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Thursday
August 1, 1985

Selected Subjects

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Presidential Documents

Title 3—

The President

Proclamation 5359 of July 30, 1985

National Disability in Entertainment Week, 1985

By the President of the United States of America

A Proclamation

The entertainment industry in America today has an enormous ability to inform and educate at the same time that it entertains. This fact is especially well-known to the thirty-six million Americans with disabilities, because they are aware of the concerted efforts being made by the entertainment industry to dispel the unfair stereotypes that still hinder the progress of disabled people in our society.

One of the most important messages the entertainment industry is delivering to the public is that people with disabilities can live full and rewarding lives. They ask only to be given the same opportunities to compete and achieve as everyone else. To provide them with this opportunity is not only fair, but makes available to society a rich pool of talents and ambitions that would otherwise be lost.

The entertainment industry deserves to be commended for its role in making these worthy developments possible. Because of the industry's continuing efforts, Americans with disabilities can look forward to brighter futures, filled with the wide variety of opportunities they deserve.

The Congress, by Senate Joint Resolution 86, has designated the period from July 25, 1985, through July 31, 1985, as "National Disability in Entertainment Week" and has authorized and requested the President to issue a proclamation in honor of this observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of July 25, 1985, through July 31, 1985, as National Disability in Entertainment Week, and I call upon all Americans to observe this week with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-18432
Filed 7-30-85; 4:22 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Thursday, August 1, 1985

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-58-AD; Amdt. 39-5114]

Airworthiness Directives: Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 767 series airplanes which requires replacement or modification of the Pneumatic System Pressure Regulating and Shutoff Valve (PRSOV). This action is prompted by a report of one operator experiencing a pneumatic duct burst at takeoff due to a failed PRSOV, resulting in damage, caused by a flailing duct segment, to air conditioning components, wire bundles, flap actuation system, wing/body fairing, and engine throttle cable. In addition, unusual wear of this valve may prevent its closing when commanded to do so by the crew as part of a pneumatic system failure procedure.

EFFECTIVE DATE: August 19, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or to Hamilton Standard, Bradley Field Road, Windsor Locks, Connecticut 06096. It may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lium, Systems and Equipment Branch, ANM-130S; telephone (206) 431-2946. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On May 11, 1985, a Boeing Model 767 airplane experienced a pneumatic duct rupture during takeoff. At rotation, the crew heard a loud noise from the wheel well area, and the airport control tower reported seeing debris falling from the airplane. The airplane returned for a successful landing. The crew had some initial difficulty in moving the flaps, and they could not change the No. 2 engine thrust setting. The engine was shut down on landing.

Inspection of the airplane revealed extensive duct damage, starting about 3 feet inboard of the No. 2 strut, running along the wing leading edge, into both air conditioning bays, and in the left wheel well. In addition to damage to various air conditioning components, wire bundles, the wing/body fairing, and the flap leading edge drive mechanism, the throttle cable to the No. 2 engine was severed, causing the loss of control of the engine. This damage was caused by the unsecured ends of the pneumatic duct flailing about inside the confined areas of the wing/body fairing, the air conditioning bays, and the left wheel well. Since this duct flailing action is random and unpredictable, the potential exists for severe damage to a number of wire bundles and other essential systems located in these areas.

The duct rupture was determined to be caused by failure of the Pneumatic System Pressure Regulating and Shutoff Valve (PRSOV). Inspection of the PRSOV revealed unusual wear in the linkage between the valve actuator and the valve butterfly, which has been determined to be caused by the thermal and vibratory environment associated with the engine. In this incident the linkage failed, allowing the valve to move to full open, which in turn caused the pneumatic duct downstream of the valve to burst.

The PRSOV and associated upstream ducting are designed to contain the resulting pressure in the event of failure the High Pressure (HP) shutoff valve. Since failure of the HP valve is annunciated in the flight deck, the crew procedure associated with this failure is to close the PRSOV (which normally regulates the variable engine bleed air pressures to a constant value), thus containing the unusually high pressure until a landing can be made. Since the crew procedure is predicated on a properly functioning PRSOV, the integrity of this valve must be assured.

This incident occurred on a Model 767 equipped with General Electric (GE) CF6-80 series engines. Investigations to date have revealed that the Mean Time Between Unscheduled Removals (MTBUR) for the PRSOV on GE-powered airplanes is somewhat in excess of 1500 hours, compared to a MTBUR of over 3000 hours on Pratt & Whitney (P&W) JT9D-powered airplanes. The wear patterns on valves from the two installations appear to be the same, with only the time intervals being different. As a result, the Boeing Company has recommended an inspection interval of 1500 hours time-in-service on the PRSOV installed on the GE-powered airplanes, which is intended to detect valve linkage wear prior to failure. Inspection of several of these valves has revealed, however that upon accumulation of 1500 hours, valve linkage wear was evident, and replacement of worn components was necessary in all cases. The FAA has determined that such an inspection is thus impractical, and has determined that it is necessary in the interest of safety to replace valves installed on GE-powered airplanes at that interval with serviceable valves.

Inspection of valves removed from P&W-powered airplanes has revealed that similar wear is progressing at a much slower rate, reflecting the approximate factor of 2 between the MTBUR of the GE and P&W installations. Accordingly, the FAA has determined that because of this slower deterioration of the PRSOV on the P&W-powered airplanes, the replacement of PRSOV's with serviceable valves at 3000 hour intervals is appropriate for these.

In the event a PRSOV has already exceeded the 1500 or 3000 hour threshold, a compliance time of 200 hours time-in-service on the PRSOV for the GE-engine installation is established, based on results of the inspection of several valves removed from service. A compliance time of 500 hours time-in-service on the PRSOV for the P&W engine installation is required, again based on inspection results, and also to alleviate the potential replacement parts problem.

In this context, the use of the term "serviceable" is meant to include: a replacement valve that has not yet accumulated 1500 or 3000 hours time-in-service; a valve rebuilt with new parts to a previously approved configuration; or a valve modified in accordance with a service bulletin issued by Hamilton Standard, the valve manufacturer. Incorporation of the service bulletin constitutes terminating action for the repetitive replacement of unmodified valves.

Since this condition is likely to exist or develop on other airplanes of the same type design, the FAA has determined that an AD is necessary which requires a repetitive replacement of the PRSOV with a serviceable valve, or, as an alternative to the repetitive replacement, a modification to the valve to improve its service life.

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

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 767 series airplanes certificated in any category. Compliance is required as indicated, unless already accomplished.

To preclude failure of the Pneumatic System Pressure Regulating and Shutoff Valve (PRSOV), and to assure its integrity when commanded closed by a crew procedure, accomplish either paragraph A. or B., below, (1) within the next 200 hours time-in-service on the PRSOV, or prior to the accumulation of 1500 hours time-in-service on the PRSOV, whichever occurs later, on airplanes equipped with General Electric CF6-80 series engines, or (2) within the next 500 hours time-in-service on the PRSOV, or prior to accumulation of 3000 hours time-in-service on the PRSOV, whichever occurs later, on airplanes equipped with Pratt & Whitney JT9D series engines:

A. Replace the PRSOV, Hamilton Standard P/N 773288, with a serviceable valve. Repeat this procedure for replacement valves not modified in accordance with paragraph B. below, (1) prior to the accumulation of 1500 hours time-in-service on the valve, on airplanes equipped with General Electric CF6-80 series engines, or (2) prior to the accumulation of 3000 hours time-in-service on the valve, on airplanes equipped with Pratt & Whitney JT9D series engines.

B. Accomplish PRSOV modification in accordance with Hamilton Standard Service Bulletin 36-2030, dated March 8, 1985, or later FAA-approved revisions. Valves modified in accordance with this bulletin are not subject to a repetitive replacement, and constitute terminating action for this AD.

Note.—In the event an operator is unable to establish the accumulated hours time-in-service on a given PRSOV installed on an airplane, the total hours accumulated on the airplane must be used in the determination of replacement or modification times for the PRSOV.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or to Hamilton Standard, Bradley Field Road, Windsor Locks, Connecticut 06096. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 19, 1985.

Issued in Seattle, Washington, on July 24, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18192 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-4]

Alteration of Control Zone and Transition Area; Indianapolis, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the Indianapolis, Indiana, control zone and transition area to reflect airport name changes, and to make minor adjustments to the parameters of the transition area to ensure instrument approach procedure at Indianapolis International Airport will be contained within controlled airspace.

