure calls for a computer generated paper report of such discrepancies to be referred to the RRB field office having jurisdiction of the case. For discrepancies involving the payment of sickness benefits, a separate computer generated report of such discrepancies will be referred to the division of claims operations of the bureau of unemployment and sickness insurance. In both types of cases, follow-up action will be taken. RRB will make no subsequent contact with the participating railroad as part of this matching program after the participating railroad has furnished the payroll file, except in specific cases where there is an inconsistency.

C. Records to be Matched

RRB will match its RUIA master benefit payment files with the payroll record files of the participating railroads. The RUIA master benefit payment file is included in Privacy Act System of Records RRB–21, Railroad Unemployment and Sickness Insurance Benefit System, which was last published in its entirety at 45 FR 16375–77 dated March 13, 1980.

D. Period of the Match

The matching program with AMTRAK began in calander year 1984 with a match of the payroll records for January 1984. Subsequent matches will cover subsequent months. The matching program with AMTRAK is planned as an ongoing one, with AMTRAK furnishing the RRB with a payroll tape once a month covering the previous month. It is the intention of the RRB to achieve monthly matches with other railroad employers that agree to participate in the matching program.

E. Security Safeguards

Security safeguards set forth in Privacy Act System of Records RRB–21 will pertain to the RUIA master benefit payment files as well as to the payroll information for discrepancies pertaining to the payment of sickness insurance benefits: Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters with authorization. All magnetic tapes not in use or not in security storage are housed in a tape library room that is locked during off-duty hours and to which access is restricted. Access to the computer room is also restricted and is locked during off-duty hours. These same safeguards will apply to the tape files of payroll records while they are in the possession of the RRB. Security safeguards set forth in Privacy Act System of Records RRB–6, Unemployment Insurance Record File, wil pertain to computer grenerated reports for discrepancies pertaining to the payment of unemployment insurance benefits: They will be kept in steel file cabinets away from the general public and will be available only to district office and regional office personnel.

F. Disposition of Records

Payroll tapes furnished by participating railroads will be returned to their owners after each match is completed. Information extracted from these files regarding "hits" will be incorporated into RRB systems of records RRB–6, Unemployment Insurance Record File, and RRB–21, Railroad Unemployment and Sickness Insurance Benefit System, and will be disposed of according to established record retention schedules. The RRB will not extract any information from the payroll records regarding non-hit individuals.

G. Other Comments

Because the RRB is not disclosing any personal records to the participating railroads, no routine uses are required to be published for this matching program. This matching program will result in no new category of information being collected and maintained in the applicable Privacy Act system of records. Presently, the RRB, in its administration of the Railroad Unemployment Insurance Act, collects information about wages received from non-railroad employers for days unemployment or sickness benefits are paid. Remuneration received from railroad employers would be in the same category of information.

[FR Doc. 84–21357 Filed 8–10–84; 8:45 am]
BILLING CODE 7905–01–M

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., 3221(c), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1984, shall be at the rate of 20 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1984, 25.9 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 74.1 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 6, 1984.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84–21358 Filed 8–10–84; 8:45 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14085; 812–5805]

Mutual of America Life Insurance Company, et al. Filing of Application

August 7, 1984.

Notice is hereby given that Mutual of America Life Insurance Company (the "Company") 666 Fifth Avenue, New York, NY 10103, a New York mutual life insurance company, and Mutual of America Separate Account No. 2 (the "Variable Account"), registered under the Investment Company Act of 1940 ("the Act") as an open-end diversified management investment company and established in connection with the proposed issuance of certain variable annuity contracts ("contracts") (collectively, "Applicants"), filed an application on March 28, 1984, with an amendment thereto filed on July 3, 1984, for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 17(f) and 27(c)(2) of the Act and rule 17f–2 to the extent necessary to permit transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein in support of the requested relief pursuant to section 6(c), which are summarized below, and are referred to the Act and rules thereunder for a statement of the relevant provisions.

Applicants request exemption from section 27(c)(2) to the extent necessary to permit a bank custodian meeting the requirements of section 26(a)(1) of the Act to hold assets of the Variable Account under a Safekeeping Agreement meeting the requirements of sections 26(a) (2) and (3) of the Act without appointment of a trustee. Applicants also request an exemption to the extent necessary to allow the Company to hold the securities in book-entry form and to permit the Variable Account to utilize a securities depository in accordance with rule 17f–4 under the Act.

They further request exemption from section 27(c)(2) to the extent necessary to impose the following charges: (1) A daily administrative charge equal on an annual basis to 0.30% of net assets; (2)

an additional administrative charge of $1.00 each month for each investment portfolio in which the participant is invested; (3) a daily investment advisory charge equal on an annual basis to .40% of net assets of the money market portfolio and .50% of net assets of the bond, stock, and composite portfolios; (4) a guaranteed daily mortality risk charge equal on an annual basis to 0.35% of net assets; and (5) a daily distribution expense charge equal on an annual basis to .35% of net assets pursuant to a written distribution financing plan under section 12 and rule 12b–1 of the Act. Applicants represent that charges (1) and (2) are set at a level not greater than the expected cost of the services to be provided for one year, which does not include a profit. Applicants represent that charge (4) is reasonable in amount as deteremined by industry practice with respect to comparable annuity products. The Company states that this representation is based upon its analysis of publicly-available information about similar industry products and that it will maintain at its principal office, available to the Commission, a memorandum setting forth in detail the basis for this representation.

Applicants request exemption from section 17(f) and rule 17f–2 of the Act to permit access to the securities of the Variable Account to: (1) Authorized representatives of the New York Superintendent of Insurance; (2) officers or responsible employees of the Company authorized by resolutions of both the Board of Directors of the Company and the Committee of the Variable Account (not to exceed five at any one time); and (3) independent public accountants retained by the Company.

Finally, Applicants request exemptions from the provisions of sections 27(c)(2) and 17(f) to the extent necessary to permit the Variable Account to invest in book-entry time deposits. Applicants represent that investments in book-entry time deposits will not be made unless: (1) The Variable Account has in existence at all times a system that is reasonably designed to prevent unauthorized officer's instructions as provided in rule 17f–4(c)(1); (2) any transactions for the purchase or sale of book-entry time deposits by the Variable Account are entered into only with banks having the qualifications prescribed in section 26(a)(1) or with savings and loan associations having equivalent aggregate capital, surplus and undivided profits, and such transactions are recorded by such banks and savings and loan associations in book-entry form in the name of the safekeeper of the assets of the Variable Account (or a description to that effect); (3) such banks and savings and loan associations are advised to send written confirmations of any such transactions to the Variable Account; (4) the Variable Account will not forward payment to such banks and savings and loan associations until written confirmations have been received; (5) upon the sale or maturity of any book-entry time deposit, the proceeds thereof are paid directly to the safekeeper of the assets of the Variable Account; and (6) the Committee of the Variable Account adopts resolutions approving the foregoing arrangements and such arrangements are reviewed at least annually.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 30, 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 certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–21389 Filed 8–10–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14081; 812–5863]

Development Corp. of Montana; Filing of Applicatioin for an Order Pursuant to Section 6(c) of the Act Granting Exemption From all Provisions of the Act

August 6, 1984.

Notice is hereby given that the Development Corporatioin of Montana ("Applicant"), 555 Fuller Ave., P.O. Box 916, Helena, Montana 59624, a corporation incorporated under the laws of Montana pursuant to the provisions of the Development Corporation Act of Montana ("Development Corporation Act"), filed an appalication on May 31, 1984, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representation made therein, which are summarized below, and to the Act for the text of all applicable sections.

According to the application, Applicant was organized April 22, 1970, under the Development Corporation Act to provide for lines of credit with member financial institutions and allow those institutions to purchase capital stock in the development corporation in order to encourage and assist through loans, investments, or other business transactions in the location of new business and industry in Montana and to rehabilitate and assist existing business and industry. Applicant states that it is the only corporation that has been organized in Montana pursuant to the Development Corporation Act and that it is unlikely that others will be established. Applicant further states that most major Montana financial institutions are members of Applicant and are not likely to become members in similar competiting development corporations.

Applicant states that it has authorized capital of 50,000 shares, $100 par value common stock, and that currently 2,242 shares are outstanding which are held by 125 shareholders.

Applicant further states that about 55 percent of the stock is held by Montana financial institutions, and 45 percent of the stock is held by private corporations and rural electric cooperatives operating in Montana.

Applicant represents that it is governed by an 18-member board of directors in which the shareholders elect two-thirds of the directors and the member financial institutions elect one-third of the directors. Applicant states that shareholders have one vote for each share of stock owned and members have one vote for each one thousand dollars of authorized loan limit.

The application states that the Development Corporation Act provides that Montana financial institutions eligible for membership include, but are not limited to banks, savings and loans, and insurance companies. Members agree upon call to loan funds to Applicant at a rater equal to ¼ of 1 percent over the New York prime rate, up to a maximum limit which depends on the size of the member's capital and surplus, or, in the case of savings and loans, outstanding loans. Each call for loans is prorated among the members based on a ratio of a member's adjusted

commitment (original commitment less loans previously made to Applicant and the investment in the stock of Applicant) to the total commitment of all members. Applicant states that it currently has 110 members and an aggregate limit on borrowing from members of the lesser of 3 percent of the member banks' capital and surplus or 10 times Applicant's paid-in capital.

Applicant proposes to offer 15,000 of its shares at $100 per share for an aggregate of $1,500,000 in order to increase its capital base and reactivate its financing activities. The offering amount of $1,500,000 was set by Applicant's directors as the amount of new capital necessary for Applicant to conduct its business. Applicant states that the offering will be made pursuant to Regulation A and that a notification and a proposed circular have been filed with the Commission's Seattle Regional office. Applicant states that no underwriter will be used and no commissions will be paid on any sales. Applicant intends to solicit subscriptions only from corporations and other business organizations with an economic interest in Montana. Applicant does intend to limit the offering to corporate and other business purchasers that have knowledge and experience in financial matters and are capable of evaluating the merits and risks of an investment in Applicant. The shares will be sold only to purchasers acquiring the shares for investment and not with a view to public distribution or resale.

Applicant states that in order to meet its obligations of stimulating and developing business in Montana it will make loans to and investments in businesses operating in Montana that have the potential to grow and increase employment and economic activity in Montana. Applicant may also provide purchase and leaseback financing. Applicant represents that it does not compete with conventional financial institutions, but rather provides financing in those cases where financing is not readily available from conventional financial institutions.

Applicant further represents that it is subject to examination by the Montana Department of Commerce, Commissioner of Financial Institutions and is required by its enabling legislation to provide at least annual reports to the Department of Commerce, which must make copies of the report available to the Commissioner of Insurance and the Governor.

Applicant believes that it might meet the definition of an investment company in section 3(a)(3) of the Act because it is engaged in the business of making loans and investments, and has acquired investment securities having a value exceeding 40 percent of the value of its total assets. Applicant contends, however, that an exemption from registration under the Act will be in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support of this contention Applicant asserts that by stimulating economic development in Montana, it will serve the welfare of the state and its citizens. Applicant states that its proposed Regulation A offering will be limited to Montana financial institutions and other sophisticated business investors who have economic interest in Montana. Applicant further states that there has never been a market for its stock and that it is not anticipated that there will be an active market for Applicant's stock. Applicant also anticipates that dividends will not be paid for an indefinite period. Applicant represents that these features will be fully disclosed and that prospective purchasers will be primarily interested in both furthering Applicant's public purpose and the indirect economic benefits occurring to Montana from Applicant's business. Moreover, Applicant notes that it is subject to examination by Montana authorities and to specific reporting requirements. Applicant further represents that to the extent that it makes loans to affiliated persons, they will be made on the same terms and with the same criteria as loans to unaffiliated borrowers. Finally, Applicant asserts that imposition of the registration and compliance requirements of the Act would unnecessarily place a considerable burden on Applicant, diverting staff time and financial resources, primarily in the form of legal fees, from Applicant's purposes of stimulating economic development in Montana.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-21430 Filed 8-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14082; 811-3532]

Nuveen Cash Reserves, Inc.; Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Ivestment Company

August 6, 1984.

Notice is hereby given that Nuveen Cash Reserves, Inc. ("Applicant"), 115 South LaSalle Street, Chicago, Illinois 60603, registered as a deversified, open-end management investment company under the Investment Company Act of 1940 ("Act") filed an application on July 16, 1984, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that its board of directors recommended the liquidation of Applicant on January 18, 1984. The liquidation was approved by Applicant's securityholders on April 18, 1984. According to the application, as of April 29, 1984, 3,273,507 shares of Applicant's common stock were outstanding, with an aggregate net asset value of $3,273,507 ($1.00 per share). Applicant states that, on May 1, 1984 and May 16, 1984, Applicant redeemed all its shares, and distributed redemption proceeds to all its shareholders, except for $5,000 payable to its adviser, Nuveen Advisory Corp. The $5,000 has been put into escrow for three years to satisfy any claims of unknown shareholders and creditors. At the end of three years, Nuveen will receive the amount remaining in said escrow account.

Applicant states that it now has no securityholders and it not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant represents that it has retained no assets other than $5,000 in escrow for the above stated reasons, no debts or other liabilities, and is not a party to any litigation or administrative proceeding. Finally, Applicant states

that it has not, within the past 18 months, transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 31, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-21431 Filed 8-10-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-062]

Chemical Transportation Advisory Committee; Reestablishment

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: USCG announces the reestablishment of the Chemical Transportation Advisory Committee.

The purpose of the Committee is to provide advice and consultation to the U.S. Coast Guard's Marine Safety Council with respect to the water transportation system for hazardous materials.

FOR FURTHER INFORMATION CONTACT: Capt. A.E. Henn, USCG, Executive Director, Chemical Transportation Advisory Committee, U.S. Coast Guard (G-MTH), Washington, D.C. 20593, (202) 426-2167.

Dated: August 7, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 84-21387 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-14-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 proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions and new collections 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 Officer (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, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 8, 1984.

By direction of the Administration.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Offer to Rent on Month-To-Month Basis and Credit Statement
3. VA form 26-6725
4. On occasion
5. Individuals or households; Businesses or Other For-Profit
6. 100 responses
7. 33 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status
3. VA Form 28-1905
4. On occasion
5. Individuals or households; Farms; Businesses or other For-Profit; Federal Agencies or Employees; Non-profit institutions; Small businesses or organizations
6. 35,000 responses
7. 2,917 hours
8. Not applicable

New Collection

1. Department of Veterans Benefits
2. Request for Armed Forces Separation Records
3. VA Form Letter 23-80e
4. On occasion
5. Individuals or households
6. 102,000 responses
7. 17,000 hours
8. Not applicable

Extension

1. Office of Information Management and Statistics
2. Request for and Consent to Release Information from Claimant Records
3. VA Form 00-3288
4. On occasion
5. Individuals or households
6. 300,000 responses
7. 50,000 hours
8. Not applicable

New Collection

1. Office of Information Management and Statistics
2. Survey of Female Veterans
3. None
4. One time only (collection to begin FY 85)
5. Individuals or households
6. 5,795 responses
7. 5,795 hours
8. Not applicable

[FR Doc. 84-21323 Filed 8-10-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 157
Monday, August 13, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL ENERGY REGULATORY COMMISSION

August 8, 1984.

TIMES AND DATES: 10:00 a.m., August 15, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone: (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of Public Information.

Consent Power Agenda

796th Meeting—August 15, 1984

Regular Meeting (10:00 a.m.)