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

EFFECTIVE DATE: 0901 GMT, September 26, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On Friday, February 8, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Indianapolis, Indiana, control zone and transition area (50 FR 5398).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Indianapolis, Indiana, control zone and transition area to accommodate existing conditions, reflects the airport name change, eliminates reference to Bob Shank Airport and introduces Skyway Airport in the transition area description, and modifies the parameters of the transition area.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending 71.171 and 71.181 as follows:

Indianapolis, Indiana

71.171—Remove the words "Indianapolis Municipal (Weir-Cook) Airport" and substitute the words "Indianapolis International Airport."

Indianapolis, Indiana

71.181—That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Indianapolis International Airport (lat. 39° 43' 35" N., long. 86° 17' 05" W.); within a 5-mile radius of Skyway Airport, Greenwood, IN (lat. 39° 38' 00" N., long. 86° 05' 15" W.); within a 6.5-mile radius of Eagle Creek Airport (lat. 39° 49' 45" N., long. 86° 17' 45" W.); within 3 miles each side of the Indianapolis VORTAC 256° radial, extending from the 6.5-mile radius of Eagle Creek Airport and 8.5-mile radius of Indianapolis International Airport to 8 miles west of the VORTAC.

Issued in Des Plaines, Illinois, on July 19, 1985.

Carl B. Schellenberg,

Acting Director, Great Lakes Region.

[FR Doc. 85-18193 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-37]

Alteration of VOR Federal Airways; Albany, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Federal Airways V-489 and V-157 located in the vicinity of Albany, NY. Increasing traffic at Newark, NJ, Airport and the satellite airports has caused numerous en route and terminal area delays. This action segregates traffic by realigning airways that would separate en route traffic from departure/arrival traffic thereby reducing controller workload, reducing delays and providing more efficient use of the navigable airspace.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On May 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-489 between Sparta, NJ, and Plattsburgh, NY, and extend V-157 from Kingston, NY, to Albany, NY (50 FR 20105). Traffic at Newark, NJ, Airport has been increasing since 1981, and delays have become routine because of the complex airway system in that area and increased traffic at Newark and the numerous satellite airports. This action segregates en route traffic from arrival/departure traffic thereby reducing delays and reducing controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 712 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-489 and V-157 which are located in the vicinity of Albany, NY. Heavy traffic at Newark, NJ, Airport and at satellite airports has caused numerous en route and terminal delays. This amendment segregates traffic by realigning that separate en route traffic from arrival/departure traffic.

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

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 498 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-489—[Revised]

From Sparta, NJ; INT Sparta 023° and Albany, NY 192° radials; Albany, Glens Falls, NY; to Plattsburgh, NY.

V-157—[Amended]

By removing the words "to Kingston, NY." and substituting the words "Kingston, NY; to Albany, NY."

Issued in Washington, D.C., on July 22, 1985.

Shelomo Wagalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18282 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AAL-12]

Designation of Hooper Bay, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 700 foot transition area in the vicinity of Hooper Bay, AK. A new very high frequency omni-directional radio range distance measuring equipment (VOR/DME) has been installed at Hopper Bay and three new instrument approach procedures have been developed using this navigational aid. The transition area provides controlled airspace from 700 feet above the surface for departure/arrival aircraft.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On November 28, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area in the vicinity of Hooper Bay, AK (49 FR 46747). A new VORTAC has been installed at Hooper Bay and three new instrument approach procedures have been developed that have Hooper Bay in their descriptions. This action provides controlled airspace for IFR arrival/departure operations. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a 700-foot transition area in the vicinity of Hooper Bay, AK, to provide controlled airspace from 700 feet above the surface for departure/arrival aircraft at Hooper Bay.

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

List in Subjects in 14 CFR Part 71

Aviation safety , Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Hooper Bay, AK—[New]

That airspace extending upward from 700 feet AGL within 9.5 miles southwest and 4.5 miles northeast of the 315° radial from the Hooper Bay VORTAC and from the Hooper Bay VORTAC extending from 18.5 miles northwest, and within 4.5 miles southwest, and 9.5 miles northeast of the 135° radial from the Hooper Bay VORTAC extending from the VORTAC to 23.5 miles southeast.

Issued in Washington, D.C. on July 22, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18283 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AWP-1]

Alterations to VOR Federal Airways—Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes two and alters 11 Federal Airways in the state of Hawaii. This action results from relocation of the Honolulu, HI, very high frequency omni-directional radio range and tactical air navigation (VORTAC) facility. Complementary actions to revoke and establish new compulsory reporting points associated with this action are being taken in a separate Airspace Docket No. 85-AWP-6.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Divisions, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 24, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke two and alter 11 Federal Airways in the state of Hawaii. This action resulted from relocation of the Honolulu, HI, VORTAC facility. It also reflected a codification of routes which has been requested by airspace users and assigned by air traffic controllers (50 FR 16095). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.127 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes Federal Airways V-9 and V-14 and alters V-11, V-12, V-13, V-15, V-16, V-2, V-20, V-21, V-22, V-4 and V-8. Coincidentally, and in the interest of standardization, the base altitude of Federal Airways V-8, V-13, and V-15

are lowered to conform to the standard base altitude of 1,200 feet above the surface as specified in § 71.5.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority. 49 U.S.C. 1349(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.127 is amended as follows:

V-11—[Revised]

From INT Kona HI, 323° and Upolu Point, HI, 211° radials; via Upolu Point; INT Upolu Point 349° and Maui, HI, 080° radials; to Maui.

V-12—[Revised]

From INT South Kauai, HI, 245° radial and long 161°23'22" W., via INT South Kauai 245° and Honolulu, HI, 269° radials; Honolulu; Koko Head, HI, to INT Koko Head 050° and Uplou Point, HI, 354° radials.

V-13—[Revised]

From Koko Head, HI, via INT Koko Head 050° and Molokai, HI 015° radials to INT Molokai 015° and lat. 22°46'00" N.

V-14—[Revoked]

V-15—[Revised]

From INT South Kauai, HI, 288° radial and long. 162°37'11" W., via South Kauai; Lihue, HI; INT Lihue 121° and Honolulu, HI 269° radials; Honolulu; Koko Head, HI; Molokai, HI; Maui, HI; INT Maui 095° and Hilo, HI, 336° radials; Hilo to INT Hilo 099° radial and long. 151°53'00" W.

V-16—[Revised]

From INT South Kauai, HI, 271° radial and long. 162°45'28" W., via South Kauai; INT South Kauai 122° and Lanai, HI, 289° radials; Lanai; Upolu Point, HI; INT Upolu Point 108° and Hilo, HI, 336° radials; to Hilo.

V-2—[Amended]

By removing the words "South Kauai, HI, Lihue, HI, INT Lihue 130° and Honolulu, HI, 269° radials; Honolulu;" and substituting the words "Honolulu, HI, via"

V-20—[Amended]

By removing "134°" and substituting "136°"

V-21—[Revised]

From Honolulu, HI, via INT Honolulu 182° and Lanai, HI, 289° radials; Lanai; INT Lanai 106° and Hilo, HI, 033° radials; INT Upolu Point, HI, 093° and Hilo 078° radials; to INT Hilo 078° and long. 152°14'00" W. The airspace within R-3104 is excluded.

V-22—[Revised]

From Molokai, HI, via INT Molokai 082° and Maui, HI, 331° radials; Maui; INT Maui 095° and Hilo, HI 321° radials; Hilo; to INT Hilo 078° radial and long. 152°14'00" W.

V-4—[Revised]

From Honolulu, HI, to INT Honolulu 252° radial and long. 160°48'07" W.

V-8—[Revised]

From Honolulu, HI, via INT Honolulu 182° and Molokai, HI, 265° radials; Molokai; to INT Molokai 067° and Upolu Point, HI, 010° radials.

V-9—[Revoked]

Issued in Washington, D.C., on July 22, 1985.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18285 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWP-6]

Revocation and Establishment of Compulsory Reports Points, Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes seven Compulsory Reporting Points and establishes seven others over the Pacific Ocean primarily west and southwest of the state of Hawaii. This action is associated with Airspace Docket No. 85-AWP-1 which revokes two and alters 11 Federal airways. Both docket actions result from the relocation of the Honolulu, HI, very high frequency omni-directional radio range and tactical air navigation (VORTAC) facility.

EFFECTIVE DATE: 0901 G.m.t. September 26, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On April 24, 1985, the FAA proposed to amend Part 71the Federal Aviation Regulations (14 CFR Part 71) to revoke seven Compulsory Reporting Points and establish seven others on routes established as oceanic tracks or proposed as VOR Federal airway alterations (50 FR 16097). Establishment of the Compulsory Reporting Points would enable air traffic controllers to automatically and accurately identify when a transfer of responsibility has taken place between Honolulu Air Route Traffic Control Center and outlying air traffic control facilities. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.215 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (a) revokes the following Compulsory Reporting Points: BROMS, SILLS, MAKAI, VANDA, POTEN, DOGGY, PALMS; and (b) establishes the following Compulsory Reporting Points: 1. CHOKO, on R-84 at 175 nautical miles southwest of the Honolulu VORTAC; 2. KATHS on revised V-12 at 115 nautical miles southwest of the South Kauai VORTAC; 3. NONNI, on revised V-12 at 175 nautical miles west/southwest of the Honolulu VORTAC; 4. SILVA on revised V-16 at 180 nautical miles west of the South Kauai VORTAC; 5. PADDI, on G-47 and B-75 at 181 nautical miles southwest of the Honolulu VORTAC; 6. NIEMO on A-79 at 183 nautical miles southwest of the Honolulu VOTRAC, and 7. SHILA on B-74 and B-80 at 135 nautical miles southwest of the Honolulu VORTAC.

The FAA has determined that this regulation only involves an established body of technical regulations for which

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

List of Subjects in 14 CFR Part 71

Aviation safety, Compulsory reporting points.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.215 is amended as follows:

BROMS—[Revoked]

SILLS—[Revoked]

MAKAI—[Revoked]

VANDA—[Revoked]

POTEN—[Revoked]

DOGGY—[Revoked]

PALMS—[Revoked]

CHOKO—[New]

Lat. 20°22'51" N., long 160°53'09" W.

KATHS—[New]

INT South Kauai, HI, 245° radial and long. 161°23'22" W.

NONNI—[New]

INT South Kauai, HI, 245° and Honolulu, HI, 269° radials.

SILVA—[New]

INT South Kauai, HI, 271° radial and long. 162°45'28" W.

PADDI—[New]

Lat. 18°25'43" N., long. 158°54'47" W.

NIEMO—[New]

Lat. 18°53'15" N., long. 159°54'46" W.

SHILA—[New]

Lat. 19°33'33" N., long. 160°38'22" W.

Issued in Washington, D.C., on July 22, 1985.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18286 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 85-AWA-18]

Alteration of Continental Control Area and Restricted Area R-4803, Fallon, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns the internal boundaries of Restricted Area R-4803 North and South, located in the vicinity of Fallon, NV. This action constitutes a minor change in the availability of altitudes within the restricted area during times of use. This action is required to correct a minor charting error that was made during the original establishment of R-4803.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

History

On April 23, 1985, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to realign the internal boundaries of Restricted Area R-4803 North and South, located in the vicinity of Fallon, NV, and adjust the Continental Control Area accordingly (50 FR 15903). This action will change the availability of altitudes within Restricted Area R-4803 North and South during actual times of use. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to R-4803 was received; however, it did not object to the actual proposal but to the existence of R-4803 in general. Except for editorial changes, and a minor change in the times of use these amendments are the same as those proposed in the notice. Sections 71.151 and 73.48 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations realign the internal boundaries of Restricted Area R-4803 North and South, located in the vicinity of Fallon, NV, and adjust the Continental Control Area accordingly. This action changes the availability of altitudes within Restricted Area R-4803 North and South during actual times of use.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.151 is amended as follows:

R-4803 Fallon, NV—[Revoked]

R-4803S Fallon, NV—[New]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

4. Section 73.48 is amended as follows:

R-4803 Fallon, NV—[Revoked]

R-4803N Fallon, NV—[New]

Boundaries. Beginning at lat. 39°34'53" N., long. 118°59'36" W.; to lat. 39°35'48" N., long. 118°53'14" W.; to lat. 39°26'48" N., long 118°51'03" W.; to lat. 39°30'00" N., long. 118°58'30" W.; to the point of beginning.

Designated altitudes. Surface to 8,000 feet MSL.

Time of designation. 0715 to 2330 daily.

Controlling agency. FAA, Oakland ARTCC.

Using agency. U.S. Navy, Commander, Flight Attack Wing Pacific, NAS Lemoore, CA.

R-4803S Fallon, NV—[New]

Boundaries. Beginning at lat. 39°30'00" N., long. 118°58'30" W.; to lat. 39°26'48" N., long. 118°51'03" W.; to lat. 39°23'13" N., long. 118°50'10" W.; thence via the arc of a 3 NM radius circle centered at lat. 39°20'40" N., long. 118°52'15" W.; to lat. 39°20'07" N., long. 118°56'03" W.; to the point of beginning.

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. 0715 to 2330 daily.

Controlling agency. FAA, Oakland ARTCC.

Using agency. U.S. Navy, Commander, Light Attack Wing Pacific, NAS Lemoore, CA.

Issued in Washington, D.C., on July 22, 1985.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18290 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 83-AWP-3]

Restricted Areas; Expansion and Subdivision of R-4806, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment enlarges and subdivides Restricted Area R-4806, Las Vegas, NV, into R-4806W and R-4806E with changes in altitude structures and times of use. This action will help insure participating aircraft do not inadvertently spill out of the restricted area. In addition, special and unique test flights are conducted in the area which require full attention by the pilot to aircraft performance and systems, distracting pilots from paying full attention to the see-and-avoid procedures. This action insures segregation of nonparticipating aircraft from test flight activity.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Andy Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

History

On November 22, 1983, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to enlarge Restricted Area R-4806 and subdivide it as R-4806 East and R-4806 West by incorporating part of the Desert MOA and associated air traffic control assigned airspace and including it in the Continental Control Area (48 FR 52749). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Because of the desire to receive additional comments regarding the proposal and because of the complexity of the action, the FAA reopened the comment period on the NPRM for an additional 60 days. Comments objecting to the proposal were received from the Fish and Wildlife Service, Wilderness Society and the Nevada Department of Transportation. The Fish and Wildlife Service and the Wilderness Society objected to the proposal based on environmental issues concerning the Desert National Wildlife Range. The Nevada Department of Transportation objected to the proposal based on its aeronautical effect upon an established VFR route located along Highway 93.

Due to the objections received, negotiations between representatives of the Western Pacific Region and the Department of Air Force have resulted in the realignment of the restricted area proposal. These negotiations have resulted in mitigating all the opposition received during the comment period. The realignment of the restricted areas will be well outside the confines of the protected airspace along the VFR route near Highway 93 and will not adversely impact the Desert National Wildlife Range. Sections 71.151 and 73.48 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations enlarge and subdivide Restricted Area R-4806, Las Vegas, NV, into R-4806E and R-4806W, with changes in altitude structures and times of use. This action increases the amount of airspace required by the military to conduct their hazardous type operations.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.151 is amended as follows:

R-4806 Las Vegas, NV—[Revoked]

R-4806W Las Vegas, NV—[New]

R-4806E Las Vegas, NV—[New]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

4. Section 73.48 is amended as follows:

R-4806 Las Vegas, NV—[Revoked]

R-4806W Las Vegas, NV—[New]

Boundaries. Beginning at lat. 37°17'00" N., long. 115°18'00" W.; to lat. 36°26'00" N., long. 115°18'00" W.; to lat. 36°26'00" N., long. 115°23'00" W.; to lat. 36°35'00" N., long. 115°37'00" W.; to lat. 36°35'00" N., long. 115°53'00" W.; to lat. 36°36'00" N., long., 115°56'00" W.; to lat. 37°06'00" N., long. 115°56'00" W.; to lat. 37°06'00" N., long. 115°35'00" W.; to lat. 37°17'00" N., long. 115°35'00" W., to the point of beginning.

Designated altitudes. Unlimited.

Times of designation. Continuous.

Controlling agency. FAA, Los Angeles ARTCC.

Using agency. U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

R-4806E Las Vegas, NV—[New]

Boundaries. Beginning at lat. 37°17'00" N., long. 115°18'00" W.; to lat. 37°17'00" N., long. 115°11'00" W.; to lat. 37°12'00" N., long. 115°07'00" W.; to lat. 36°48'00" N., long. 115°07'00" W.; to lat. 36°38'00" N., long. 115°18'00" W., to the point of beginning.

Designated altitudes. 100 feet AGL to unlimited.

Time of designation. 0500-2000 daily, Monday-Saturday; other times by NOTAM.