CAP-1: Project No. 8260-000, Board of Water Commissioners, city of Gloversville, New York
CAP-2: Project No. 7815-000, Dan L. Smith
CAP-3: Project No. 7633-001, Kenai Hydro, Inc.
CAP-4: Project Nos. 7640-002 and 7668-002, WP, Inc.
CAP-5: Project Nos. 3024-004, 3024-005, 3024-006, 3029-004, 3029-005 and 3029-006, The city of Richmond, Virginia
CAP-6:
Project No. 7526-002, Capital Development Company
Project Nos. 7620-002, 7666-002, 7677-002, and 7841-002, WP, Inc.
CAP-7:
(A) Project No. 7212-003, town of Sultan, Washington
(B) Project No. 7833-001, WP, Inc.
CAP-8: Project Nos. 4806-001 and 4806-003, city of Auburn, New York
CAP-9: Project No. 1984-014, Wisconsin River Power Company
CAP-10:
Project Nos. 3493-003 and 3493-006, town of Summersville, West Virginia
Project Nos. 8170-000 and 8170-001, Southeastern Renewable Resources, Inc.
CAP-11: Project No. 8138-001, the Nuclear Energy Group, Inc.
CAP-12:
Project No. 7462-001, Salt Lake City Corporation
Project No. 6802-000, Snowbird, Ltd.
CAP-13: Project Nos. 77-007 and 77-008, Pacific Gas and Electric Company
CAP-14: Project No. P-344-004, Southern California Edison Company
CAP-15: Project No. 7741-001, WP, Inc.
CAP-16: Omitted
CAP-17: Project No. 2142-001, Central Maine Power Company
CAP-18:
(A) Project No. 7259-001, Aero Construction, Inc.; Project No. 8073-000, Red Ark Development Authority
(B) Project No. 7260-001, Aero Construction, Inc.; Project No. 8124-000, Red Ark Development Authority
CAP-19: Docket No. QF84-346-000, Florida Crushed Stone Company
CAP-20: Docket No. QF84-339-000, Simplot Leasing Corporation
CAP-21: Docket No. ER79-150-013, Southern California Edison Company
CAP-22: Docket No. ER82-579-004, Southern Company Services, Inc.
CAP-23: Docket Nos. ER84-505-000, ER82-448-000, ER82-715-000, ER83-44-000, ER83-45-000, ER83-46-000, ER83-187-000, ER83-334-000, ER83-541-000, ER83-567-000, ER83-706-000, ER84-40-000, ER84-198-000 and ER84-305-000, Pudget Sound Power and Light Company
CAP-24: Docket No. ER84-483-000, Arkansas Power & Light Company
CAP-25: Docket No. ER84-538-000, Indiana & Michigan Electric Company
CAP-26: Docket Nos. ER76-828-008 and EL78-18-000, Nantahala Power and Light Company
CAP-27: Docket Nos. ER78-414-008 and ER80-363-006, Delmarva Power & Light Company
CAP-28: Docket Nos. ER81-267-003 and ER81-341-005, Kentucky Utilities Company
CAP-29: Docket Nos. ER83-418-004, ER84-79-000, ER84-80-000, ER84-81-000, Kansas Power & Light Company
CAP-30: Docket No. ER83-548-000, Kansas City Power and Light Company
CAP-31: Docket No. ER83-665-000, Kansas City Power and Light Company
CAP-32: Docket No. ER83-609-000, Southwestern Electric Power Company
CAP-33: Docket No. ER83-649-000, New England Power Company
CAP-34: Docket No. ER84-307-000, Missouri Public Service Company
CAP-35: Docket Nos. ER82-853-000 and ER82-854-000, Appalachian Power Company
CAP-36: Docket No. ER84-146-001, Union Electric Company
Docket No. EL84-17-000, cities of Jackson, Kennett and Malden, Missouri

Consent Miscellaneous Agenda

CAM-1: Omitted
CAM-2: Docket No. RM79-52-000, Final Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978
CAM-3: Docket Nos. RM79-76-206 (Pennsylvania-2), RM79-76-207 (Pennsylvania-3) and RM79-76-208 (Pennsylvania-4), High-Cost Gas Produced From Tight Formations
CAM-4: Docket No. RM79-76-127 (West Virginia-1 Addition II), High-Cost Gas Produced From Tight Formations
CAM-5: Docket No. GP83-6-001, Colorado Oil and Gas Conservation Commission, Section 107 NGPA Determination, Davis Drilling, Inc., Baughman Farms No. 1-5 Well, et al., Colorado Docket Nos. 81-761, et al., JD Nos. 82-22170, et al.
CAM-6: Docket No. GP84-14-000, Moncrief Oil Enterprises
CAM-7: Docket Nos. RM84-8-000 and RM84-8-001, Petition of Ashland Oil Inc., et al., for Expedited Establishment of Procedures for the Collection of Excess Royalty Payments
CAM-8: Docket No. RM83-1-001, Rules of Practice and Procedure: Reconsideration of Initial Decisions

Consent Gas Agenda

CAG-1: Docket No. RP83-102-000, Robert Abrams, as Attorney General of the State of New York v. Texas Eastern Transmission Corporation
CAG-2: Docket Nos. TA84-2-9-003, TA84-2-9-004 and RP84-84-001, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
CAG-3: Docket Nos. RP84-86-001, RP84-16-000 and RP84-21-000, Locust Ridge Gas Company
CAG-4: Docket Nos. RP82-114-006, RP82-114-007, RP83-98-003, TA83-1-43-006, TA83-1-43-007, TA83-2-43-002, TA83-2-43-003, TA83-1-43-005, TA84-1-43-006, CP83-431-002 and CP83-431-003, Northwest Central Pipeline Corporation
Docket No. RP83-42-001, Midwest gas Users Association v. Northwest Central Pipeline Corporation
CAG-5: Docket Nos. RP83-58-010, RP81-86-016, RP80-102-021 and TA84-1-7-005, Southern Natural Gas Company
CAG-6: Docket Nos. RP80-102-022, RP80-102-023, RP80-102-024, RP80-102-025

and RP80–102–026, Southern Natural Gas Company
Docket Nos. RP81–86–017, RP81–018, RP81–86–019, RP81–86–020 and RP81–86–021 (Zoning Cost Classification), Southern Natural Gas Company
CAG–7: Docket No. RP80–136–000, RP80–136–001, RP80–136–002 and RP80–136–003, Southern Natural Gas Company
CAG–8: Docket No. RP74–41–033, Texas Eastern Transmission Corporation
CAG–9: Docket No. ST84–703–000, Mississippi Fuel Company
CAG–10: Docket No. ST84–713–000, Cranberry Pipeline Corporation
CAG–11: Docket No. RP84–100–000, Equitable Gas Company
CAG–12: Docket No. RP84–52–000, Northwest Pipeline Corporation
CAG–13: Docket No. RP81–17–001, RP81–57–000 and RP82–117–000, Midwestern Gas Transmission Company
CAG–14: Docket No. CI84–361–001, Conoco Inc.
CAG–15: Docket No. CS84–60–000, Britoil Ventures, Inc.
CAG–16: Docket No. CI84–4–000, Cities Service Oil and Gas Corporation
CAG–17: Docket No. Omitted
CAG–18: Docket No. CI84–141–001, Union Oil Company of California
CAG–19: Docket No. CI83–12–045, Gas Producing Enterprises, Inc. (Coastal Oil & Gas Corporation)
CAG–20: Docket Nos. RI74–188–036 and RI75–21–031, Independent Oil & Gas Association of West Virginia
CAG–21: Docket Nos. CI72–773–000 and CP72–259–999, Sonat Exploration Company
CAG–22: Docket No. Omitted
CAG–23: Docket No. CP84–343–001, Arkansas Louisiana Gas Company, a Divsion of Arkla, Inc.
CAG–24: Docket No. Omitted
CAG–25: Docket Nos. CP83–279–013, CP83–279–014, CP83–279–016 and CP83–279–017, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83–340–014, CP83–340–015 and CP83–340–017, Producer-Suppliers of Transco Gas Supply Company
Docket Nos. CP–83–428–022, CP83–428–023 and CP83–428–025, Producer-Suppliers of Transco Gas Supply Company and Transcontinental Gas Pipe Line Corporation
CAG–26: Docket No. CP84–206–001, Trunkline Gas Company
CAG–27: Docket No. CI84–332–001, CI84–332–002 and CI84–332–003, Cities Service Oil and Gas Corporation, Cities Offshore Production Company, and Oxy Petroleum, Inc.
CAG–28: Docket No. CP84–244–001, Texas Eastern Transmission Corporation
CAG–29: Docket No. CP84–209–010, CP84–209–011 and CP84–209–012, Lawrenceburg Gas Transmission Corporation and Texas Gas Transmission Corporation
CAG–30: Docket Nos. CP66–269–004, et al., Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Docket No. CI66–910–002, Amoco Production Company
CAG–31: Docket No. CP83–14–039, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–32: Docket No. CP84–195–000, Columbia Gas Transmission Corporation
Docket No. CP84–439–000, Columbia Gas Transmission Corporation
CAG–33: Docket No. Omitted
CAG–34: Docket No. CP84–240–000, Trunkline Gas Company and Panhandle Eastern Pipe Line Company
CAG–35: Docket No. CP84–333–000, Columbia Gas Transmission Corporation
CAG–36: Docket No. CP84–361–000, Valero Transmission Company
CAG–37: Docket No. Omitted
CAG–38: Docket Nos. CP82–542–000 and RP82–80–017, ANR Pipeline Company
CAG–39: Docket Nos. CP83–498–000, ST84–328–000 and ST84–19–000, the Inland Gas Company, Inc.

I. Licensed Project Matters

P–1: Project No. 3688–000, Washington County Hydro Development Associates
P–2:
Docket No. EL80–19–000, Massachusetts Municipal Wholesale Electric Company v. Power Authority of the State of the New York
Docket No. EL80–24–000, Connecticut Municipal Electric Energy Cooperative v. Power Authority of the State of New York
Docket No. EL78–24–029, Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York

II. Electric Rate Matters

ER–1: Docket No. ER84–348–001, American Electric Power Service Corporation
ER–2: Docket No. QF84–169–000, John W. Savage
ER–3: Docket No. QF83–175–001, James A. Drake, and Miller's Plant Farm—Foliage and Chrysanthemum, Division of Dustin, Oklahoma, Inc.

Miscellaneous Agenda

M–1: Docket No. RM79–54–001, Small Power Production and Congeneration Facilities
M–2: Docket Nos. RM83–13–001, RM83–13–002, RM83–13–003, RM83–13–004 and RM83–13–005, Annual Charges for Use of Government Dams and Other Structures
M–3: Reserved
M–4: Omitted
M–5: Docket No. RM82–30–000, Fees Applicable to the Natural Gas Policy Act
M–6:
Docket No. RM83–72–000, First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978
Docket No. RM82–16–000, First Sales by Affiliates
M–7: Omitted
M–8: Docket No. RM83–53–000, Obligations of sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the Natural Gas Policy Act of 1978
M–9: Docket No. RM83–31–000, Emergency Natural Gas Sale, Transportation, and Exchange Transactions

Gas Agenda

I. Pipeline Rate Matters

RP 1:
Docket No. RP83–113–000, Pacific Gas Transmission Company
Docket No. RP83–135–000, Pacific Interstate Transmission Company
Docket No. RP83–136–000, Pacific Offshore Production Company
Docket No. RP84–28–000, Pacific Interstate Offshore Company
Docket No. RP83–139–000, El Paso Natural Gas Company
Docket No. RP81–130–007, Transwestern Pacific Company
RP–2: Docket Nos. RP79–10–013 and RP80–134–015, Great Lakes Gas Transmission Company

II. Producer Matters

CI–1: Docket No. CI80–264–00, Southern Union Gathering Company
CI–2: Docket No. CI83–269–014, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd, Tinco, Ltd., and Tenneco West, Inc.
CI–3: Docket No. CI84–485–000, Amoco Production Company
CI–4: Docket No. CI84–403–000, Samedan Oil Corporation, Texas Gas Exploration Corporation, Energy Development Corporation, and New England Energy, Inc.

III. Pipeline Certificate Matters

CP–1: Docket Nos. RP83–14–001, RP83–81–000, CP83–254–000, CP83–254–006, CP83–335–000 and CP83–335–006, Montana-Dakota Utilities Company
CP–2: Docket No. G–2589–001, Aminoil USA, Inc.
CP–3: Docket No. G–2500–000, Commonwealth Gas Pipeline Corporation and Columbia Gas Transmission Corporation
CP–4: Docket Nos. CP83–502–001, CP83–502–002, CP83–502–003, CP83–502–004 and CP83–502–008, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
CP–5: Docket No. CP84–162–000, Colorado Interstate Gas Company
CP–6: Docket No. CP84–539–000, El Paso Natural Gas Company
CP–7: Docket No. CP84–461–000, Columbia Gas Transmission Corporation
CP–8: Docket No. CP83–485–000, Texas Gas Transmission Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–21521, Filed 8–9–84; 3:33 am]
BILLING CODE 6717–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 8, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, August 15, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open in part, Closed in part.

MATTERS TO BE CONSIDERED:

The following items will be considered at an open meeting:

1. Robert K. Roland v. Secretary of Labor (MSHA), Docket No. WEST 84-46-DM(A). (Petition for Interlocutory Review).
2. Secretary of Labor v. Metric Constructors, Inc., Docket No. SE 80-31-DM. (Motion for Stay of Commission decision).

Thereafter, the following items will be considered at a closed meeting:

3. T.P. Mining Co., LAKE 83-97-D.
4. U.S. Steel Corporation, LAKE 82-35-M.
5. U.S. Steel Corporation, PENN 83-39.

A majority of Commissioners present and voting voted to close items 3, 4, and 5. (Pursuant to 5 U.S.C. § 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Helen O. Mockabee,

Chief Docket Clerk.

[FR Doc. 84-21469 Filed 8-9-84; 2:51 pm]

BILLING CODE 6735-01-M

3

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Friday, August 17, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed revisions to the Board's Equal Opportunity Regulation.
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 9, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21539 Filed 8-9-84; 3:56 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: Approximately 11:00 a.m., Friday, August 17, 1984, a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Eligibility issues regarding Federal Reserve Bank and Branch directors.
2. Proposed purchase of telephone equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 9, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21540 Filed 8-9-84; 3:56 pm]

BILLING CODE 6210-06-M

federal register

Monday
August 13, 1984

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Standardization of Cockpit Controls for Small Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 24191; Notice No. 84-12]

Standardization of Cockpit Controls for Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend Part 23 of the Federal Aviation Regulations (FAR) to require standardization of cockpit controls including aerodynamic, powerplant, fuel system, and auxiliary controls. Data from accident reports indicate lack of standardization in the location, operation, and arrangement of cockpit controls has been a cause factor in an unacceptable number of accidents.

This proposed rulemaking is to standardize the location, operation, and arrangement of cockpit controls and thereby minimize them as causal factors in airplane accidents.

DATES: Comments must be received on or before October 12, 1984.

ADDRESS: Comments on this notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24191, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. Comments delivered must be marked Docket No. 24191. Comments may be inspected in Room 916 between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: John H. Griffith, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24191." The postcard will be date stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

National Transportation Safety Board (NTSB) data from accident reports indicate lack of standardization in the location, operation, and arrangement of cockpit controls has been a causal factor in an unacceptable number of accidents. Report NTBS-BA-82-3 is a summary of 3776 accidents. This report identifies improper operation of powerplant and powerplant cockpit controls as the cause of 63 accidents, of which 6 were fatal, and mismanagement of fuel as the cause of 268 accidents, of which 24 were fatal.