Controlling agency. FAA, Los Angeles ARTCC.

Using agency. U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

Issued in Washington, D.C., on July 22, 1985.

James Burnes, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18284 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 85-ASO-9]

Alteration of VOR Federal Airways and Jet Routes; Vero Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign Federal Airways V-51, V-437 and V-492 and Jet Route J-45 located in the vicinity of Vero Beach, FL. During a space shuttle launch or recovery operation it becomes necessary to reroute or vector traffic to circumnavigate that area. This action reduces the requirement to vector traffic, aids flight planning and reduces controller workload.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Divison, Air Traffice Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On May 8, 1985, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of VOR Federal Airways V-51, V-437, V-492 and Jet Route J-45 located in the vicinity of Vero Beach, FL (50 FR 19380). When a space shuttle launch or recovery operation is scheduled, it becomes necessary to reroute traffic to circumnavigate the Kennedy Space Center launch and recovery areas. This action realigns the affected airways and jet route clear of the Kennedy Space Center airspace and provides a bypass route in the Vero Beach, FL, area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign V-51, V-437, V-492 and Jet Route J-45, located in the vicinity of Vero Beach, FL. During a space shuttle launch or recovery operation it becomes necessary to reroute or vector traffic to circumnavigate that area. These amendments reduce the requirement to vector traffic.

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

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation safety.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as amended (49 FR 48532) are further amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-51—[Amended]

By removing the words "Vero Beach; Vero Beach 343° INT Melbourne, FL, 161° radials; Melbourne; Melbourne 341° INT Ormond Beach, FL, 161° radials Ormond Beach; Ormond Beach, FL;" and substituting the words "Vero Beach, INT Vero Beach 330° and Ormond Beach, FL, 183° radials, Ormond Beach;" also, by removing the words "The airspace within R-2921, R-2922, R-2926, and R-2927 is excluded."

V-437—[Amended]

By removing the words "From Melbourne, FL;" and substituting the words "From Pahokee, FL; Melbourne, FL;"

V-492—[Amended]

By removing the words "INT Palm Beach 356° and Vero Beach, FL, 143° radials; to Vero Beach." and substituting the words "INT Palm Beach 356° and Melbourne, FL, 146° radials; to Melbourne."

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a) 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.69.

4. Section 75.100 is amended as follows:

J-45—[Amended]

By removing the words "Vero Beach; Ormond Beach, FL" and substituting the words "Vero Beach; INT Vero Beach 330° and Ormond Beach, FL, 183° radials; Ormond Beach;"

Issued in Washington, D.C., on July 24, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-18281 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 85-AWA-35]

Alteration of Restricted Areas R-4808N and R-4808S, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agencies for Restricted Areas R-4808N and R-4808S in the State of Nevada. This action is required since the Energy

Research and Development Administration has transferred its functions to the Department of Energy.

EFFECTIVE DATE: 0901 G.M.T., September 26, 1985

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–3128.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations is to designate Manager, Nevada Operations Office, United States Department of Energy, Las Vegas, NV, as the using agency for R–4808N and R–4808S. Previously, the using agency for R–4808N and R–4808S was the Manager, United States Energy Research and Development Administration, Las Vegas, NV. The change in using agency does not alter the type activities conducted in the restricted areas. Since this amendment is editorial in nature, it is a minor matter in which the public would have no particular desire to comment, therefore, notice and public procedure thereon is unnecessary. Section 73.48 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted Areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a) 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 73.48 is amended as follows:

R–4808N Las Vegas, NV—[Amended]

By removing the words "Manager, United States Energy Research and Development Administration, Las Vegas, NV." and substituting the words "Manager, Nevada Operations Office, United States Department of Energy, Las Vegas, NV."

R–4808S Las Vegas, NV—[Amended]

By removing the words "Manager, United States Energy Research and Development Administration, Las Vagas, NV." and substituting the words "Manger, Nevada Operations Office, United Stated Department of Energy, Las Vegas, NV."

Issued in Washington, D.C., on July 22, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–18291 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 24734; Amdt. No. 325]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficent use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this

amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, D.C., on July 26, 1985.

John S. Kern,

Acting Director of Flight Operations.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.:

1. The authority citation for Part 95 is revised to read as follows:

Authority: 49 U.S.C. 1348, 1354 and 1510; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 325 EFFECTIVE DATE, AUGUST 1, 1985

FROM	TO	MEA
§		
§95.1001 DIRECT ROUTES-U.S.95.53 GREEN FEDERAL AIRWAY 13		
IS ADDED TO READ		
PAMLICO, NC NDB/DME	HATTERAS INLET STATION, NC MARINE NDB	2000
HATTERAS INLET STATION, NC MARINE NDB	MANTEO, NC NDB	2000
§95.116 AMBER FEDERAL AIRWAY 16		
IS ADDED TO READ		
ACTIVE PASS, CANADA NDB	WHITE ROCK, CANADA NDB	*3000
*2100 - MOCA		
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
NORWICH, CT VORTAC	LAFAY, RI FIX	2000 MAA-17500
ATLANTIC ROUTES		
AR 4 IS AMENDED TO READ IN PART		
ASHLY, SC NDB	SMELT, SC FIX	3000 MAA-45000
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
MELBOURNE, FL VOR/DME	MALET, FL FIX	2000
MALET, FL FIX	ORMOND BEACH, FL VORTAC	*4000
*1600 - MOCA		
§95.6012 VOR FEDERAL AIRWAY 12		
IS AMENDED TO DELETE		
DAYTON, OH VORTAC VIA N ALTER	APPLETON, OH VORTAC VIA N ALTER	3000

FROM	TO	MEA
§95.6014 VOR FEDERAL AIRWAY 14		
IS AMENDED TO READ IN PART		
GEORGETOWN, NY VORTAC	COBIA, NY FIX	4000
COBIA, NY FIX	CASIL, NY FIX	5000
§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED TO READ IN PART		
SEEKS, MI FIX	ALPERA, MI VORTAC	*3500
*2400 - MOCA		
§95.6051 VOR FEDERAL AIRWAY 51		
IS AMENDED TO READ IN PART		
MELBOURNE, FL VOR/DME	MALET, FL FIX	2000
MALET, FL FIX	ORMOND BEACH, FL VORTAC	*4000
*1600 - MOCA		
JACKSONVILLE, FL VORTAC	ALMA, GA VORTAC	*5000
*1700 - MOCA		
§95.6056 VOR FEDERAL AIRWAY 56		
IS AMENDED TO READ IN PART		
PUNGO, NC FIX	HATTERAS INLET STATION, NC MARINE NDB	*4000
*1800 - MOCA		
§95.6119 VOR FEDERAL AIRWAY 119		
IS AMENDED TO READ IN PART		
CLARION, PA VORTAC	COOBE, PA FIX	4000
COOBE, PA FIX	SCENT, PA FIX	7000
SCENT, PA FIX	BRADFORD, PA VORTAC	4000
§95.6134 VOR FEDERAL AIRWAY 134		
IS AMENDED TO READ IN PART		
*FAIRFIELD, UT VORTAC	**CARBON, UT VOR/DME	#12700
*10800 - MCA FAIRFIELD VORTAC, E BND		
**10200 - MCA CARBON VOR/DME, W BND		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE		
§95.6135 VOR FEDERAL AIRWAY 135		
IS AMENDED TO READ IN PART		
BARD, AZ VORTAC	BLYTHE, CA VORTAC	*5000 MAA-9000
*3900 - MOCA		
BLYTHE, CA VORTAC	PARKER, CA VORTAC	5400 MAA-9000

FROM	TO	MEA
§95.6137 VOR FEDERAL AIRWAY 137		
IS AMENDED TO READ IN PART		
IMPERIAL, CA VORTAC	*BRAWL, CA FIX	3000 MAA-7000
*4500 - MRA		
§95.6140 VOR FEDERAL AIRWAY 140		
IS AMENDED TO READ IN PART		
HARRISON, AR VOR	VILLO, AR FIX	*3000
*2500 - MOCA		
VILLO, AR FIX	WALNUT RIDGE, AR VORTAC	
	W BND	3000
	E BND	2500
§95.6189 VOR FEDERAL AIRWAY 189		
IS AMENDED BY ADDING		
TAR RIVER, NC VORTAC	WRIGHT BROTHERS, NC VOR/DME	*6000
*2100 - MOCA		
§95.6205 VOR FEDERAL AIRWAY 205		
IS AMENDED TO READ IN PART		
PAWLING, NY VORTAC	SIMBY, CT FIX	3400
SIMBY, CT FIX	MEDOW, CT FIX	*6800
*2500 - MOCA		
§95.6278 VOR FEDERAL AIRWAY 278		
IS AMENDED TO READ IN PART		
PLAINVIEW, TX VOR/DME	GUTHRIE, TX VORTAC	*5100
*4600 - MOCA		
§95.6290 VOR FEDERAL AIRWAY 290		
IS AMENDED TO READ IN PART		
TAR RIVER, NC VORTAC	PAMLICO, NC NDB/DME	*6000
*1500 - MOCA		
IS AMENDED TO DELETE		
WRIGHT BROTHERS, NC VOR	HATTERAS INLET STATION, NC MARINE NDB	2000
§95.6391 VOR FEDERAL AIRWAY 391		
IS AMENDED TO READ IN PART		
DOVE CREEK, CO VORTAC	GRAND JUNCTION, CO VORTAC	12000
*13200 - MCA PARDX FIX, W BND		

FROM	TO	MEA
§95.6391 VOR FEDERAL AIRWAY 391—Continued		
PARDX, CO FIX	GRAND JUNCTION, CO VORTAC	12000
§95.6495 VOR FEDERAL AIRWAY 495		
IS AMENDED BY ADDING		
VICTORIA, CANADA VOR/DME	IMPOR, WA FIX	3500
IMPOR, WA FIX	BELLINGHAM, WA VORTAC	4000
BELLINGHAM, WA VORTAC	ABBOTSFORD, CANADA NDB	1900
IS AMENDED TO READ IN PART		
LOFAL, WA FIX	*JAWBN, WA FIX	7500
*5000 - MRA		
JAWBN, WA FIX	U.S. CANADIAN BORDER	7500
§95.6533 VOR FEDERAL AIRWAY 533		
IS AMENDED TO READ IN PART		
ORLANDO, FL VORTAC	OAKIE, FL FIX	2000
OAKIE, FL FIX	ORMOND BEACH, FL VORTAC	*4000
*1600 - MOCA		
§95.6549 VOR FEDERAL AIRWAY 549		
IS ADDED TO READ		
HAYS, KS VORTAC	MANKATO, KS VORTAC	*2900
*3100 - MOCA		
§95.6551 VOR FEDERAL AIRWAY 551		
IS ADDED TO READ		
SALINA, KS VORTAC	MANKATO, KS VORTAC	*3600
*2900 - MOCA		
§95.6553 VOR FEDERAL AIRWAY 553		
IS ADDED TO READ		
SALINA, KS VORTAC	PAWNEE CITY, NE VORTAC	3300
§95.6569 VOR FEDERAL AIRWAY 569		

FROM	TO	MEA

§95.6569 VOR FEDERAL AIRWAY 569—Continued

IS AMENDED BY ADDING

LUFKIN, TX VORTAC	FRANKSTON, TX VOR/DME	2300
FRANKSTON, TX VOR/DME	SCURRY, TX VORTAC	2300

§95.6572 VOR FEDERAL AIRWAY 572

IS AMENDED TO READ IN PART

WINSLOW, AZ VORTAC	*FRISY, AZ FIX	9000

*10500 - MCA FRISY FIX, W BND

FROM	TO	MEA

§95.6572 VOR FEDERAL AIRWAY 572—Continued

FRISY, AZ FIX	* FLAGSTAFF, AZ VOR/DME	11500

* 11000-MCA FLAGSTAFF, AZ VOR/DME NE BND

§95.6583 VOR FEDERAL AIRWAY 583

IS ADDED TO READ

LEONA, TX VORTAC	FRANKSTON, TX VOR/DME	2300
FRANKSTON, TX VOR/DME	QUITMAN, TX VORTAC	2300

§ 95.1001 DIRECT ROUTES—U.S. BAHAMA ROUTES

IS AMENDED TO READ IN PART

I LIMA

GRAND BAHAMA, BF NDB	DEERS, BF FIX	16000

FROM	TO	MEA	MAA

§95.7207 JET ROUTE NO. 207

IS ADDED TO READ

MIAMI, FL VORTAC	WAHAA, FL FIX	18000	45000
WAHAA, FL FIX	SAVANNAH, GA VORTAC	24000	45000
SAVANNAH, GA VORTAC	FLORENCE, SC VORTAC	24000	45000
FLORENCE, SC VORTAC	RALEIGH-DURHAM, NC VORTAC	31000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM

V-51

IS AMENDED TO READ IN PART

JACKSONVILLE, FL VORTAC	ALMA, GA VORTAC	48	JACKSONVILLE

V-290

IS AMENDED TO READ IN PART

TAR RIVER, NC VORTAC	PAMLICO, NC NDB/DME	44	TAR RIVER

5

[FR Doc. 85-18194 Filed 7-31-85; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 84F-0040]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glutaraldehyde as an antimicrobial agent in pigment and filler slurries used in the manufacture of paper and paperboard intended for use in contact with food. This action responds to a petition filed by Union Carbide Corp.

DATES: Effective August 1, 1985; objections by September 3, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 20, 1984 (49 FR 10368), FDA announced that a petition (FAP 4B3772) had been filed by Union Carbide Corp., Product Safety and Regulatory Services, Tarrytown Technical Center, Tarrytown, NY 10591, proposing that the food additive regulations be amended to provide for the safe use of glutaraldehyde as an antimicrobial agent in pigment and filler slurries used in the manufacture of paper and paperboard intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use is safe and that 21 CFR Part 176 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before September 3, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objection may be seen in the office above, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the director of the Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 is revised to read as follows:

Authority: Secs. 202(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

2. In § 176.170(a)(5) by alphabetically inserting a new item in the list of substance to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* *	* * *
Glutaraldehyde (CAS Reg. No. 111-30-8	For use only as an antimicrobial agent in pigment and filler slurries used in the manufacture of paper and paperboard at levels not to exceed 300 parts per million by weight of the slurry solids.
* *	* * *

Dated: July 24, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-18181 Filed 7-31-85; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2616

Intent To Terminate for Non-Multiemployer Pension Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's Notice of Intent to Terminate regulation, 29 CFR Part 2616. It clarifies the procedures for filing a Notice of Intent to Terminate when a plan administrator chooses to use an alternative procedure for demonstrating sufficiency of a terminating plan under the PBGC's regulation on Determination of Plan Sufficiency, 29 CFR Part 2617. This clarification is needed to give guidance in the proper manner of filing under that circumstance. The effect of this amendment is to clarify the rules relating to the manner of filing of a Notice of Intent to Terminate.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–4856 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On January 27, 1983, the Pension Benefit Guaranty Corporation (PBGC) published a final rule in the **Federal Register**, 48 FR 3722, amending its regulation on Notice of Intent to Terminate for Non-Multiemployer Pension Plans, 29 CFR Part 2616. The regulation governs the filing of the statutory notice of plan termination that is required by section 4041(a) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1341(a). This final rule amends § 2616.3 of that regulation.

Section 2616.3 currently provides general instructions on filing a notice of intent to terminate, including who shall file, when to file, and how and where to file. Those instructions recognize the institution, in 1983, of a "one-stop" filing procedure whereby a plan administrator can file a notice of intent to terminate with the PBGC and, simultaneously, file a request for a determination of qualification upon plan termination with the Internal Revenue Service (IRS). Section 2616.3(a) provides that a notice of intent to terminate shall be filed on IRS/PBGC Form 5310. That form was jointly developed for use either in filing separately with the PBGC (to give notice of an intent to terminate a plan) and with the IRS (for a determination letter) or in a "one-stop" filing with the PBGC (for both purposes). Section 2616.3(b) provides special rules to be followed if a plan administrator files using the "one-stop" filing procedure but acts through an authorized representative.

This amendment adds another special rule as paragraph (e) of § 2616.3 to provide that, when a plan administrator elects to use the PBGC's new alternative method of demonstrating sufficiency, the "one-stop" filing procedure in this regulation may not be used. The new alternative method of demonstrating sufficiency, being published today in the **Federal Register** as an amendment to 29 CFR Part 2617, allows a plan administrator to submit an enrolled actuary's certification of sufficiency in lieu of the detailed data required under the usual sufficiency procedures. Under the "one-stop" filing procedure, the PBGC receives two copies of that detailed data and forwards to the IRS the information needed for purposes of the determination letter request. This procedure was instituted in order to avoid duplicative filings. Since the information that must be submitted under the new alternative method of demonstrating sufficiency is not coextensive with the information that must be submitted to support an IRS determination letter, the new alternative method of demonstrating sufficiency is incompatible with the "one-stop" filing procedure. Accordingly, the regulation is being amended to make clear that plans using the new alternative method for demonstrating sufficiency may not use the "one-stop" filing procedure.