Selection of the proper cockpit control, and when and how to operate it, is a matter of pilot training. Control location, identification, arrangement, and direction of motion are a matter of design. The effectiveness of pilot training relative to selection of a control and how to operate it, is significantly affected by cockpit design. When a pilot operates airplanes with more than one cockpit design, regardless of pilot experience and training level, the pilot's effectiveness is less than it would be were all of the operations in a single cockpit design.

An effective means of enhancing pilot experience and training would be to require complete standardization in cockpit design. While such action may initially improve the level of safety, it might ultimately inhibit design advancement and result in lower levels of safety than would have evolved without such a total standardization requirement.

An effective and practical means of enhancing the effectiveness of pilot training and enhancing safety, would be to require standardization of location, shape, color, and direction of movement of those cockpit controls. This would have minimal adverse effect on design advancement.

The NTSB has issued several safety recommendations on standardization of cockpit controls. The General Aviation Manufacturers Association (GAMA) has indicated they support many of these recommendations and has proposed revisions to §§ 23.777 through 23.781 to standardize powerplant and fuel controls. The GAMA proposals are substantatively equivalent to §§ 25.777 through 25.781. Both the NTSB recommendations and the GAMA proposals have been placed in the docket. GAMA also proposed that supplemental cockpit controls such as auxiliary air (carburetor heat) and supercharger controls be organized in accordance with the layout in figure 1:

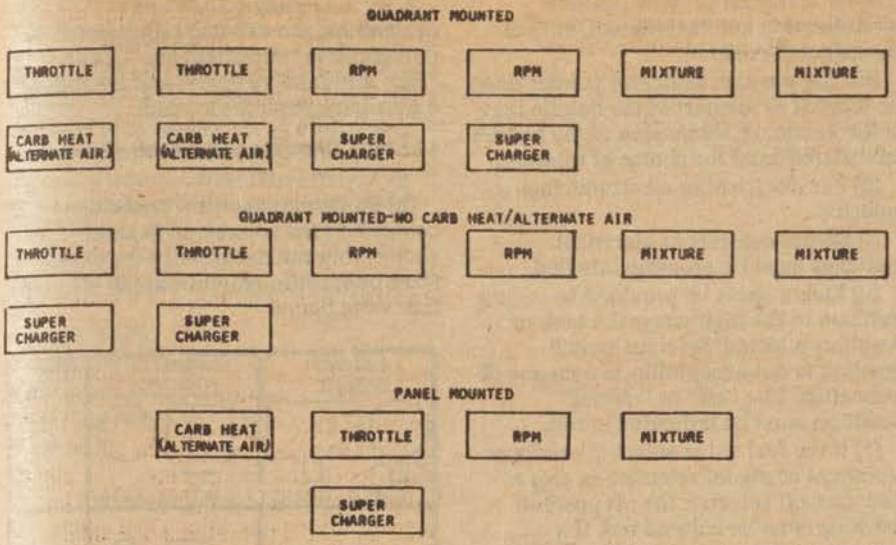

FIGURE 1

Economic Evaluation

In compliance with Executive Order 12291, (46 FR 13191) dated February 19, 1981, the FAA has determined that this proposal, if adopted would not require any additional cockpit controls or equipment in the airplane design. It only proposes to standardize the relative location and motion of the controls in new designs. Because such standardization would result in minimal cost impact, the FAA has determined that it will not be a major rule since it will not have an annual effect on the economy of 100 million dollars of more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign based enterprises in domestic or export markets. For the reasons stated, a full economic evaluation has not been prepared.

Regulatory Flexibility Determination

The regulatory impact of showing compliance with this proposed requirement is minimal in that it would not require any additional cockpit controls. It only proposes to require standardized relative location and motion-and-effect of control movement for those controls affected in newly designed airplanes. The costs of designing and manufacturing standardized cockpit controls for a newly designed airplane are a nominal cost for new designs. For these reasons, the final rule, if adopted, is not expected to have a significant economic impact on a substantial number of small entities, and a Regulatory Flexibility Analysis will not be prepared.

Discussion of Proposal

The FAA concurs with the intent of the NTSB recommendations and GAMA proposals to require standardization of cockpit controls. The FAA proposes to require, to the maximum feasible extent, that the standardization of cockpit controls in small multiengine airplanes be essentially as is required for transport category airplanes, including location, motion and effect, shape, and color. This standardization would minimize the adverse effects on pilots that operate both large and small airplanes and improve the efficiency of those pilots that operate several models of small airplanes.

Control standardization involves different factors in small single engine airplanes versus transport category airplanes. Transport category airplanes must be multiengine and their cockpit controls have been standardized since 1950, with a center control pedestal. In contrast, single engine airplanes do not have control pedestals as do multiengine airplanes, but instead have the controls (that multiengine airplanes have on center pedestals) mounted on the center of the instrument panel. Tandem seated single-engine airplanes normally have such controls located on the cockpit side consoles. Small airplanes and amphibians may have such controls located on the cockpit overhead when utilizing engine locations above the cockpit level. An additional factor is that small airplane cockpits have much less available space than transport category airplanes.

This notice proposes, to the maximum extent possible, objective cockpit control standardization requirements to allow the maximum flexibility in design yet achieve the higher level of safety resulting from control standardization. Therefore, rather than propose the specific cockpit control location requirements recommended by GAMA for supplemental controls, the FAA proposes that the location of supercharger controls relative to power (or thrust) lever and propeller-mixture controls should be the same regardless of whether carburetor heat control is provided. This is in contrast to GAMA's recommendation that the supercharger control(s) be adjacent to and aft or below the power (thrust) control(s) in two configurations without carburetor heat controls, and adjacent to and aft or below the propeller control(s) in a third configuration with carburetor heat controls. The FAA agrees with GAMA's apparent objective of keeping mixture controls to the extreme right of the powerplant controls, and the carburetor heat controls to the extreme left. The NTSB safety recommendations cite many accidents that involved improper operation of the mixture control. The phase of flight frequently cited in accident reports corresponds to a phase of flight where pilots routinely apply carburetor heat. To prevent inadvertent engine stoppage as a result of mistaking the mixture control for carburetor heat control, it is proposed to require a separate and distinct operation to move the mixture control toward the lean or shut-off position.

In addition to proposing to standardize the relative location of cockpit controls on the left side of the control group for engines on the left side of the airplane and controls on the right side for engines on the right, the FAA agrees with the GAMA proposal to require standardization of relative location for control groupings of airplanes with front and rear mounted engines. The FAA proposes that the front engine controls be located on the left of the control grouping and the rear engine controls be on the right side.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Air transportation, Tires.

The Proposed Amendment

PART 23—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend Part

23 of the Federal Aviation Regulations (14 CFR Part 23) as follows:

1. By amending § 23.777 by redesignating paragraph (c) as (e) and adding paragraphs (e) (1) and (2); by redesignating (d) as (f), (e) as (g), and (f) as (h); by adding new paragraphs (c) and (d); and by amending redesignated paragraph (h) by adding the words "comply with § 23.995 and" between "must" and "be" and by adding new paragraphs (h) (1), (2), and (3), to read as follows:

§ 23.777 Cockpit controls.

* * * * * *

(c) Powerplant controls must be located:

(1) For multiengine airplanes, on the pedestal or overhead at or near the center of the cockpit;

(2) For tandem seated single-engine airplanes, on the left side console or instrument panel; and

(3) For other single-engine airplanes, on the pedestal, instrument panel, or overhead at or near the center of the cockpit.

(d) The control location order from left to right must be power (thrust) lever, propeller (rpm control), and mixture control (condition lever and fuel cutoff for turbine-powered airplanes). Power (thrust) levers must be higher or longer to make them more prominent than propeller (rpm control) or mixture controls. Carburetor heat must be to the left of the throttle or at least 8 inches from the mixture control when located other than on a pedestal. Carburetor heat, when located on a pedestal must be aft or below the power (thrust) lever. Supercharger controls must be located below or aft of the propeller controls. Airplanes with tandem seating or single-place airplanes may utilize control locations on the left side of the cabin compartment; however, location order from left to right must be power (thrust) lever, propeller (rpm control), and mixture control.

(e) * * *

(1) Conventional multiengine powerplant controls must be located so that the left control(s) operates the left engine(s) and the right control(s) operates the right engine(s).

(2) On twin-engine airplanes with front and rear engine locations (tandem), the left powerplant control must operate the front engine and the right powerplant control must operate the rear engine.

* * * * *

(h) * * *

(1) For a mechanical fuel selector:

(i) The indication of the selected fuel valve position must be by means of a pointer and must provide positive identification and feel (detent, etc.) of the selected position.

(ii) The position indicator pointer must be located at the part of the handle that is the maximum dimension of the handle measuered from the center of rotation.

(2) For electrical or electronic fuel selector:

(i) Digital controls or electrical switches must be properly labelled.

(ii) Means must be provided to indicate to the flight crew the tank or function selected. Selector switch position is not acceptable as a means of indication. The "off" or "closed" positiion must be indicated in red.

(3) If the fuel valve selector handle or electrical or digital selection is also a fuel shut-off selector, the off position marking must be colored red. If a separate emergency shut-off means is provided, it also must be colored red.

2. By revising § 23.779 to read as follows:

§ 23.779 Motion and effect of cockpit controls.

Cockpit controls must be designed so that they operate in accordance with the following movement and actuation:

(a) *Aerodynamic controls:*

	Motion and effect
(1) Primary controls:	
Aileron	Right (clockwise) for right wing down
Elevator	Rearward for nose up
Rudder	Right pedal forward for nose right
(2) Secondary controls:	
Flaps (or auxiliary lift devices).	Forward or up for flaps up or auxiliary device stowed; rearward or down for flaps down or auxiliary device deployed.
Trim tabs (or equivalent).	Switch motion or mecnanical rotation of control to produce rotation of the airplane about an axis parallel to the axis of control. Axis of roll trim control may be displaced to accommodate comfortable actuation by the pilot.

(b) *Powerplant and auxiliary controls.*

	Motion and effect
(1) Powerplant controls:	
Power (thrust) lever	Forward to increase forward thrust and rearward to increase rearward thrust.
Propellers	Forward to increase rpm.
Mixture	Forward or upward for rich.
Carburetor air heat or alternate air.	Forward or upward for cold.
Supercharger	Forward or upward for low blower.
Turbosuperchargers	Forward, upward, or clockwise to increase pressure.
Cowl flap control	Rearward or down for cowl flap open.
Rotary controls	Clockwise from off to full on.
(2) Auxiliary controls:	
Landing gear	Down to extend.
Speed brakes	Aft to extend.

3. By amending § 23.781 by designating the existing requirement as paragraph (a) and changing "Cockpit" to "Flap and landing gear"; and by adding a new paragraph (b) to read:

§ 23.781 Cockpit control knob shape.

* * * * *

(b) Powerplant control knobs must conform to the colors and general shapes (but not necessarily the exact sizes or specific proportions) in the following figure:

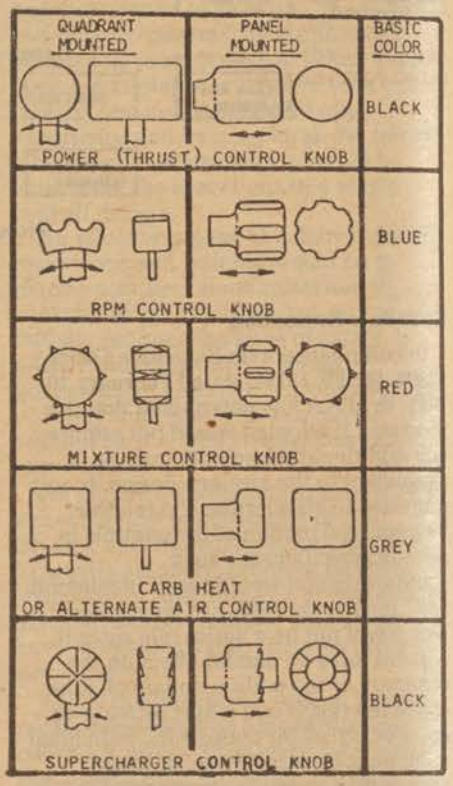

Figure 2

4. By amending § 23.1147 by redesignating the last sentence of the first paragraph as (a); redesignating (a) and (b) as paragraphs (1) and (2) under new paragraph (a); and adding a new (b) to read as follows:

§ 23.1147 Mixture controls.

* * * * *

(b) The controls must require a separate and distinct operation to move the control toward lean or shut-off position.

[Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); and 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)]

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant

under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979) and (3) in addition, I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Issued in Kansas City, Missouri, on May 11, 1984.

Murray E. Smith,

Director Central Regional.

[FR Doc. 84-21334 Filed 8-10-84; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
August 13, 1984

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Mechanical Reliability Reports; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 24192; Notice 84-13]

Mechanical Reliability Reports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the mechanical reliability reporting requirement contained in Part 121 of the Federal Aviation Regulations and allow certificate holders to mail or deliver mechanical reliability reports to the responsible FAA Flight Standards District Office within 72 hours after the 24-hour reporting period. This would change the current rule which requires Part 121 certificate holders to deliver reports to the FAA maintenance inspector assigned to its operations within 24 hours after the 24-hour reporting period. This action is necessary because many certificate holders are having difficulty complying with the time reporting requirements of the rule. Amending the time reporting requirements and allowing reports to be mailed or delivered will provide a more realistic compliance requirement. If adopted, the relief afforded by this proposal would be fully consistent with the President's regulatory policies and Executive Order 12291.

DATE: Comments must be received on or before October 12, 1984.

ADDRESS: Comments on the proposal are to be marked with "Docket No. 24192" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24192, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected at Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Fred Crenshaw, Air Transportation Branch (AWS-330), Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-3440.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should carry the regulatory document or notice number and be submitted in duplicate to the address above. All comments received, as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the closing date for making comments.

Before taking any final action on the proposal, the Administrator will consider any comment made on or before the closing date for comments. The proposal may be changed in light of comments received.

The FAA will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comment to Docket No. 24192." When the comment is received, the postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Section 121.703(d) of the Federal Aviation Regulations (FAR) places a reporting burden on operators for compliance that is not required for safety. When § 135.415(d) was promulgated, a more realistic and current approach was taken for reporting Mechanical Reliability Reports (MRR's) which permits MRR's to be mailed or delivered to the Federal Aviation Administration (FAA) Flight Standards District Office charged with the overall inspection of a certificate holder within 72 hours after the close of a 24-hour reporting period. Section 121.703(d) was never amended to require similar reporting for Part 121 certificate holders. Experience gained regarding compliance with § 135.415(d) shows that compliance standards have not been lowered and there has been no degradation of safety. Further, FAA improved methods of analysis and data processing have resulted in improvement in the timeliness of reports being entered into the system. For these reasons, if this proposal is adopted, Part 121 certificate holders would be afforded the same considerations for reporting MRR's now provided to Part 135 certificate holders. This proposal would permit Part 121 certificate holders to mail or deliver their MRR's to the responsible FAA Flight Standards District Office within 72 hours after the close of a reporting period. Based on the experience gained with the similar requirement in § 135.415(d), this proposal would result in no degradation of safety and would not lower compliance standards for MRR reporting.

Many FAA maintenance inspectors have received complaints from their assigned certificate holders that it is physically impossible to deliver their MRR's to their assigned maintenance inspectors with 24 hours as required by § 121.703(d). In addition, the Air Transport Association of America, on behalf of its member airlines and other operators, has appealed to the FAA to reconsider the 24-hour requirement and allow MRR's to be mailed or delivered so that they can realistically comply with the regulations.