This amendment also revises § 2616.3(b) for clarification and § 2616.3(d) to set forth a new filing address.

Procedural Rule, Effective Date

This amendment makes only technical changes to clarify the final rule and does not substantively affect the public. Because this amendment relates to agency practices and procedures, it is being issued in final form without notice and opportunity for public comment (5 U.S.C. 553(b)) and is effective upon publication in the **Federal Register** (5 U.S.C. 553(d)).

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2616

Employee benefit plans, Pension insurance, Pensions, Reporting and Recordkeeping requirements.

PART 2616—[AMENDED]

In consideration of the foregoing, Part 2616 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Part 2616 is revised to read as follows:

Authority: Secs. 4002, 4041, Pub. L. 93–406, 88 Stat. 1004, 1020 (29 U.S.C. 1302, 1341).

2. Section 2616.3 is amended by revising paragraphs (a), (b), and (d) and adding a new paragraph (e) to read as follows:

§ 2616.3 Requirement of notice.

(a) *General.* A Notice of Intent to Terminate a plan shall be filed with the PBGC. Each Notice of Intent to Terminate required under this part shall be filed on IRS/PBGC Form 5310, in accordance with the instructions contained therein. Except as provided in paragraph (e) of this section, a plan administrator may elect to file "one-stop" by filing simultaneously, with the Notice, a request for a determination letter upon termination from the Internal Revenue Service. Under the "one-stop" filing procedure, the plan administrator shall file with the PBGC duplicate copies of Form 5310, in accordance with the instructions contained therein.

(b) *Who shall file.* The plan administrator, as defined in section 3(16) of the Act, or a duly authorized representative acting on behalf of the plan administrator, shall sign and file the Notice of Intent to Terminate, Form 5310. When a representative acts on behalf of the plan administrator, the following rules apply:

(1) *Filing only with the PBGC.* When Form 5310 is submitted only to the PBGC by a duly authorized representative other than an attorney-at-law, it shall be accompanied by a notarized power of attorney, signed by the plan administrator, which authorizes the representative to submit the Notice, and, if desired, also authorizes the representative to act on behalf of the plan administrator in connection with the termination.

(2) *"One-stop" filing with both the PBGC and the IRS.* When the Form 5310 is submitted both to the PBGC and through the PBGC to the IRS by a duly authorized representative, it shall be accompanied by a power of attorney specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney-at-law, a certified public accountant, or an enrolled actuary, or is currently enrolled to practice before the Internal Revenue Service, and that such person is authorized to represent the employer or plan administrator.

* * * * *

(d) *How and where to file.* The Notice of Intent to Terminate may be sent by mail or submitted by hand during normal working hours to the Insurance Operations Department, Pension Benefit Guaranty Corporation, Room 5300A,

Code 542, 2020 K Street NW., Washington, D.C. 20006.

(e) *Special rule.* A plan administrator demonstrating sufficiency under § 2617.12(b) of this chapter shall file with the PBGC only a Notice of Intent to Terminate and may not use the "one-stop" procedure for joint filing with the Internal Revenue Service and the PBGC.

Issued at Washington, D.C., this 29th day of July, 1985.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85-18270 Filed 7-31-85; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2617

Determination of Plan Sufficiency and Termination of Sufficient Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the regulation of the Pension Benefit Guaranty Corporation on Determination of Plan Sufficiency and Termination of Sufficient Plans to set forth a new method for demonstrating plan sufficiency. The amendment provides that a plan administrator may demonstrate sufficiency by providing the PBGC with an enrolled actuary's statement certifying that the plan is sufficient. This method is an optional alternative to the current method, which requires the submission of valuation data to the PBGC. The amendment also permits, at the discretion of the PBGC, a post-termination commitment by an employer to pay any sum necessary to make an otherwise insufficient plan sufficient. This amendment is needed to reduce the amount of information that must be submitted to the PBGC upon plan termination and to expand an employer's right to make a plan sufficient if that is in the best interests of the employer and the PBGC. The effect of this amendment is to reduce paperwork burdens on terminating plans and relieve a restriction on the employer's option to make a plan sufficient.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-4856 (202-254-8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On November 2, 1984, the PBGC published in the **Federal Register** a proposed amendment to its regulation on Determination of Plan Sufficiency and Termination of Sufficient Plans (49 FR 44106). The regulation sets forth the procedure whereby the administrator of a terminating pension plan demonstrates to the PBGC that the plan is a sufficient plan, *i.e.*, that it has assets sufficient to provide for benefits in priority categories 1 through 4 when allocated in accordance with section 4044 of the Act. This procedure requires the submission to the PBGC of data used to value the plan's assets and liabilities (§ 2617.12(a)). After review of the data submitted, the PBGC will issue a Notice of Sufficiency, if the data demonstrates the sufficiency of plan assets, or a Notice of Inability to Determine Sufficiency, if the data does not so demonstrate (§ 2617.12(c)).

The proposed amendment sets forth an alternative method for demonstrating sufficiency that does not require the submission of valuation data to the PBGC. Instead, the alternative method permits the demonstration of plan sufficiency by the submission of an enrolled actuary's certification and checklist setting forth certain of the actions to be taken and data used in determining plan sufficiency (§ 2617.12(b)). Under this alternative procedure, the PBGC will review only the certification and the checklist of the enrolled actuary, and the plan administrator's certification submitted pursuant to (§ 2617.12(e), to determine whether sufficiency has been demonstrated.

Four written comments were received on the proposed amendment to the regulation. The written comments, as well as numerous telephone calls to the PBGC, unanimously favored the proposed enrolled actuary certification program. As one writer commented, "The adoption of the alternative processing method would expedite the termination process and reduce paperwork burdens on small employers. . . . By permitting employers the flexibility to demonstrate sufficiency by submitting an actuary's certified statement, PBGC will reduce costs to small employers who typically rely on out-of-house resources to prepare valuation data. Costs to the agency, as well, will be reduced, as it will no longer have to review the valuation data of sufficient terminating plans." Another writer commented, "The PBGC should be commended for the fine job in preparing regulations designed to reduce administrative procedures and speed up the process of terminating defined benefit plans. We believe that the PBGC's proposed regulations, which would allow an enrolled actuary to determine and certify plan sufficiency in the event of plan termination, would result in several significant advantages to the PBGC and to plan sponsors. The effect of the proposed regulation would be to relieve the PBGC of the burden of evaluating masses of participant data without significantly increasing the burden on plan sponsors. Processing time for termination approvals could be shortened, which is of crucial importance to plan sponsors, especially when fluctuating interest rates create financial uncertainty as to annuity purchase rates and may influence plan sufficiency."

Several comments recommended changes in the proposed rule, a number of which have been incorporated into this final rule. The PBGC also has made changes in this final rule to eliminate certain ambiguities that it found in the proposed rule and to make the enrolled actuary certification program work more smoothly. Other changes are typographical or editorial only and not substantive. A full discussion of the comments received and the changes made in this final rule follow.

Enrolled Actuary Certification

Under the proposed rule, § 2617.12(b)(1), the enrolled actuary could certify that the value of plan assets "does or does not, whichever is applicable, equal or exceed the value of plan benefits." As was pointed out by one comment, both the Enrolled Actuary and Plan Administrator Certification in Appendix A to the regulation and the Enrolled Actuary Certification Checklist in Appendix B were drafted for use only with sufficient plans. One writer, noting this ambiguity, suggested that alternative forms be prepared for use when the actuary determines that a plan has insufficient assets to pay for benefits in priority categories 1 through 4.

Upon consideration of this ambiguity and of the purposes of the alternative method of demonstrating plan sufficiency, the PBGC has revised §2617.12(b) to delete reference to use of an enrolled actuary certification for insufficient plans. The PBGC believes that the likelihood that any plan administrator would use an enrolled actuary to certify to insufficiency is very small. Moreover, if a plan is insufficient and trusteeship proceedings are instituted (§ 2617.12(c)), complete data would still have to be submitted to the PBGC. Thus, paperwork would be increased by the addition of a

certification and a checklist, rather than reduced as was intended by the enrolled actuary certification program.