The MRR's are published in the Aviation Standards Service Difficulty Report Summary by the FAA Aviation Standards National Field Office at Oklahoma City. The summary consists of air carrier MRR's and is available to FAA personnel, industry affiliates, and others with a demonstrated need for the service. It was recently changed from a daily to a weekly publication. Changing the reporting requirement would not delay publication of reports in the summary.

Discussion of the Proposal

Current § 121.703(d) would be changed to permit certificate holders to mail or deliver MRR's to the responsible FAA Flight Standards District Office within 72 hours after the 24-hour reporting period in lieu of delivering those reports to their assigned maintenance inspectors within 24 hours. Also, current § 121.703(d) allows for reports due on a Saturday, Sunday, or holiday to be delivered by no later than 9 a.m. on the second workday after that day. The proposed change would allow reports due on a Saturday or Sunday to be mailed or delivered on the following Monday, and those due on a holiday to

be mailed or delivered on the next workday.

Due to the distances between many operators and their certificating offices, it is practical to change the requirement for delivery of MRR's to allow the reports to be mailed or delivered. Since the district office holds responsibility for operator certificates, it is also practical that the MRR's be mailed or delivered to the responsible FAA Flight Standards District Office in lieu of being delivered to the maintenance inspector assigned to the certificate holder's operators. The change in reporting time from reports required to be delivered within 24 hours after the 24-hour reporting period to within 72 hours after the 24-hour reporting period is consistent with mail delivery schedules and would not affect safety. This is also the case for permitting reports due on Saturday or Sunday to be mailed or delivered on the following Monday and those due on a holiday to be mailed or delivered on the next workday.

Economic Analysis

There is a minor economic benefit associated with this proposal since an operator reporting requirement is relaxed. The saving for any one firm is minimal since a small amount is saved for each reporting required, and the reports are made only infrequently. There is no cost associated with the proposal as the essential integrity of the reporting system is retained, and there are no other direct or indirect costs which are apparent.

Regulatory Flexibility

There is only a minimal economic benefit to operators as a result of this proposal. Therefore, there is not a significant impact on a substantial number of small entities.

Trade Impact

The FAA can foresee no impact on U.S. or foreign trade if this proposal is adopted since it would merely grant relief from a reporting burden.

Paperwork Reduction Act

Information collection requirements in this regulation (§ 121.703(d)) 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 2120–0008.

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness directives and standards, Cargo, Transportation, Common carriers.

The Proposed Rule

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Accordingly, the Federal Aviation Administration proposes to amend § 121.703 of the Federal Aviation Regulations (14 CFR 121.703) by revising paragraph (d) as follows:

§ 121.703 Mechanical reliability reports.

* * * * *

(d) Each certificate holder shall send each report required by this section, in writing, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder. Each report of occurrences during a 24-hour period must be mailed or delivered to that office within the next 72 hours. However, a report that is due on Saturday or Sunday may be mailed or delivered on the following Monday, and one that is due on a holiday may be mailed or delivered on the next work day.

* * * * *

(Secs. 313, 314, 601, and 603 through 605, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421, and 1423 through 1425); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983, and 14 CFR 11.45))

Note.—This proposal, if adopted, would reduce the burden of a reporting requirement and provide Part 121 certificate holders with a regulation that would permit realistic compliance. Updating this requirement would provide certificate holders with sufficient time to submit their reports to be in compliance with the regulations. In addition, this proposal, if adopted, would not lower compliance standards or degrade safety. It would allow Part 121 certificate holders the same considerations as Part 135 certificate holders for MRR reporting. Accordingly, the Federal Aviation Administration has determined that this proposal is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11023; February 26, 1979). For the same reasons, I also find that the economic impact is so minimal that no regulatory evaluation is necessary. In addition, under the terms of the Regulatory Flexibility Act, I certify that this proposal, if adopted, will not result in a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C., on July 6, 1984.

Joseph A. Pontecorvo,

Acting Director of Airworthiness.

[FR Doc. 84–21333 Filed 8–10–84; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
August 13, 1984

Part IV

Small Business Administration

13 CFR Part 123
Disaster Loans; Interim Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

[Rev. 11]

Disaster Loans

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: Title III of Pub. L. 98–270, approved April 18, 1984 (98 Stat. 157), the Omnibus Budget Reconciliation Act of 1984, has made significant changes in SBA's physical disaster assistance program. These changes set new interest rates, increase the amounts of loan eligibility of both small businesses and homeowners and made additional lesser changes discussed below. This rule implements these changes, and makes several conforming changes concerning the duplication of benefits related to farm disaster victims, as between Farmers Home Administration (FmHA) and SBA. The new legislation also made a reorganization of the entire Part advisable, and incidentally thereto some editorial revisions have been made. Because of the need to apply the new legislation to disasters occurring now, the rule is published in interim final form, subject to further modification in the light of comments received. Additional regulations in proposed form, to implement new economic injury assistance programs based on injuries sustained as a result of Federal actions and currency fluctuations, will be published in the near future for comment. Revision 10 of Part 123, 13 CFR, Chapter I, is hereby repealed in its entirety.

EFFECTIVE DATE: This revision applies to disasters commencing on or after August 13, 1984, except where otherwise specified.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Telephone (202) 653–6879. Interested parties are invited to send comments to the above before October 12, 1984.

SUPPLEMENTARY INFORMATION: Title III of the cited statute changed the interest rates (effective April 18, 1984) for both physical disaster (section 7(b)(1) of the Small Business Act ("Act")) and economic injury disaster loans (section 7(b)(2) of the Act) so that the rates at present are four percent for businesses and homeowners without credit available elsewhere, and 8% for businesses and homeowners with such credit. The latter loans to businesses are limited to three-year terms. These rates are set forth in §§ 123.25(c), 123.26 and 123.41 respectively. The new law also raised the maximum loan amount limitations for businesses from 85% to 100% of loss for disasters commencing on or after October 1, 1982 (§ 123.9(b)) and raised the loan limits for real and personal property losses of homeowners from $50,000 and $10,000 to $100,000 and $20,000 respectively (§ 123.25). The statute further makes small agricultural cooperatives operating under the Agricultural Marketing Act eligible for economic injury disaster loans under section 7(b)(2) of the Act. Such concerns are eligible for loans made as a result of disasters declared or certified under section 7(b)(2) of the Act after September 1, 1982, and such loans shall bear interest at the Old Treasury Rate, as defined in § 123.3, currently 10½%. (§ 123.41). The statute also added a new category of "major source of employment" to the prior provision which authorizes SBA to exceed the $500,000 physical loss loan limit per disaster for the benefit of major employers: For disasters after October 1, 1983, "major source of employment" includes the aggregate employment of business concerns sharing premises if such premises are owned by a non-profit applicant. (See "Major Source of Employment" definition in § 123.3.)

Pub. L. 98–270 set SBA's authority to make loans for both physical and economic injury disaster losses in the aggregate at $500,000,000 for each of the fiscal years 1984 through 1986. It is therefore necessary to apply the new rules in a manner that will enable SBA to administer the programs within this limitation. At the same time, SBA must reserve to itself the right to set priorities if disaster incidence creates heavy demands on the available funds. If this should become necessary, SBA would give priority to applicants determined not to have other credit available.

Since the new interest rates which the statute set for SBA created a disparity of interest rates for loans of $100,000 and more between FmHA and SBA, it became necessary to adjust the provisions concerning duplication of benefits, which were based on the prior substantial similarity of such rates. Accordingly, only applicants for loans under $100,000 need present a referral letter from FmHA when applying to SBA (§ 123.17).

Revision 11 also deletes the requirement of a threshold or minimum damage for farm applicants for disasters commencing on or after October 1, 1983, and conforms the size determination of the applicant to the date the disaster began—a date specified in the declaration or designation.

Revision 11 reorganizes the prior revision, which became effective October 1, 1983, by separating loans in respect of economic injury caused by physical disaster from other economic injuries. This became advisable because the new law activated the provision, section 7(b)(3) of the Act, which authorizes loans of economic injury resulting from Federal actions, by funding this program. At the same time, the new law provides for economic injury loans in respect of the Mexican peso devaluation (section 7(b)(4) of the Act), for which no prior provision existed. These two programs together have a loan authorization of $100,000,000 for each of the fiscal years 1984 through 1986. Regulations for these two programs will be proposed for comment in two separate subparts D and E in the near future.

Regulatory Impact

This rule is being promulgated in order to implement Pub. L. 98–270 and to reorganize existent regulations in conformity with those rules made necessary by enactment of that statute. The objectives of the regulation are to conform SBA's disaster loanmaking abilities to existent law. It is not feasible to estimate the number of small entities to which this regulation will apply, but it will apply to all small businesses and organizations which apply for disaster assistance pursuant to sections 7(b) (1) and (2) of the Small Business Act subsequent to the effective date of Pub. L. 98–270, and to those previous recipients of assistance who were affected by the passage of that statute. These are no reporting, recordkeeping or compliance implications inherent in these regulations, although applicants for assistance will be required to substantiate their applications in a manner satisfactory to SBA. There are no Federal rules which duplicate or overlap these provisions. Finally, there are no alternatives to the parts of these rules which differ from prior SBA disaster regulations; they are statutorily mandated.

This rule is intended, as mentioned above, to implement certain provisions of Pub. L. 98–270. As such, it will permit the dispensing of up to $500 million in disaster assistance, and provide for the orderly administration of the terms and conditions of such dispensation of qualified recipients. There are no monetary costs or adverse effects inherent in this rule.

List of Subjects in 13 CFR Part 123

Disaster assistance, Reporting and recordkeeping requirements, Small businesses.

Accordingly, Part 123 of Chapter I of Title 13, Code of Federal Regulations is repealed in its entirety and the following regulations are adopted. Part 123 is revised to read as follows:

PART 123—DISASTER—PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Sec.

Authority: Sec. 7 (b), (c), (f) of Small Business Act, 15 U.S.C. 636 (b), (c), (f), sec. 5(b)(6), 15 U.S.C. Sec. 634(b)(6). Pub. L. 98-270, Title III.

§ 123.1 Explanation of regulations.

(a) *Programs covered.* This part covers the disaster programs authorized under subsections 7(b), (c) and (f) of the Small Business Act, 15 U.S.C. 636(b) and (c) and (f), and is published pursuant to Sec. 5(b)(6) of that Act, 15 U.S.C. 634(b)(6). Subpart A includes regulations common to all disaster programs. Subpart B includes regulations governing physical disaster loans, including loans to Major Sources of Employment. Subpart C includes regulations for loan programs designed to alleviate economic injury resulting from a physical disaster.

(b) *Emergency Changes.* Because of the emergency nature of the programs covered by this part, particularly the impossibility of foreseeing the occurrence or magnitude of disasters covered by the physical disaster loan programs in Subparts B and C, the regulation cannot anticipate all the contingencies, problems and needs which may arise in any given situation. SBA therefore advises that the regulations under this Part must be and are subject to change without advance notice by publication of interim emergency regulations in the **Federal Register**. For example, the legislative limitation in the Omnibus Budget Reconciliation Act of 1983, Pub L. 98-270, of the combined physical disaster loan programs pursuant to paragraphs 7(b) (1) and (2) of the Small Business Act, 15 U.S.C. 636(b) (1) and (2), to $500 million for each of the fiscal years 1984, 1985 and 1986 may make it necessary to establish priorities which would favor applicants unable to obtain credit elsewhere over applicants to whom such credit is available. SBA will also make every effort to publicize changes of substance and procedure by whatever means practicable under the circumstances, including, but not limited to press releases to newspapers, radio and television stations, posting notices in public places, and by direct mailings (when possible) to affected concerns or persons.

(c) *Captions.* Captions are inserted for the reader's convenience only, and are not a part of these regulations.

(d) *Savings clause.* Financial assistance granted pursuant to prior regulations shall be governed by the related contractual terms and these prior regulations, unless a supervening statute requires otherwise. Nothing herein shall bar SBA enforcement action with respect to such financial assistance pursuant to contractual terms no longer in use and prior regulations no longer in effect. If any subpart, section or part of a section of these regulations should be adjudged invalid, only that part shall be invalid, and other parts shall not be affected thereby.

Subpart A—Conditions Applicable to All Loans Under This Part

§ 123.2 Introduction.

SBA is authorized to make or to guarantee loans as necessary or appropriate to victims of physical disaster or of economic injury caused by such disaster, by Federal action or by certain currency fluctuations. No economic injury disaster loans or Federal action or currency fluctuation economic injury loans are authorized for applicants able to obtain Credit Elsewhere (see definition in §123.3). No person who has been convicted of a felony during and in connection with a riot or civil disorder shall be permitted, for a period of one year after the date of the conviction, to receive any benefit under any law of the United States providing relief for disaster victims (Pub. L. 90-448, section 1106(e); 5 U.S.C. 7313 note).

§123.3 Definitions.

Defined terms are capitalized through this part.

Adjusted Treasury Rate: The rate of interest determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaininig period to maturity comparable to the average maturities of loans made under section 7(b) of the Act, plus an additional charge of not to exceed one percent per annum as determined by the Administrator, and adjusted to the nearest one-eighth of one percent.

Commencement Date: The beginning of an event of a catastrophic or calamitous nature culminating in a Disaster or in economic injury. Such Commencement Date will be stated in the relevant Disaster declaration. (See also § 123.23(a).)

Credit Elsewhere: The availability, based on cash flow and disposable assets of the applicant, of sufficient credit from non-Federal sources on reasonable terms and conditions, taking into consideration prevailing rates and terms in the community in or near where the concern transacts business or the Homeowner resides, for similar purposes and periods of time.

Disaster: This term means a single sudden physical event of catastrophic nature (such as floods, riots, or civil disorders) which causes severe damage.

Disaster Area: An area which has been declared or designated as such because of damage suffered as a result of a physical disaster.

Eligible Physical Loss: (a) A physical loss is necessary to establish loan

eligibility under Subpart B. Such loss must be verified by SBA. Loss may be claimed only by the owner(s) (or the lessee(s) of the property if the lease requires the lessee to repair or rebuild) at the time of the disaster. Beneficial ownership as well as legal title (real or personal) may be considered in determining who suffered the loss, except that an equitable interest resulting from a mortgage or deed of trust will not make the holder of such interest eligible.

(b) Losses shall not be eligible:

(1) When a substantial (more than 50%) voluntary change of ownership occurred after the Disaster, and no contract of sale existed at the time of the disaster;

(2) When the replacement value is extraordinarily high, and is not easily verified, such as in the case of the value of antiques or hobby collections;

(3) To the extent that such loss is covered by insurance, grants, gifts to replace personal property (such as from the American Red Cross), or other compensation, if all or part of such compensation is available for repair or replacement. Such compensation must either be deducted from the claim, or assigned (paid) to SBA to reduce the outstanding balance of the loan, since Federal law prohibits duplication of benefits. (Borrowers must notify SBA of any amounts so received (OMB Approval No. 3245–0124) and must apply them to the outstanding loan balance in inverse order of maturity.) However, any financial assistance supplied by an Individual and Family Grant Program (Federal Emergency Management Agency) solely to meet an emergency need pending processing of an SBA loan may be repaid out of SBA loan proceeds, provided the funds were used for eligible SBA loan purposes; Condemnation awards shall be taken into consideration in determining the amount of the loss to the extent that such awards are available for replacement purposes;

(4) When the victim is deemed to have assumed the risk (for example, when property is located within a flowage easement, or in an area between a river and a levee without a business need therefor), or where flood insurance was previously required but not purchased, or was purchased and not maintained;

(5) If the property damaged constitutes a secondary home. The loss may be considered a business loss if the property is rented and if the property would not constitute a "residence" under the provisions of Section 280A of the Internal Revenue Code;

(6) If the property is a vehicle of the type normally used for recreational purposes, such as motor homes, aircraft, boats, etc. The loss may be included in a business applicant's loan if the applicant submits evidence of its use in the business; or

(7) If the property consists of cash or securities.

Homeowner: This term includes owner-occupants and lessees (renters) of residential property and also includes owners of personal property damaged by the Disaster.

Major Disaster: A disaster declared by the President which includes individual assistance. (See § 123.23(a).)

Major Source of Employment: (a) A concern which employed 10 percent or more of the entire work force of a geographically identifiable community, no larger than a county; or (b) a concern which employed 10 percent or more of the work force in an industry within the Disaster Area; or (c) any business within the Disaster Area which employed 1,000 or more employees. For disasters commencing on or after October 1, 1983, employees of concerns sharing common business premises shall be aggregated to determine "major source of employment" status for a non-profit applicant owning such premises.

Old Formula Rate: An interest rate not to exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of one percent plus one quarter of one percent.

§ 123.4 Types of loans.

All financial assistance programs implemented in this Part may be made as direct loans or in participation with a financial institution on an immediate or guaranteed basis as defined in §§ 122.7, 122.8, and 122.10 of this Chapter, and SBA's share in an immediate participation or guaranteed loan may not exceed 90 percent of the balance of such loan outstanding at the time of disbursement.

§ 123.5 Financial institutions.

"Financial institutions" under this Part are those which meet the criteria set forth in § 120.4 of this Chapter.

§ 123.6 Fees and charges.

(a) *Closing fees.* No closing fee will be charged to a borrower with respect to any loan authorized in this Part.

(b) *Service fees.* A financial institution, while it services an immediate participation loan, or a deferred participation loan (guaranty) where SBA has purchased its portion, may not charge the borrower a fee for such service. However, for loans made under section 7(b)(3) or 7(b)(4) of the Small Business Act, participating institutions may deduct, only out of interest collected for the account of SBA, and only so long as such participating institutions is servicing the loan, a service fee of three-eighths of one percent where SBA's share is 75 percent or less, or of one-fourth of one percent per annum where SBA's share is more than 75 percent, computed on the unpaid principal balance of SBA's share of the loan. Such fee shall not be added to any amount which the borrower is obligated to pay under the loan.

(c) *Guaranty fee.* A guaranty fee will be charged by SBA to the lender with respect to all physical disaster and economic injury loans, as set forth for business loans in Part 120 of this Chapter.

§ 123.7 Where and how to apply.

A single copy of an application on a form provided by SBA (OMB Approval No. 3245–0017 or 3245–0018) may be filed with the district office branch office, disaster branch office or disaster area office, as appropriate. If a financial institution is participating, two copies of the application should be filed with such institution, and it will forward one copy to SBA. An applicant must complete a disaster loan application and submit such additional information as SBA may require. This information should be submitted to the nearest SBA disaster or other field office, preferably in person, within the time limit established in the applicable disaster declaration for the filing of applications. SBA will accept applications after such time limit only when SBA determines that the late filing resulted from substantial causes essentially beyond the control of the applicant.

§ 123.8 Obtaining loan funds.

(a) *Loan authorization.* When a loan has been approved, a loan authorization shall be issued, which will specify the conditions the borrower must meet.

(b) *Loan closing.* If the loan is a direct loan, the applicant shall be notified by SBA of the conditions and loan closing procedure. Otherwise, the participating lender will arrange the closing.

§ 123.9 Terms and amounts of loans.

(a) *Loan terms.* No loans made under this part, including renewals and extensions thereof, may be authorized for a term in excess of 30 years (see also § 123.13(b)), and no physical disaster loan made to a business able to obtain Credit Elsewhere (as defined in § 123.3) may be authorized for a term exceeding

three years. Maturity will be established on each loan on the basis of the need of the borrower and borrower's ability to repay. Repayment ability according to the loan terms must be determined by SBA. Generally, equal monthly payments of principal and interest are required, except that borrowers with seasonal or fluctuating income may be accorded other payment terms. Payments will normally begin no later than 5 months from the date of the note. There is no penalty for prepayment of a direct loan.

(b) *Loan amounts.* Subject to the limitations and conditions imposed herein, loans under this part may be in amounts equal to 100 percent of the eligible loss: *Provided, however,* That if the applicant is a business, loans made as a result of disasters commencing between August 12, 1981, and October 1, 1982, are limited to 85 percent of Eligible Physical Loss as defined in § 123.3

§ 123.10 Interest Rates.

Specific interest rates for physical disaster home loans are set forth in § 123.25(c), and the rate for physical disaster and economic injury business loans in § 123.26 and § 123.41, respectively. The applicable rate of interest shall appear in the Disaster Declaration and shall be that rate which is in effect on the Commencement Date, as defined in § 123.3.

§ 123.11 Collateral.

The Small Business Act contains no specific requirements with respect to collateral as security for disaster or economic injury loans, nor has SBA established any rigid rules in regard to collateral. Generally, SBA will not decline a loan where the applicant does not have any fixed amount of collateral available to pledge if there is reasonable assurance of repayment. However, SBA may require applicants to pledge whatever collateral is available, and refusal to pledge such collateral may be the reasons for declining a loan.

§ 123.12 Reconsideration.

(a) *Where to apply.* Any applicant whose request for a loan is declined has the right to present information to overcome the reason(s) for decline and to request reconsideration (OMB Approval No. 3245–0122). However, any decline due to size can only be appealed in accordance with the procedures set forth in Part 121 of this Chapter.

(b) *How to apply.* A request for reconsideration must be in writing and received by the office that declined the original request, within 6 months of the initial decline. After 6 months a new application is required.

(c) *Content of request.* The written request for reconsideration must contain all significant new information that the applicant relies on to overcome the reason(s) for decline. The request for reconsideration of a business loan must also be accompanied by current business financial statements.

(d) *Alternate reasons for decline.* The specification by SBA of any reason for denial of a loan request shall not constitute a waiver of SBA's right to deny such request for any other reason.

(e) *Further reconsideration.* An applicant whose request is declined on reconsideration has the right to request further reconsideration at the next higher office. The "next higher office" in the case of a branch office is the Area Processing Center. In the case of the Area Processing Center it is the Area Director's office.

(f) *Contents of request for further reconsideration.* All requests for reconsideration at the next higher office must be in writing and received by the office that processed and declined the prior reconsideration within 30 days of the decline action. The request must state that the applicant is seeking action at the next higher office and must contain the applicant's written justification for believing that the decline action should be reversed.

(g) *Final decision.* The decision of the Area Director is final unless: (1) The Area Director does not have authority to approve the requested loan, or (2) the Area Director refers the matter to the Deputy Associate Administrator for Disaster Assistance, or (3) the Deputy Associate Administrator for Disaster Assistance, upon a showing of special circumstances, requests the Area Director's office to forward the matter to the Central Office for final consideration. "Special Circumstances" as used herein may include, but are not limited to, policy reconsideration or reevaluation by elements of the Agency, alleged improper acts by SBA personnel or others, conflicting policy interpretations between two area offices or other such considerations.

§ 123.13 Loan administration, extension and liquidation.

(a) *Loan administration and liquidation.* Immediate participation and guaranteed loans closed by participating lenders will be administered by such lenders. All direct and immediate participation loans closed by SBA will be administered by SBA. Loans are administered and, if necessary, liquidated by sale of collateral and other legal recourse against borrower and guarantors according to the procedures and policies of §§ 122.20 through 122.25 of this chapter, as applicable.

(b) *Extensions.* Extensions of maturity or renewals of loans are limited to such periods of time as appear necessary to avoid the forced liquidation of loans. Generally, several short extensions will be granted rather than one lengthy one. Subject to § 123.9(a), extensions are granted when it appears that no other course of action will result in a greater or earlier recovery. The maturity of SBA's share of physical disaster repair and replacement loans to Homeowners and small concerns may be extended and payments of principal and interest may be suspended for periods not to exceed five years, if the related disaster declaration was made by the President or the Secretary of Agriculture, and SBA finds such action necessary to avoid severe financial hardship. Physical disaster and economic injury loans may also be extended or renewed for additional periods not to exceed ten years beyond the original maturity on request of the loan participant, to avoid a default, and upon agreement by the borrower to repay SBA for funds expended in connection therewith, if such extension or renewal will aid in the orderly liquidation of such loan, and if the original maturity of such loan did not exceed twenty years. For additional moratorium provisions, see Part 131 of this chapter.

(c) *Split interest rates.* On loans made under prior legislation at split interest rates, all repayments of principal on SBA's share shall be applied first to portions of loans carrying the lowest interest rate.

§ 123.14 Requirements applicable to flood-prone areas.

(a) *Community participation in flood insurance.* SBA has no authority to make loans in special hazard areas (flood, mudslide and flood-related erosion areas) defined by the Federal Insurance Administration unless the local community participates in the Federal flood insurance program, or less than a year has elapsed since the community was formally notified of the identification of a special hazard area within its boundaries. (See 44 CFR Part 64.)

(b) *Maintenance of flood insurance.* Eligible Applicants in such special hazard areas must purchase flood insurance in accordance with the requirements of Part 116, Subpart B of this Chapter. Failure to maintain or obtain flood insurance as required by SBA will result in ineligibility for future SAB financial assistance. This requirement is in addition to other

insurance requirements specified in the loan authorization.

(c) *Floodplains and Wetlands.* For special requirements in such areas, see Subpart D, Part 116 of this chapter.

(d) *Coastal barrier system.* No loans under this Part shall be made to applicants within the coastal barrier system, as defined under Pub. L. 97–348, approved October 18, 1982 (96 Stat. 1653): *Provided, however,* That loans with respect to physical loss of personal property within such system may be made to applicants residing outside such system (transients).

§ 123.15 Civil rights requirements.

(a) *Civil rights regulations.* Loan recipients (other than Homeowners) are subject to the civil rights requirements of Parts 112 and 113 of this chapter, and of Part 117, when adopted. The age of an applicant will not be considered in determining whether a loan should be made, or the amount of the loan, provided the applicant has the legal capacity to contract. The requirements of the Equal Credit Opportunity Act, 15 U.S.C. 1691 apply to all SBA loan recipients. See 12 CFR Part 220 and the Equal Credit Opportunity provision of SBA Form 1261 (OMB Approval No. 3245–0066).

(b) *Construction loans.* If loan proceeds in excess of $10,000 are to be used for the alteration, rehabilitation, construction, conversion, extension or repair of buildings or real property, applicants must sign and comply with "Applicant's Agreement of Compliance," SBA Form 601.

(The reporting and recordkeeping requirements described in SBA Form 601 are approved under OMB Numbers 1215–0072 and 3245–0076.)

§ 123.16 Lead based paint prohibition.

Loan recipients are subject to the prohibition against the use of lead based paint set forth in Part 116, Subpart C of this chapter.

§ 123.17 Loans to agricultural enterprises.

"Agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other similar farming and agriculture-related industries. An agricultural enterprise is eligible for loan assistance under Subpart B (physical disaster) to repair or replace property other than residences and personal property only if the applicant is not eligible for emergency loan assistance from Farmers Home Administration (FmHA) at a substantially similar interest rate (for example, because of (a) alien status; (b) being a corporation, partnership or cooperative not primarily engaged in farming; or (c) being owned by an individual who does not operate the farm). Applicants declined by FmHA for reasons other than ineligibility (e.g., unfavorable credit determination, or lack of repayment ability), are not eligible for SBA disaster loan assistance. All agricultural enterprise applicants to SBA for disasters which occurred before October 1, 1983, must present a letter of referral from FmHA which specifies the particular reason for ineligibility. All agricultural enterprise applicants to SBA for disasters which occurred on or after October 1, 1983, must present a letter of referral from FmHA which specifies the particular reason for ineligibility, provided the loan request is $100,000 or less. See §§ 1233.27 and 123.42 for economic injury disaster loans.

§ 123.18 Books and records; SBA access.

(a) *Conditions applicable to all loans.* As a condition of the receipt of a loan under this Part, the borrower shall maintain complete records of all transactions financed by the loan proceeds, including copies of all contracts and receipts, for a period of three years after the final loan disbursement and during the same period, shall make those records available upon request for inspection, audit and reproduction by SBA or other authorized Government personnel during normal business hours (OMB Approval No. 3245–0110).

(b) *Conditions applicable to loans to businesses including agricultural enterprises.* As a condition of the receipt of a loan under this Part, the borrower shall maintain current and proper books of account for the most recent five years in a manner satisfactory to SBA and any financial institution participating in the loan until three years from the date of maturity, including any extensions made pursuant to § 123.13(b), or from the date when the loan is paid in full, whichever occurs first. This shall include borrower's financial and operating statements, insurance policies, tax returns and related filings, records of earnings distributed and dividends paid, and records of compensation to officers, directors, holder of 10 percent or more of borrower's capital stock, partners and proprietors. The borrower shall make available to SBA or other authorized Government personnel upon request all such books and records for inspection, audit and reproduction during normal business hours. The borrower shall also permit SBA and any participating financial institution to inspect and appraise borrower's assets (OMB Approval No. 3245–0110).

Subpart B—Physical Disaster Loans

§ 123.20 Introduction.

This Subpart contains the regulations specifically dealing with loans made to repair or replace property damaged by a physical disaster. (For regulations applicable to all loans under this part, see Subpart A.) This Subpart sets forth the procedures by which a Disaster Area is declared, and assistance made available by SBA to Disaster victims. Conditions affecting all loans are set forth first, then special conditions for home, business, agricultural loans, loan to Major Sources of Employment, and loans to privately owned colleges and universities.

§ 123.21 Physical disaster loan authority.

(a) *Loans to victims.* SBA is authorized to make, or to participate (on an immediate or guaranty basis) in, loans to victims of floods, riots, civil disorders or other catastrophes, to repair, rehabilitate or to replace property physically damaged or destroyed in the disaster area when a physical disaster declaration has been issued.

(b) *Major employer.* For loans to any Major Source of Employment, see § 123.28.

(c) *Flood-prone areas.* For limitations on the foregoing authority, see § 123.14 and Subpart B, Part 116 of this chapter.

(d) *Eligible Applicants.* A Homeowner, business of any size, nonprofit corporation, religious or eleemosynary institution, or other private organization (including a privately owned college or university) which has suffered physical damage as a result of its location in a Disaster Area is eligible to apply for assistance.

(e) *Loan Purposes.* The purpose of these loans and the only permissible use therefor is to restore or replace a victim's primary home (including a mobile home used as the primary residence of the applicant) and personal or business property as nearly as possible to predisaster condition. A loan to a Homeowner may be used to repair or replace damaged or lost furniture and other belongings, or to repay interim financing obtained for purposes of repair and placement, subject to the definition of Eligible Physical Loss of this section. Funds may be used by a business concern to repair or replace destroyed or damaged business facilities, inventory, machinery or equipment, or to repay interim financing obtained for such purpose. If the disaster victim elects to construct a new home or new business facilities on a different site, the loan may be used for

such purpose. Any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property. SBA's lien position shall be at least as strong as it would have been if the victim had restored the property at the original location, and loans to relocate a 1 to 4 family residential structure will be subject to the Real Estate Settlement Procedures Act of 1974.

§ 123.22 Declaration criteria.