Another comment suggested that a "conditional" enrolled actuary certification be permitted in cases in which some information was missing and the actuary and plan administrator would not be able to certify, without qualification, to the accuracy or completeness of the data. It was recommended that the PBGC accept "a qualified certification, clearly specifying what assumptions and estimations have been made and their probable effect", and that this qualified certification be subject to PBGC review within a reasonable time.

Although the PBGC believes that the concept of a qualified certification has some merit, this suggestion has not been included in the final rule. Under the enrolled actuary certification program, as set forth in the proposed amendment and this final rule, the submission of plan documents and data to the PBGC is not required. Any qualified certification would have to be reviewed by case processing personnel, and this review would be meaningless without review of plan documents and data. The PBGC will, however, explore the possibility of a qualified certification for possible inclusion in this regulation at a later date.

After giving further consideration to the form of the certification, which appears in the proposed rule as "Enrolled Actuary and Plan Administrator Certification" (Appendix A), the PBGC has decided to provide separate certification forms for the plan administrator and the enrolled actuary. Separate forms will make clearer the particular responsibilities of each of these parties under paragraphs (b) and (e) of § 2617.12. In addition, the specific language of the certifications is not included as an appendix to this regulation but instead will be provided as a set of forms available from the PBGC upon request.

Situations Precluding Enrolled Actuary Certification

Under the proposed amendment, the alternative method for demonstrating sufficiency could not be used in three situations, all of which involve terminations where the plan to be terminated has assets in excess of the value of all accrued benefits under the plan and, under the terms of the plan, excess assets will revert to the plan sponsor (§ 2617.12(b)(2)). The first exception involves a spin-off or other transfer of assets or liabilities prior to termination. The second exception involves a situation in which the employees participating in the terminating plan will be covered under a new defined benefit plan. (The PBGC intended to include, in this second exception, coverage under an existing plan as well as a new one, since the same issues are presented by each situation, and this final rule so provides.) The third exception involves the proposed use of an alternative formula under 29 CFR § 2618.31(b) for allocating excess assets attributable to employee contributions.

One comment proposed that the enrolled actuary certification program be available even in the three situations set forth as exceptions in the proposed rule, recommending that a certification fully and explicitly describing the method of determination be permitted "so that the PBGC can make its own assessment as to the appropriateness of the assumptions, methods and procedures employed." With respect to the third exception, the comment recommended that, in addition to this full and explicit description, the certification be made conditional on the PBGC's approval of the method used.

As noted above, any review or "assessment" concerning the appropriateness of an actuary's assumptions and estimates would have to be done by case processing personnel and would be meaningless without the collection and review of full and complete data. Thus, the purpose and value of using the enrolled actuary certification would be negated if this recommendation were accepted. Moreover, these three exceptions are situations in which the PBGC must exercise a significant degree of judgment in assessing the risk to the insurance system or the reasonableness of any proposed alternative allocation. For these reasons, the PBGC has determined that the final rule should not be changed in this respect at the present time. The PBGC will, however, take under consideration the future expansion of the enrolled actuary certification program to include certain of these three excepted situations.

While considering the comments on the three exclusions in the proposed amendment, the PBGC determined that one other situation is not compatible with the enrolled actuary certification program. This situation occurs when the plan administrator has asked, or intends to ask, the PBGC to provide early retirement benefits because the plan administrator has been unable to purchase those benefits from an insurer (Subpart D of this Part). Should the PBGC be asked to provide early retirement benefits, it would need the plan documents and full participant data. Therefore, § 2617.12(b)(2) of this final rule provides that the certification procedure is not available if the PBGC is to provide early retirement benefits.

Enrolled Actuary Certification Checklist

As noted above, the Enrolled Actuary and Plan Administrator Certification will be issued as a set of forms and is not included as an appendix to this final rule. The Enrolled Actuary Certification Checklist, which was included as an appendix to the proposed amendment for the purpose of obtaining public comment thereon, also will be issued as a separate form and is not included in this final rule. Comments that were received concerning items in the checklist are discussed below.

Two writers commented on the checklist item requesting the annuity interest rate for the annuities in the qualifying bid obtained from an insurer. One commented that the interest rate used by insurer is irrelevant to the value of the annuity benefit, that the pricing methods used by each insurer are complex, and that the interest rate is proprietary information not available for disclosure. The second comment stated that the interest rate may be difficult to obtain from the insurer and that it would have no effect on the benefits of the participants or on the liability of the PBGC. The PBGC agrees that the interest rate is irrelevant for purposes of this checklist. The PBGC intended solely to obtain information concerning the cost of the annuity benefits and will revise the checklist accordingly.

One comment suggested that the checklist include a statement that the annuity contracts guarantee compliance with the rules of § 401(a)(25) and § 411(d)(6) of the Internal Revenue Code. At this time, the PBGC does not intend to include this item in the checklist, because the enforcement of these provisions of the Internal Revenue Code is primarily the responsibility of the Internal Revenue Service. The item may be included in the future, if the PBGC and the IRS agree that its inclusion would serve an useful purpose in protecting the rights of plan participants.

Finally, another comment on the checklist noted that the interest rate assumption is requested for benefits not required to be provided in annuity form. The writer suggested that the proper focus of this item should be the *value* of the benefits. The PBGC agrees and will revise the checklist accordingly.

Distribution of Assets

The preamble to the proposed amendment noted that the current

regulation requires a plan administrator who is demonstrating sufficiency to inform the PBGC of the date proposed for distribution of plan assets, which date may be no earlier than 30 days after the date on which the PBGC receives the valuation data. The proposed amendment, § 2617.12(a), stated that this 30-day waiting period would not apply if the plan administrator used the enrolled actuary certification program. It is true that the 30-day waiting period, which is intended to give the PBGC sufficient time to review the data submitted, does not apply to the alternative enrolled actuary certification program in which valuation data is not submitted. However, the statement in § 2617.12(a) is confusing and could lead to the conclusion that assets of plans using the enrolled actuary certification program can be distributed at any time. In fact, plan assets may not be distributed until the Notice of Sufficiency becomes effective, and paragraphs (a) and (b) of § 2617.12 have been revised to make this clear.

The current regulation, in § 2617.23(a), requires a detailed post-distribution report from the plan administrator. The proposed amendment provides, in § 2617.23(c), for the plan administrator to submit to the PBGC, in lieu of the § 2617.23(a) data, a certification that plan assets were allocated in accordance with section 4044 of the Act and PBGC regulations, and that participants and beneficiaries have received the benefits to which they were entitled. One writer commented that the certification procedure does not adequately protect participants "since the PBGC will not have sufficient information to verify that distributions have been made." The comment recommended that, in addition to the certification required under paragraphs (c)(1) and (c)(2) of § 2617.23, the regulation require a schedule setting forth the name, address, Social Security number, and amount of distribution for each participant. The PBGC has not adopted this recommendation in the final rule. The participant information suggested would be useless to the PBGC without plan documents and full participant data. Should a plan be selected for a post-distribution audit, the PBGC will request the information needed to permit it to verify that all plan participants and beneficiaries have received the benefits to which they are entitled.

Further, in this connection, § 2617.23(d) of this final rule has been revised to clarify that the purpose for requiring the plan administrator to retain the records underlying the distribution certification submitted pursuant to paragraph (c) of that section is to facilitate the PBGC's review, should a plan be selected for post-distribution audit. Because plan administrators may not be fully aware that the PBGC has a formal audit program for all sufficient plans, including those that do not use the enrolled actuary certification program, § 2617.23(a)(3) has been revised in this final rule to refer specifically to the possibility of a post-distribution audit.

Sufficiency Commitment by Employer

Under § 2617.13 of the current regulation, an employer may make and submit to the PBGC, before the date of plan termination, a commitment to pay any sum necessary to make the plan sufficient. The PBGC has determined that it may be the best interests of an employer and the PBGC to permit this commitment to be made after the date of plan termination under certain circumstances. Accordingly, this final rule amends § 2617.13(b) to permit a post-termination commitment at the discretion of the PBGC. Because this rule relieves a restriction, and because the submission of a post-termination commitment to make a plan sufficient is permissive, the PBGC finds that a general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Accordingly, the PBGC finds good cause for issuing this amendment in final form without notice and opportunity for public comment.