(a) *Minimum damage requirements.* A physical disaster declaration by the Administrator of SBA is based solely on physical damage to buildings, machinery, equipment, inventory, homes and other property, of an extent that warrants a declaration. The Administrator of SBA has no legal authority to make any physical disaster declaration based solely on economic injury. The minimum amount of damage that SBA usually requires before making a physical disaster declaration is:

(1) In any county or other political subdivision of a State, at least 25 homes or 25 businesses, or a combination of at least 25 homes, businesses, or other eligible institutions have each sustained uninsured losses of forty (40) percent or more of their estimated fair replacement value or predisaster fair market value, whichever is lower; or

(2) At least three businesses have sustained uninsured losses of forty (40) percent or more of their estimated fair replacement value or predisaster fair market value, whichever is lower, and, as a direct result of the physical damage, 25 percent or more of the work force in the community would be unemployed for at least 90 days.

(b) *Continuing damage.* All damage suffered in the Disaster Area subsequent to the Commencement Date as a result of the event for which the declaration was made (for example, continued flooding or snowfall) will be considered eligible damage, deemed to have occurred on the Commencement Date.

§ 123.23 Declaration procedures.

(a) *Major Disaster.* When, pursuant to the Disaster Relief Act of 1974, 42 U.S.C. 5141(b), the President declares a Major Disaster which includes the provision of individual assistance, SBA shall issue its disaster declaration in accordance therewith except that if SBA has previously issued a disaster declaration with an earlier Commencement Date, SBA will continue to use its established Commencement Date.

(b) *Small Business Administration Disaster Declaration.* A physical disaster declaration by SBA must be requested by the Governor of the State in which the Disaster occurred (OMB Approval No. 3245–0121). Such request must be made to SBA's Regional Office serving the region wherein the Disaster occurred and must within be sixty (60) days of the date of a Disaster. The Administrator may, in case of undue hardship, extend the filing time for such request. The appropriate SBA Regional Office will forward the request to the appropriate Disaster Area Office which will evaluate and forward the request with a recommendation to SBA's Central Office. The Administrator will take final action, and if the request is approved, SBA will publish a notice of Disaster declaration in the **Federal Register.** An economic injury Declaration always accompanies a Major Disaster declaration and an SBA Disaster declaration.

(c) *Certification by Governor.* When Disaster damage is insufficient for a Major Disaster declaration, an SBA Disaster declaration or a designation by the Secretary of Agriculture, the Governor of the State wherein the Disaster occurred may certify to SBA that at least five (5) small business concerns have suffered substantial economic injury (see § 123.41(a)) and are in need of financial assistance not otherwise available on reasonable terms in the Disaster Area. The minimum five (5) small business concerns must be located in the county or other political subdivision of a State in which the Disaster occurred. Such certification with supporting documentation shall be sent to the Regional Office serving the region wherein the Disaster occurred within 120 days of the incident period of the physical Disaster. The Regional Office will forward the request to the appropriate Disaster Area Office where the request will be evaluated and forwarded with a recommendation to SBA's Central Office. The Administrator will take final action and if the request is approved, publish a notice of Disaster designation in the **Federal Register.** The Administrator may in the case of undue hardship accept such request after 120 days have expired.

(d) *Designations by the Secretary of Agriculture.* SBA may provide economic injury assistance for a natural disaster, determined by the Secretary of Agriculture pursuant to the Consolidated Farmers Home Administration Act of 1961 (Consolidated Farm and Rural Development Act) (7 U.S.C. 1961). Under these designations SBA makes economic injury assistance available to eligible small businesses (see § 123.41 of this part).

§ 123.24 Conditions affecting all physical disaster loans.

(a) *Amount.* The amount of a loan is limited to the Eligible Physical Loss sustained and funds permitted under paragraphs (f), (g), (h) and (i) of this section. In no event may the total amount of SBA's share outstanding and committed to a borrower, resulting from a single Disaster, exceed $500,000, except as permitted in § 123.28 (Major employer) and limited by § 123.25 (Homeowners). SBA's share of an immediate participation in or guaranty of a loan under this Part may not exceed 90 percent of the sum of the unpaid principal and accrued interest.

(b) *Repayment ability.* Loans are further limited by SBA's determination of the applicant's ability to repay. If this amount is not sufficient to restore the damaged property, the applicant must show that sufficient funds are available from other sources to complete restoration or that a reduced facility (within the applicant's ability to repay) is feasible and appropriate.

(c) *Receipts.* Each borrower shall retain evidence as to the use of loan proceeds for a period of three years from the date of last disbursement, and make such evidence available to SBA or other authorized Government personnel upon demand (see § 123.18(a)).

(d) *Use of proceeds.* Each borrower must use the loan proceeds for the loan purposes (see § 123.21(e)) set forth in the authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and one-half times the original amount of the loan (Pub. L. 92–385, approved August 16, 1972; 86 Stat. 554).

(e) *Personal funds.* SBA may authorize funds for the repayment of personal funds used solely to alleviate the Eligible Physical Loss.

(f) *Refinancing.* A part or all of existing loans secured by recorded liens on real property damaged by the disaster or on business machinery and equipment damaged by the disaster may be refinanced with a portion of disaster loan proceeds, subject to (in the case of Homeowners) § 123.25(a)(4): *Provided,* That (1) the property suffered uninsured damage of 40 percent or more of the market value at the time of the Disaster; (2) the amount refinanced may not exceed the Eligible Physical Loss; (3) the victim is unable to obtain Credit Elsewhere; and (4) the damaged property is to be rehabilitated or replaced (including by relocation).

(g) *Relocation.* (1) If the disaster victim voluntarily elects to construct or buy another home or business facility in

a new location, the loan may be used for such purpose, subject to § 123.25(a). However, any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property, plus amounts eligible for refinancing of existing liens or mortgages on the damaged property. SBA's security interest in the new property shall at least equal such interest SBA would have had at the original location. No relocation loans shall be made to victims of disasters within the coastal barrier system, as defined under Pub. L. 97–348, approved October 18, 1982 (96 Stat. 1653), see § 123.14(d).

(2) Where involuntary relocation becomes necessary because applicable law prevents rehabilitation of real property, damage to such property shall be deemed to amount to total loss. In these cases the loan shall be in such greater or lesser amount as SBA deems sufficient to replace the borrower's real property at the new location, and include funds to cover losses of personal property, and eligible refinancing, subject to § 123.25(a) and Pub. L. 97–348 cited in paragraph (g)(1) above.

(h) *Building codes.* Repair to and replacement of property must conform to local building codes.

(i) *Minimum standards of safety and decency.* Upgrading with loan proceeds is not allowed except as necessary to meet minimum standards of safety and decency or to meet building codes.

§ 123.25 Special conditions—Home loans.

(a) *Limits.* SBA's share of loans approved on or after October 1, 1983, to a Homeowner (including all dependents) is limited for any one disaster commencing on or after October 1, 1982, to the following:

(1) $20,000 for repair or replacement of household and personal effects;

(2) $100,000 for repair or replacement of a primary residence, including repair or replacement of landscaping and/or recreational facilities not to exceed $2,500;

(3) eligible refinancing pursuant to § 123.24(f) not to exceed the lesser of $100,000 or the physical damage to the real property which is to be repaired.

(4) $220,000 for the total loan within the limitations specified in paragraphs (a) (1) through (3) of this section.

(b) *Additional limits.* Persons living in a damaged home who are not dependents of the occupant may apply for loans to repair or replace personal property to the extent of their loss, but such loans may not exceed $20,000.

(c) *Interest.* Loans made to Homeowners able to secure Credit Elsewhere, as a result of a Disaster commencing on or after October 1, 1982, will bear interest at the Adjusted Treasury Rate for the amount outstanding on such loans prior to April 18, 1984, and at the Adjusted Treasury Rate but not to exceed 8% per annum thereafter. Loans made to Homeowners unable to obtain Credit Elsewhere, as a result of a disaster commencing on or after October 1, 1982, will bear interest at one-half the Adjusted Treasury Rate for the amount outstanding on such loans prior to April 18, 1984, and at one half the Adjusted Treasury Rate but not to exceed 4% per annum, thereafter. (For rates applicable to Disasters commencing prior to October 1, 1982, see Appendix A to this part.)

(d) *Supplements.* SBA loans may be supplemented (but not duplicated) with assistance from private relief organizations such as the American Red Cross, the Salvation Army, the Mennonite Disaster Service and other relief or disaster assistance organizations.

(e) *State grants.* Where a State has instituted a grant program under the Disaster Relief Act of 1974 for victims of Major Disasters, those victims who have suffered only personal property damage and who lack repayment ability shall be immediately referred to appropriate State representatives, in order to expedite assistance to victims. SBA shall presume that such victims who rely for over half of their support on unemployment, social security, welfare, survivor or other similar program, lack repayment ability. Disaster victims, who desire to do so, however, may file an application (OMB Approval No. 3245–0017 or 3245–0018) with SBA in order to obtain a decision on their eligibility for financial assistance from SBA.

(f) *Liens.* Homeowners may not refinance liens on personal property nor may they use any loan proceeds to pay indebtedness on personal property, except as permitted under § 123.24(e). Disaster loan liens may be transferred from condemned properties to other properties which have been acquired with the proceeds of condemnation.

(g) *RESPA.* Owner occupied 1-to-4 family residences are subject to the provisions of the Real Estate Settlement Procedures Act of 1974, as amended.

(h) *Rescission.* Any recipient of an approved disaster home loan for which security is required shall be entitled to rescind said loan pursuant to the Consumer Credit Protection Act, 15 U.S.C. 1601, and Regulation Z of the Federal Reserve Board, 12 CFR Part 226. Any note and mortgage, lien or security agreement which has been executed will be canceled upon return of all funds which have been disbursed.

§ 123.26 Special conditions—Business loans.

(a) *Limits.* Disaster business loans (for the aggregate of physical disaster and economic injury loans) are limited by statute to a ceiling of $500,000 per applicant for SBA's share in any one disaster for direct, immediate participation, or the guaranteed portion of guaranteed loans, unless the Administration finds that an applicant is a Major Source of Employment (as defined in § 123.3) in the Disaster Area, and the Administration waives the $500,000 limitation. These limitations apply to a concern together with its affiliates as that term is defined in § 121.3–2 of this chapter. Refinancing of liens on personal property employed in the business, such as machinery and equipment, is permissible if such property was substantially damaged (see § 123.24(f)). Funds allocated for repair or replacement of landscaping (including recreational facilities) may not exceed $2,500 unless such landscaping fulfilled a functional need or contributed to the generation of business.

(b) *Interest.* Loans made to business concerns unable to obtain Credit Elsewhere as a result of a Disaster commencing on or after October 1, 1982, will bear interest at a rate prescribed by the Administration (not to exceed the rate prevailing in the private market for similar loans or the maximum interest rate for loans guaranteed under Section 7(a) of the Small Business Act) for amounts outstanding on such loans prior to April 18, 1984, and at the rate prescribed above but not exceeding 8% per annum thereafter. Loans made to business concerns unable to obtain Credit Elsewhere, as a result of Disaster commencing on or after October 1, 1982, will bear interest at a rate not to exceed 8% per annum for amounts outstanding on such loans prior to April 18, 1984, and at a rate not to exceed 4% per annum thereafter.

(c) *Maximum Term of Loans.* See § 123.9(a).

§ 123.27 Additional conditions—Farm loans.

(a) *Computation of Loss.* To determine the eligible loan amount for full or partial physical crop losses for applicants (OMB Approval No. 3245–0128) determined by SBA to be eligible for assistance under this part, the Eligible Physical Loss is an amount which is determined by multiplying the number of acres planted, times the percentage of loss, times per acre cash outlay (production cost) and deducting therefrom recoveries such as crop

insurance, USDA grants or other recoveries. In each case, normal yield for each crop must be established to determine the extent of partial crop losses. Normal yield is defined as the yield determined by the Agricultural Stabilization and Conservation Services (ASCS) for program crops, and by the Statistical Reporting Service (SRS) county or state averages for those non-program crops for which such averages are available. County Emergency Board (CEB) averages (as appropriate) may be used for those non-program crops for which SRS does not maintain averages. Alternate data sources may be approved by SBA if a normal yield is not available from either ASCS, SRS or an appropriate CEB. Cash outlay (production costs) is defined as the actual out-of-pocket cash investment to the time of the disaster required to plant and/or harvest a particular crop, and such costs as are required to properly maintain such crop.

(b) *Partial crop loss.* Applications based on partial crop losses will not be approved until after the normal harvest season for that crop or crops in order that the actual loss may be ascertained.

(c) *Minimum loss.* Applicants must meet minimum loss criteria substantially similar to criteria applied by Farmers Home Administration for Disasters commencing before October 1, 1983.

§ 123.28 Loans to Major Sources of Employment.

Loans to Major Sources of Employment (as defined in § 123.3) shall be made under the authority of the Small Business Act and the provisions of this Part. In such cases, the Administration, in its discretion, may waive the $500,000 limitation of § 123.26(a), if the applicant has used all funds from its own resources and all available Credit Elsewhere (see § 123.3) to alleviate the physical damage and/or economic injury sustained plus eligible refinancing.

§ 123.29 Loans to privately owned colleges and non-profit organizations.

(a) *Colleges.* SBA is authorized to make physical disaster loans in the case of loss or damage as a result of a declared Disaster (see § 123.23), to the extent that such loss or damage is not compensated by insurance or otherwise, to a privately owned college or university without regard to the availability of Credit Elsewhere, at the Old Formula Rate, and may, in the case of a Major Disaster, waive interest payment on such loans for the first three years of the term of such loans. See also § 123.13.

(b) *Other non-profit organizations.* SBA is also authorized to make physical disaster loans to eleemosynary and other non-profit organizations in the case of loss or damage as a result of a declared Disaster, to the extent that such loss or damage is not compensated by insurance or otherwise without regard to availability of Credit Elsewhere, at the Old Formula Rate.

Subpart C—Economic Injury Disaster Loans

§ 123.40 Introduction.

Loans to which this subpart applies are available only to small business concerns and small agricultural cooperatives situated in a Disaster Area which have suffered or are likely to suffer substantial economic injury (as defined in § 123.41(a)) as a result of that specific Disaster, (see § 123.23). For definition of capitalized terms, see § 123.3.

§ 123.41 General provisions.

(a) *Substantial Economic Injury* for purposes of this subpart means a change in the financial condition of a small business concern or small agricultural cooperative attributable to the effect of a specific declared Disaster, as defined (see § 123.3), resulting in the inability of such small concern to meet its obligations as they mature, and to pay its ordinary and necessary operating expenses. If a small concern was established or has undergone a substantial change of ownership (more than 50%) after an impending economic injury became apparent and no contract of sale existed at that time the owner shall be deemed to have assumed that risk, and not to have incurred economic injury. Loss of anticipated profits or a drop in sales which is not disaster-related, is not considered an economic injury for purposes of this subpart. Evidence of loss or injury and of the cause thereof, satisfactory to SBA, must be provided by the applicant (OMB Approval No. 3245–0017).

(b) *Eligible Applicants.* (1) Loans under this subpart are authorized only for small business concerns and small agricultural cooperatives (see paragraph (b)(3) of this section), located within the Disaster Area and meeting the size standards of Part 121 of this Chapter as of the time (stated in the relevant declaration or designation) when the economic injury commenced, and which have suffered or are likely to suffer substantial economic injury directly resulting from Disaster and are unable to obtain Credit Elsewhere (as defined in § 123.3).

(2) Small concerns regardless of their business activity are eligible to apply for these loans, except for multilevel sales distribution plans of the "pyramid" type (see § 120.2(d)(12) of this chapter), media of any description (see § 120.2(d)(4)), gambling (see § 120.2(d)(5)), financing (see § 120.2(d)(6)), speculative ventures (e.g., mineral exploration) (see § 120.2(d)(2)), rental property (see § 120.2(d)(7)), and illegal activities (see § 120.2(d)(9)).

(3) Consumer and marketing cooperatives are ineligible. Other cooperatives are eligible only if each of the owners would itself qualify as small under Part 121 of this chapter. However, small agricultural cooperatives, meeting the size standards of Part 121 of this chapter as of the time of the Disaster (with respect to which a declaration or certification under section 7(b)(2) of the Act has been issued or made after September 1, 1982) and acting pursuant to the provisions of the Agricultural Marketing Act (12 U.S.C. 114j), are eligible: *Provided, however,* That the income or the number of employees of any member or shareholder of such cooperative shall not be considered in the size determination if the cooperative and each member of the board of directors or other governing body of the cooperative individually qualify under Part 121 of this chapter. All other non-profit concerns are ineligible.

(4) Agricultural enterprises as defined in § 123.17, and agricultural cooperatives (see paragraph (b)(3) of this section) which have received, or have an application pending for emergency loan assistance at Farmers Home Administration, are ineligible for assistance under this subpart for the same economic injury.

(5) Applicants determined by SBA as able to obtain Credit Elsewhere are not eligible for loans under this subpart.

(c) *Availability.* Loans under this subpart are available for eligible small businesses and small agricultural cooperatives located in an area which has been:

(1) determined a Major Disaster area by the President (42 U.S.C. 1855 *et seq.*);

(2) determined a natural Disaster Area by the Secretary of Agriculture (7 U.S.C. 1961);

(3) declared a Disaster Area by SBA; or

(4) designated an area of economic injury by SBA pursuant to a Governor's certification, see § 123.23(c).

(d) *Interest.* (1) Loans to small business concerns made as a result of any disaster commencing on or after October 1, 1982, shall bear interest at a rate not to exceed 8 percent for the

period up to April 18, 1984, and at a rate not to exceed 4 percent for the period beginning on or after April 18, 1984.

(2) Loans to small agricultural cooperatives, as defined in paragraph (b)(3) above, made as a result of any disaster with respect to which a declaration or certification has been issued or made after September 1, 1982 under Section 7(b)(2) of the Act, shall bear interest at the Old Treasury Rate.

(e) *Loan amount.* Loans under this subpart may be approved in addition to any disaster loan under Subpart B: *Provided, however,* That the aggregate amount of these loans to a single applicant, together with its affiliates as defined in § 121.3–2 of this chapter, in a single disaster shall not exceed $500,000, unless the applicant qualifies as a Major Source of Employment under § 123.28 of this part.

(f) *Term of Loan.* See § 123.9(a).

(g) *Use of Proceeds.* (1) Proceeds of loans under this subpart may be used for the alleviation of the specific economic injury, and for working capital necessary to carry the concern until resumption of normal operations, but not to exceed that which the business could provide had the injury not occurred, and for upgrading, if required to meet building code requirements.

(2) Proceeds of loans under this subpart shall not be used for the payment of dividends or other disbursements to owners, partners, officers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services; or for refunding of existing indebtedness incurred prior to or not as a result of the event which gave rise to the issuance of the declaration or designation or to reduce loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act. No part of the proceeds of any loan under this subpart shall be used, directly or indirectly, to pay any obligations resulting from a Federal, state or local tax, criminal fine or penalty, or any civil fine or penalty for noncompliance with a law, regulation or order of a Federal, state, regional, or local agency or similar matter.

(3) Each borrower shall use the loan proceeds for the purposes set forth in the loan authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and one-half times the original amount of the loan (Pub. L. 92–385, approved August 16, 1972; 86 Stat. 554).

(4) Applicants must use personal and business assets to the greatest extent possible, without incurring undue personal hardship, before disbursement of funds under this subpart.

(h) *Other requirements.* For application requirements see § 123.18; for terms of loans, see § 123.9(a); for types of loans, see § 123.4; for services fees, see § 123.6 of this part.

Appendix A—Interest Rates in Effect for Disasters Commencing Prior to October 1, 1982

Since these regulations are based on currently applicable interest rates (i.e., for disasters commencing on or after October 1, 1982), rates applicable to earlier disaster loans, on SBA's share of a loan, are summarized here for convenience only. For details see Rev. 9 of Part 123, 1983 edition of Title 13, Code of Federal Regulations, Ch. I.

(1) *Disasters on or after January 1, 1971, and before January 1, 1972.* For physical disaster loss assistance, and for economic injury assistance in areas declared to be major disaster areas by the President or natural disaster areas declared by the Secretary of Agriculture, in an area accepted by SBA as a natural disaster-caused economic injury area upon its Governor's certification, the interest rate on SBA's share of the loan is three percent (3%).

(2) *Disasters on or after January 1, 1972, and before April 20, 1973.* For losses described under (1) above one percent (1%), except natural disasters declared only by the Secretary of Agriculture, three percent (3%).

(3) *Disasters on or after April 20, 1973, and before August 5, 1975.* A rate not to exceed five percent (5%).

(4) *Disasters on or after August 5, 1975, and before July 1, 1976.* All disaster assistance loans carry interest at a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest-bearing U.S. public debt obligations as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth percent (0.125%) plus one-quarter percent (0.25%) (hereinafter called Old Formula Rate), such rate not to exceed the rate of interest in effect at the time of the occurrence of the disaster.

(5) *Disasters on or after July 1, 1976, and before October 1, 1978.* (a) Physical Disaster Home Loans: One percent (1%) on the first $10,000 to repair or replace primary residence or personal property, three percent (3%) from $10,000 up to $40,000, and the Old Formula Rate on any repair or replacement costs exceeding $40,000, and the Old Formula Rate on any repair or replacement costs exceeding $40,000, and on any amounts used for refinancing.

(b) *Other Physical Disaster Loans:* Three percent (3%) up to $250,000 and the Old Formula Rate thereafter;

(c) *Loans for Economic Injury Resulting from a Physical Disaster:* Three percent (3%) up to $250,000 and the Old Formula Rate thereafter;

(d) *All other Economic Injury Loans:* Old Formula Rate;

(6) *Disasters on or after October 1, 1978, and before July 2, 1980.* (a) *Physical Disaster Home Loans:* Three percent (3%) for loans to repair or replace a primary residence or personal property, up to $50,000 and $10,000, respectively, but not to exceed $55,000 combined. The Old Formula Rate applies to amounts in excess thereof and also applies to homes other than primary and owner-occupied 1–4 residences;

(b) *Physical Disaster Business Loans:* Where SBA determines that the small concern is unable to obtain Credit Elsewhere (see § 123.22 for definition), five percent (5%), but the Old Formula Rate for the refinancing part thereof. Absent such determination, the Old Formula Rate applies.

(7) *Disasters commencing on or after July 2, 1980, and before August 13, 1981.* Same as in (6) above, except that loans to businesses able to obtain Credit Elsewhere were made at the Adjusted Treasury Rate, as defined in § 123.3.

(8) *Disaster commencing on or after August 13, 1981, and before October 1, 1982:* (a) Physical Disaster Home Loans: Where SBA determines that the applicant is able to obtain Credit Elsewhere, the Adjusted Treasury Rate as defined in § 123.3. Where SBA determines that the applicant is unable to obtain Credit Elsewhere, not to exceed the lesser of one half the adjusted Treasury Rate or 8% per annum.

(b) Physical Disaster Business Loans: Where SBA determines that the applicant is able to obtain Credit Elsewhere, a rate not exceeding the rate prevailing in the private market for similar loans and not exceeding the maximum interest rate for loans guaranteed under section 7(a) of the Small Business Act. Where SBA determines that the applicant is unable to obtain Credit Elsewhere, a rate of 8% per annum.

(Catalog of Federal Domestic Assistance No. 59.008 Physical Disaster Loans)

Dated: July 16, 1984.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 84–21335 Filed 8–10–84; 8:45 am]

BILLING CODE 8025–01–M

federal register

Monday
August 13, 1984

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Public Hearings and Reopening of Comment Periods on Proposed Endangered Status and Critical Habitat for Desert Pupfish, Warner Sucker, Alabama Beach Mouse, Perdido Key Beach Mouse and Choctawhatchee Beach Mouse

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Desert Pupfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing, and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed determination of endangered status and critical habitat for the desert pupfish *(Cyprinodon macularis)*. This fish is found in the desert sections of California, Arizona, and adjacent Mexico. This hearing and reopening of comment period will allow comments on this proposal from all interested parties.

DATES: Beginning August 13, 1984, the comment period on the proposal is reopened. The public hearing will be held from 7 to 9 p.m. PDT, on Thursday, August 30, 1984, in Imperial, California. The comment period which closed on July 16, 1984, is reopened until September 14, 1984.

ADDRESSES: The public hearing will be held at the Imperial Airport Conference Room (Terminal Building), Imperial County Airport, 1101 Airport Road, Imperial, California 92251. Comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Regional Endangered Species Division at the above Regional Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Gail Kobetich, Project Leader, U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916/484–4935 or FTS 468–4935).

SUPPLEMENTARY INFORMATION:

Background

The current distribution of the desert pupfish is restricted to a few areas in California, Arizona, and Mexico. This fish is threatened by habitat loss and competition for food and space with exotic fishes. A proposal of endangered status with critical habitat for the desert pupfish was published in the **Federal Register** (49 FR 20739) on May 16, 1984.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. On June 18, 1984, a public hearing on this proposal was requested by Mr. Lowell O. Weeks, General Manager-Chief Engineer, Coachella Valley Water District. The Service has scheduled this hearing for August 30, 1984, from 7:00 to 9:00 p.m., at the Imperial Airport Conference Room, Imperial, California. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if the number of parties present that evening necessitates some limitation. There are no limits to the length of written comments presented at this hearing or mailed to the Service.

The comment period on the proposal originally closed on July 16, 1984. In order to accommodate the hearing, the Service also reopens the public comment period. Written comments may now be submitted until September 14, 1984, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Carolyn Bohan, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 500, Portland, Oregon 97232 (503/231–6131).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

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

Dated: August 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-21621 Filed 8-10-84; 12:00 pm]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Warner Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; notice of public hearing, and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed determination of endangered status and critical habitat for the Warner sucker (*Catostomus warnerensis*), and that the comment period on the proposal is reopened. This fish is found in the Warner Valley of south-central Oregon. This hearing and the reopening of the comment period will allow comments on this proposal to be submitted from all interested parties.

DATE: Beginning August 13, 1984, the comment period on the proposal is reopened. The public hearing will be held from 7 to 9 p.m., on Wednesday, August 29, 1984, in Lakeview, Oregon. The comment period which originally closed on July 20, 1984, now closes September 13, 1984.

ADDRESSES: The public hearing will be held at the Lake County Community Center, 11 North "G" Street, Lakeview, Oregon 97630. Written comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Regional Endangered Species Division at the above Regional Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Gail Kobetich, Project Leader, U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916/484–4935 or FTS 468–4935).

SUPPLEMENTARY INFORMATION:

Background

The Warner sucker is found only is several lakes and their tributary streams in the Warner Valley of south-central Oregon. The fish is threatened by habitat alteration and competition form exotic fishes.

A proposal of threatened status with critical habitat for the Warner sucker

was published in the **Federal Register** (49 FR 21383) on May 21, 1984.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. On June 15, 1984, a public hearing on this proposal was requested by Mr. James Lynch, Attorney at Law, for the Warner Valley Association, the Hart Lake Water Users, the Honey Creek Water Users, and the North Warner Grazing Association. The Service has scheduled this hearing for August 29, 1984, from 7:00 to 9:00 p.m., at the Lake County Community Center, Lakeview, Oregon. Those parties wishing to make statements for the record should have a available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if the number of parties present that evening necessitates some limitation. There are no limits to the length of written comments presented at this hearing or mailed to the Service.

The comment period on the proposal originally closed on July 20, 1984. In order to accommodate the hearing, the Service also reopens the public comment period . Written comments may now be submitted until September 13, 1984, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Carolyn Bohan, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 500, Portland, Oregon 97232 (503/231–6131).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

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

Dated: August 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–21622 Filed 8–10–84; 12:00 pm]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Extension of Comment Period on Proposed Endangered Status and Critical Habitat for the Alabama Beach Mouse, Perdido Key Beach Mouse, and Choctawhatchee Beach Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: The Service gives notice that a public hearing will be held on the proposed determination of endangered status and critical habitat for the Alabama beach mouse, Perdido Key beach mouse and Choctawhatchee beach mouse, and that the comment period on the proposal will be extended.

DATES: The public hearing will be held on August 28, 1984, from 7:30 p.m. to 10:00 p.m. Comments on the proposal must now be received by September 7, 1984.

ADDRESSES: The public hearing will be held at the Gulf State Park Resort, State Road 182, Gulf Shores, Alabama. Written comments and materials should be sent to the Superior, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection during normal business hours, by appointment, at this address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley at the above Field Station address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

The Alabama beach mouse *(Peromyscus polionotus ammobates)*, Perdido Key beach mounse *(P. p. trissyllepsis)*, and Choctawhatchee beach mouse *(P. p. allophrys)* are small mammals restricted to the Gulf Coast sand dune habitat between Fort Morgan, Baldwin County, Alabama, and Shell Island, Bay County, Florida. The three subspecies are jeopardized through the destruction of their sand dune habitat by residential and commercial development, recreational activity and tropical storms. In the **Federal Register** of June 7, 1984 (49 FR 23794–23804), the Service issued a proposed determination of endangered status and critical habitat for the three mammals. The period for submission of public comments on the proposal was originally scheduled to last until August 6, 1984.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. On July 5, 1984, the Service received a letter from Mr. James D. Bradley, Executive Vice President, Alabama Gulf Coast Area Chamber of Commerce, requesting a hearing on the proposal to determine endangered status and critical habitat for the Alabama beach mouse, Perdido Key beach mouse, and Choctawhatchee beach mouse. The Service has scheduled this hearing for August 28, 1984, from 7:30 p.m. to 10:00 p.m. at the Gulf State Park Resort, State Road 182, Gulf Shores, Alabama. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing.

In order to accommodate the hearing, the Service also extends the public comment period on the proposal. Written comments may now be received until September 7, 1984, to the Field Station address given above.

Author

The primary author of this notice is Ms. Robin H. Fields of the Field Station address given above.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

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

Dated: August 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–21623 Filed 8–10–84; 12:00 pm]

BILLING CODE 4310–55–M

Reader Aids

Federal Register

Vol. 49, No. 157

Monday, August 13, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

30679-30910.....1
30911-31050.....2
31051-31254.....3
31255-31388.....6
31389-31658.....7
31659-31844.....8
31845-32052.....9
32053-32170.....10
32171-32322.....13

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
December 12, 1917
(Amended by
PLO 6562).....32068

5 CFR

Ch. XIV.....31051

Proposed Rules:
1201.....32072

7 CFR

726.....31052
800.....30911
908.....31389
910.....31054, 31255, 32171
921.....31255
930.....31389
958.....31257
1036.....32053
1139.....32054
1207.....31390
1980.....31258

Proposed Rules:
Ch. IV.....30963
1.....31292
2.....30911
301.....32207
319.....32207
402.....31696
403.....31696
404.....31696
408.....31696
409.....31696
410.....31696
411.....31696
413.....31696
414.....31696
415.....31696
416.....31696
417.....31696
418.....31696
419.....31696
420.....31696
421.....31696
422.....31696
423.....31696
424.....31696
425.....31696
427.....31696
428.....31696
429.....31696
430.....31696
431.....31696
432.....31696
433.....31696
434.....31696
435.....31696
436.....31696
437.....31696
438.....31696
439.....31696
440.....31696
441.....31696
442.....30964, 31696
443.....31696
444.....31696
445.....31696
446.....31696
447.....31696
800.....32074
810.....31432, 31697, 32077
907.....32080
908.....32080
1004.....32209
1006.....30720, 31072
1007.....31072
1011.....31072
1012.....30720, 31072
1013.....31072
1046.....31072
1076.....30964
1093.....31072
1094.....31072
1096.....31072
1097.....31072
1098.....31072
1099.....31072
1102.....31072
1108.....31072

8 CFR

100.....31054, 31845
205.....30679
238.....31258

Proposed Rules:
239.....31293

9 CFR

78.....31659
81.....31055
318.....32055
381.....32055

10 CFR

9.....31259
25.....32171
600.....31390

Proposed Rules:
50.....30726, 31432
55.....31700
73.....30726, 30735, 30738
1017.....31236

12 CFR

7.....30920
701.....30679, 30682, 30683

Proposed Rules:
591.....32081
602.....31293
721.....30739
741.....30740
746.....30740

13 CFR

102.....31660
123.....32310
Proposed Rules:
129.....31899

14 CFR

39.....31057-31059, 31660, 31661
71.....30688, 31060, 31259, 31664
97.....30923
Proposed Rules:
23.....32300
25.....31830
39.....30965, 31074, 31295, 31433, 31702, 31703, 32083
71.....31075-31077, 31298, 31434
73.....31435
121.....31298, 32306
152.....31078
221.....30742
223.....30746
250.....30742
255.....30742, 31439
298.....30742

15 CFR

0.....32056

16 CFR

13.....31845
305.....31061
Proposed Rules:
13.....30967, 31440, 31901, 31903, 32213
460.....31906
1205.....31908

17 CFR

239.....32058
240.....31846
249.....31846
270.....31062, 31064, 32058
274.....32058
Proposed Rules:
1.....31442
240.....31300

18 CFR

154.....31259, 32172
389.....32172
Proposed Rules:
Ch. I.....31705

19 CFR

6.....31248
12.....31248
18.....31248
19.....31248
141.....31248
143.....31248
144.....31248
146.....31248
151.....31850

20 CFR

626.....31664
627.....31664
628.....31664
629.....31664
630.....31664

21 CFR

14.....30688
16.....32172
74.....31852
81.....30925, 30926, 31852
82.....31852
105.....32173
178.....30689
184.....32060
193.....30702, 31666
510.....31065
522.....32061
558.....30927, 31065, 31280, 31281, 32061
561.....31667
680.....31394
1240.....31065
1308.....32062, 32064
1316.....32174
Proposed Rules:
101.....31301, 32216
105.....32218
510.....31444
1308.....30748

23 CFR

Proposed Rules:
630.....31079

24 CFR

40.....31620
52.....32174
105.....32042
111.....32042
115.....32042, 32049
200.....31853-31857
207.....32174
251.....32016
255.....32174
290.....31858
570.....31069
811.....32174
850.....32174
880.....31281, 31395
881.....31281, 31395
882.....31858
883.....31281, 31395
884.....31281, 31395
886.....31281, 31285,
965.....31399
968.....31860
1700.....31366
1710.....31366, 31372
1730.....31366
3280.....31996
Proposed Rules:
203.....31444
570.....31446
3282.....32219

26 CFR

1.....32175
Proposed Rules:
1.....30971, 31080, 31086
5.....31080

27 CFR

4.....31667
5.....31667
7.....31667
Proposed Rules:
9.....32223

28 CFR

0.....32065

29 CFR

1601.....31410
1621.....31411
1949.....32065
1952.....31676

30 CFR

870.....31412
931.....30689
935.....31676
946.....30927
Proposed Rules:
913.....31448
935.....31912
938.....31913
943.....30972
950.....30973

31 CFR

210.....32066
Proposed Rules:
210.....31450
223.....31454

32 CFR

58.....31862
65.....31862
83.....31864
224.....31865
2003.....31412
Proposed Rules:
155.....31455

33 CFR

100.....30930-30932, 31286, 31866, 32175-32176
110.....31287
117.....30933, 31867
165.....31286, 32177, 32178
401.....30934
Proposed Rules:
72.....32228
100.....30974, 30975, 31459
117.....30976, 30977
165.....30978

34 CFR

7.....31679
8.....31679
10.....31679
21.....31868
67.....31679
222.....31628
621.....31679
Proposed Rules:
200.....31914
204.....31918

35 CFR

251.....31070

36 CFR

264.....31413
Proposed Rules:
9.....31086

37 CFR

Proposed Rules:
2.....30749, 31460

38 CFR

2.....30691
Proposed Rules:
1.....30979

39 CFR

262.....30693

40 CFR

Ch. I.....31680
52.....30694, 30695, 30696, 30694, 30936, 31413-31416, 31683-31687, 32180-32184
81.....30697, 30698, 31689
87.....31873
122.....31840
123.....31840
147.....30698, 31875
152.....30884, 30909
162.....30884
180.....30699, 30700, 30701, 31690-31694
271.....31417
403.....31212
704.....32067
Proposed Rules:
Ch. I.....31706
50.....31923
52.....31086
80.....31032
81.....31091, 31093
122.....31843
124.....31462
125.....31462
180.....30751, 31716, 32085-32088
270.....31094
271.....31301
455.....30752
763.....31302
773.....31302

41 CFR

101-19.....31625
Proposed Rules:
101-11.....31302

42 CFR

57.....30702

43 CFR

2880.....31208
Public Land Orders:
6428 (Corrected by PLO 6561).....32068
6558.....31695
6559.....31876
6560.....32068
6561.....32068
6562.....32068
Proposed Rules:
1880.....31473
2650.....31475
2880.....31094

44 CFR

64.....30708, 32190
Proposed Rules:
67.....31095

45 CFR

1622.....30939

46 CFR

61.....32192
63.....32192
Proposed Rules:
7.....32229

47 CFR

Ch. I 30710
1 30943
2 32194
73 ..... 30712, 30946, 31288, 31289, 31877, 32201–32204
81 32194
83 ..... 32069, 32194
87 32194
90 32194
97 32194

Proposed Rules:

Ch. I 31115, 31926
22 ..... 31115, 31716
69 31118
73 ..... 30752–30760, 31115, 31119, 31303–31307, 31719–31731, 32237
81 ..... 31115, 31734
83 ..... 31734, 31736
87 31734
90 31115

48 CFR

513 32204
713 31898

49 CFR

1 31290
575 32069
1011 31070
1115 31070
1160 31070

Proposed Rules:

172 32090
173 32090
174 32090
393 30980
571 31740
575 32238

50 CFR

10 31290
17 31418
20 31421
250 31657
285 30713
630 32205
638 31427
652 ..... 30946, 31430
654 30713
658 30713
661 ..... 30948, 31430, 32205
662 31291
663 ..... 30948, 31431
674 30951

Proposed Rules:

17 ..... 31112, 32320, 32321
651 31307
611 32242
663 32242

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 26, 1984.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $550 domestic, $137.50 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1984
3 (1983 Compilation and Parts 100 and 101)	7.00	Jan. 1, 1984
4	12.00	Jan. 1, 1984
5 Parts:		
1-1199	13.00	Jan. 1, 1984
31-1199 (Special Supplement)	None	Jan. 1, 1984
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1984
7 Parts:		
0-45	13.00	Jan. 1, 1984
46-51	12.00	Jan. 1, 1984
52	14.00	Jan. 1, 1984
53-209	13.00	Jan. 1, 1984
210-299	13.00	Jan. 1, 1984
300-399	7.50	Jan. 1, 1984
400-699	13.00	Jan. 1, 1984
700-899	13.00	Jan. 1, 1984
900-999	14.00	Jan. 1, 1984
1000-1059	12.00	Jan. 1, 1984
1060-1119	9.50	Jan. 1, 1984
1120-1199	7.50	Jan. 1, 1984
1200-1499	13.00	Jan. 1, 1984
1500-1899	6.00	Jan. 1, 1984
1900-1944	14.00	Jan. 1, 1984
1945-End	13.00	Jan. 1, 1984
8	7.00	Jan. 1, 1984
9 Parts:		
1-199	13.00	Jan. 1, 1984
200-End	9.50	Jan. 1, 1984
10 Parts:		
0-199	14.00	Jan. 1, 1984
200-399	12.00	Jan. 1, 1984
400-499	12.00	Jan. 1, 1984
500-End	13.00	Jan. 1, 1984
11	7.50	Apr. 1, 1984
12 Parts:		
1-199	9.00	Jan. 1, 1984
200-299	14.00	Jan. 1, 1984
300-499	9.50	Jan. 1, 1984
500-End	14.00	Jan. 1, 1984
13	13.00	Jan. 1, 1984
14 Parts:		
1-59	13.00	Jan. 1, 1984
60-139	13.00	Jan. 1, 1984
140-199	7.00	Jan. 1, 1984
200-1199	13.00	Jan. 1, 1984
1200-End	7.50	Jan. 1, 1984
15 Parts:		
0-299	7.00	Jan. 1, 1984
300-399	13.00	Jan. 1, 1984
400-End	12.00	Jan. 1, 1984
16 Parts:		
0-149	9.00	Jan. 1, 1984
150-999	9.50	Jan. 1, 1984
1000-End	13.00	Jan. 1, 1984
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1984
19	8.50	Apr. 1, 1983
20 Parts:		
1-399	7.50	Apr. 1, 1984
*400-499	13.00	Apr. 1, 1984
500-End	14.00	Apr. 1, 1984
21 Parts:		
1-99	9.00	Apr. 1, 1984
100-169	12.00	Apr. 1, 1984
170-199	12.00	Apr. 1, 1984
200-299	4.25	Apr. 1, 1984
300-499	14.00	Apr. 1, 1984
500-599	13.00	Apr. 1, 1984
600-799	6.00	Apr. 1, 1984
800-1299	9.50	Apr. 1, 1984
1300-End	6.00	Apr. 1, 1984
22	17.00	Apr. 1, 1984
23	13.00	Apr. 1, 1984
24 Parts:		
0-199	8.00	Apr. 1, 1984
200-499	8.00	Apr. 1, 1983
500-699	6.00	Apr. 1, 1984
*700-1699	12.00	Apr. 1, 1984
1700-End	9.50	Apr. 1, 1984
*25	14.00	Apr. 1, 1984
26 Parts:		
§§ 1.0-1.169	14.50	Apr. 1, 1984
§§ 1.170-1.300	10.00	Apr. 1, 1984
§§ 1.301-1.400	7.50	Apr. 1, 1984
§§ 1.401-1.500	13.00	Apr. 1, 1984
§§ 1.501-1.640	12.00	Apr. 1, 1984
§§ 1.641-1.850	12.00	Apr. 1, 1984
*§§ 1.851-1.1200	14.00	Apr. 1, 1984
§§ 1.1201-End	17.00	Apr. 1, 1984
2-29	13.00	Apr. 1, 1984
*30-39	9.00	Apr. 1, 1984
40-299	14.00	Apr. 1, 1984
300-499	9.50	Apr. 1, 1984
500-599	8.00	[1] Apr. 1, 1980
600-End	5.50	Apr. 1, 1984
27 Parts:		
*1-199	13.00	Apr. 1, 1984
200-End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0-99	8.00	July 1, 1983
100-499	5.50	July 1, 1983
500-899	8.00	July 1, 1983
900-1899	5.50	July 1, 1983
1900-1910	8.50	July 1, 1983
1911-1919	4.50	July 1, 1983
1920-End	8.00	July 1, 1983
30 Parts:		
0-199	7.00	July 1, 1983
200-699	5.50	Oct. 1, 1983
700-End	13.00	Oct. 1, 1983
31 Parts:		
0-199	6.00	July 1, 1983
200-End	6.50	July 1, 1983

Title	Price	Revision Date
32 Parts:		
1-39, Vol. I	8.50	July 1, 1983
1-39, Vol. II	13.00	July 1, 1983
1-39, Vol. III	9.00	July 1, 1983
40-189	6.50	July 1, 1983
190-399	13.00	July 1, 1983
400-699	12.00	July 1, 1983
700-799	7.50	July 1, 1983
800-999	6.50	July 1, 1983
1000-End	6.00	July 1, 1983
33 Parts:		
1-199	14.00	July 1, 1983
200-End	7.00	July 1, 1983
34 Parts:		
1-299	13.00	July 1, 1983
300-399	6.00	July 1, 1983
400-End	15.00	July 1, 1983
35	5.50	July 1, 1983
36 Parts:		
1-199	6.50	July 1, 1983
200-End	12.00	July 1, 1983
*37	8.00	July 1, 1984
38 Parts:		
0-17	7.00	July 1, 1983
18-End	6.50	July 1, 1983
39	7.50	July 1, 1983
40 Parts:		
0-51	7.50	July 1, 1983
52	14.00	July 1, 1983
53-80	14.00	July 1, 1983
81-99	7.50	July 1, 1983
100-149	6.00	July 1, 1983
150-189	6.50	July 1, 1983
190-399	7.00	July 1, 1983
400-424	6.50	July 1, 1983
425-End	13.00	July 1, 1983
41 Chapters:		
1, 1-1 to 1-10	7.00	July 1, 1983
1, 1-11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3-6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
10-17	6.50	July 1, 1983
18, Vol. I, Parts 1-5	6.50	July 1, 1983
18, Vol. II, Parts 6-19	7.00	July 1, 1983
18, Vol. III, Parts 20-52	6.50	July 1, 1983
19-100	7.00	July 1, 1983
101	14.00	July 1, 1983
102-End	6.50	July 1, 1983

Title	Price	Revision Date
42 Parts:		
1-60	12.00	Oct. 1, 1983
61-399	7.50	Oct. 1, 1983
400-End	17.00	Oct. 1, 1983
43 Parts:		
1-999	9.00	Oct. 1, 1983
1000-3999	14.00	Oct. 1, 1983
4000-End	7.50	Oct. 1, 1983
44	12.00	Oct. 1, 1983
45 Parts:		
1-199	9.00	Oct. 1, 1983
200-499	6.00	Oct. 1, 1983
500-1199	12.00	Oct. 1, 1983
1200-End	9.00	Oct. 1, 1983
46 Parts:		
1-40	9.00	Oct. 1, 1983
41-69	9.00	Oct. 1, 1983
70-89	5.00	Oct. 1, 1983
90-139	9.00	Oct. 1, 1983
140-155	8.00	Oct. 1, 1983
156-165	9.00	Oct. 1, 1983
166-199	7.00	Oct. 1, 1983
200-399	12.00	Oct. 1, 1983
400-End	7.00	Oct. 1, 1983
47 Parts:		
0-19	12.00	Oct. 1, 1983
20-69	14.00	Oct. 1, 1983
70-79	13.00	Oct. 1, 1983
80-End	13.00	Oct. 1, 1983
48	1.50	[2] Sept. 19, 1983
49 Parts:		
1-99	7.00	Oct. 1, 1983
100-177	14.00	Nov. 1, 1983
178-199	13.00	Nov. 1, 1983
200-399	12.00	Oct. 1, 1983
400-999	13.00	Oct. 1, 1983
1000-1199	12.00	Oct. 1, 1983
1200-1299	12.00	Oct. 1, 1983
1300-End	7.50	Oct. 1, 1983
50 Parts:		
1-199	9.00	Oct. 1, 1983
200-End	13.00	Oct. 1, 1983
CFR Index and Findings Aids	17.00	Jan. 1, 1984
Complete 1984 CFR set	550.00	1984
Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1983
Subscription (mailed as issued)	200.00	1984
Individual copies	2.25	1984

[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).