Effective Date

Telephone calls to the PBGC have shown an extraordinary amount of interest in the enrolled actuary certification program and have unanimously expressed a desire that the procedure become effective as soon as possible. Moreover, use of the enrolled actuary certification program is at the option of the plan administrator and will relieve affected plans of considerable paperwork burdens. This amendment also permits an employer, with the consent to the PBGC, to make a commitment to make an otherwise insufficient plan sufficient after the date of plan termination. Since this final rule relieves restrictions and eases regulatory burdens, the PBGC finds good cause for making this rule effective upon publication in the **Federal Register**. See 5 U.S.C. 553(d).

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This amendment reduces the paperwork requirements for terminating sufficient single-employer plans and should reduce the costs of filing a notice of intent to terminate and demonstrating sufficiency for those plans that choose to use the proposed procedure. Further, it relieves a restriction on employers that wish to make a plan sufficient. Accordingly, PBGC certifies pursuant to section 605 of the Regulatory Flexibility Act that this regulation will not have a significant economic impact on a substantial number of small entities. In light of this certification, compliance with sections 603 and 604 is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), OMB control number 1212–0018, for use through May 31, 1987.

List of Subjects in 29 CFR Part 2617

Employee benefit plans, Pensions, Reporting and recordkeeping requirements.

PART 2617—[AMENDED]

In consideration of the foregoing, Part 2617 of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 2617 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4041, 4044, Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, as amended by secs. 403(1), 403(d), 402(a)(7), Pub. L. 96–364, 94 Stat. 1299, 1301, 1302 (29 U.S.C. 1302, 1341, 1344).

2. Section 2617.2 is amended by adding introductory text and by revising the entry for "Act" to read as follows:

§ 2617.2 Definitions.

For purposes of this part:

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

* * * * *

§ 2617.3 [Amended]

3. Section 2617.3 is amended by adding "the" between "to" and "plan administrator" in paragraph (a)(1) and by changing "inform that plan administrator" to read "inform the plan administrator" in (a)(2).

4. Section 2617.12 is revised to read as follows:

§ 2617.12 Demonstration of sufficiency.

(a) *General.* Within the time limit prescribed by paragraph (d) of this section, the plan administrator shall, except as otherwise permitted by paragraph (b) of this section, submit to the PBGC the asset valuation data required by § 2617.13(a), the benefit valuation data required by §2617.14(a) and, if applicable, the certified statement required by § 2617.4(b)(3). The plan administrator shall also identify the date proposed for distribution of the assets of the plan. This date may be no earlier than 30 days after the date on which the PBGC receives the information required by this paragraph or the effective date of the Notice of Sufficiency, if that is later.

(b) *Enrolled actuary certification.*

(1) Instead of submitting to the PBGC the asset valuation data required by § 2617.13(a) and the benefit valuation data required by § 2617.14(a), the plan administrator may submit to the PBGC an enrolled actuary's statement, on the form prescribed by the PBGC, certifying that the value of plan assets determined in accordance with § 2617.13 equals or exceeds the value of plan benefits determined in accordance with § 2617.14. Such certification by an enrolled actuary shall include a statement that the enrolled actuary recognizes that knowingly and willfully making false, fictitious or fraudulent statements to the PBGC is punishable under 18 U.S.C. 1001. The plan administrator shall also submit a completed enrolled actuary checklist, on the form prescribed by the PBGC, and identify the date proposed for distribution of the assets, which date may be no earlier than the effective date of the Notice of Sufficiency.

(2) The procedure provided under this paragraph (b) may not be used if the plan administrator has asked or intends to ask the PBGC to provide early retirement benefits pursuant to Subpart D of this part or if the plan to be terminated has assets in excess of accrued benefits, the terms of the plan permit reversion to the plan sponsor, and—

(i) The plan to be terminated has been involved in a spin-off or other transfer of assets or liabilities within a 36-month period immediately preceding the proposed date of termination, except where the total value of the assets or liabilities transferred does not exceed twenty percent of the present value of the accrued benefits of the transferring plan as of at least one day in the year that the transfer occurs (with all transfers in such period aggregated and treated as if they occurred in the first plan year in which a transfer occurred);

(ii) The plan sponsor will or intends to cover the participants in the plan to be terminated under a new or existing defined benefit plan; or

(iii) The plan to be terminated requires or permits employee contributions and a method other than that contained in § 2618.31(b) of this chapter is requested for computing the portion of the excess assets attributable to employee contributions.

(c) *Notice of Sufficiency; Notice of Inability to Determine Sufficiency.* If the information submitted pursuant to paragraph (a) of this section or, if applicable, paragraph (b) of this section demonstrates that the value of plan assets equals or exceeds the value of plan benefits in priority categories 1 through 4, the PBGC will issue a Notice of Sufficiency directing the plan administrator to close out the plan in accordance with Subpart C of this part. If the value of plan assets is less than the value of plan benefits in priority categories 1 through 4, the PBGC will issue a Notice of Inability to Determine Sufficiency and proceed to place the plan into trusteeship in accordance with section 4042 of the Act.

(d) *Time limit.* The plan administrator shall submit the information required by paragraph (b) of this section or, if applicable, paragraph (c) of this section no later than 120 days after the date on which he or she is notified pursuant to § 2617.3(a)(2) that the plan is not clearly insufficient.

(e) *Plan administrator certification.* The plan administrator shall certify that all information submitted pursuant to paragraph (a) of this section is true and correct to the best of his or her knowledge and belief. If the plan administrator submits an enrolled actuary's certification pursuant to paragraph (b) of this section, the plan administrator shall certify, on the form prescribed by the PBGC, that the information made available to the enrolled actuary is true, correct and complete to the best of the plan administrator's knowledge and belief. Such certification shall also state that the plan administrator recognizes that knowingly and willfully making false, fictitious or fraudulent statements to the PBGC is punishable under 18 U.S.C. 1001.

(f) *Special rules for expedited processing.* A plan administrator may expedite processing by submitting to the PBGC all information required by paragraph (a) or (b) of this section at the same time that the Notice of Intent to Terminate is submitted. However, if a plan administrator elects to expedite processing by following the procedure in paragraph (b), the "one-stop" procedure set forth in 29 CFR Part 2616 may not be used.

5. Section 2617.13 is amended by revising the first sentence in paragraph (a) and adding a sentence at the end of paragraph (b) to read as follows:

§ 2617.13 Value of plan assets.

(a) *General.* Except as otherwise permitted by § 2617.12(b), the plan administrator shall value plan assets in accordance with this paragraph and shall submit to the PBGC the valuation and data supporting that valuation. * * *

(b) *Commitment to make the plan sufficient.* * * * Notwithstanding the preceding sentence, an employer may make and submit a commitment described in the preceding sentence after the date of plan termination with the consent of the PBGC.

6. Section 2617.14 is amended by revising paragraph (a) to read as follows:

§ 2617.14 Value of plan benefits.

(a) *General.* Except as otherwise permitted by § 2617.12(b), the plan administrator shall determine the value of plan benefits through at least priority category 4 in accordance with paragraphs (b), (c), and (d) of this section, and shall submit to the PBGC the valuation and data supporting that valuation, including a statement of the actuarial assumptions used to value any benefits that are not required by § 2617.4 to be provided in annuity form. Valuation rates shall meet the requirements of 29 CFR § 2619.26.

* * * * *

7. Section 2617.23 is amended by adding headings for paragraphs (a) and (b), revising paragraph (a)(3), and adding new paragraphs (c) and (d), to read as follows:

§ 2617.23 Submission of distribution information to PBGC.

(a) *Distribution information.* * * *

(3) The place or places where plan assets will be held for examination or copying by, or submission to, the PBGC upon the request of the PBGC, should the plan be selected for post-distribution audit.

(b) *Distribution certification.* * * *

(c) *Procedures applicable to enrolled actuary certifications.* Notwithstanding paragaphs (a) and (b) of this section and in lieu thereof, a plan administrator demonstrating sufficiency under § 2617.12(b) shall submit to the PBGC, within 60 days after the plan administrator has completed the distribution of assets, a certification that, to the best of his or her knowledge and belief, and with the understanding that knowingly and willfullly making false, fictitious or fraudulent statements to the PBGC is punishable under 18 U.S.C. 1001—

(1) Plan assets were allocated and distributed in accordance with section 4044 of the Act and Part 2618 of this chapter; and

(2) All plan participants and beneficiaries have received all benefits to which they are entitled.

(d) *Record maintenance.* A plan administrator submitting distribution information to the PBGC under paragraph (c) of this section shall maintain the records that form the basis for the certification under paragraph (c) for a period of not less than 6 years after the filing date of the certification for examination or copying by, or submission to, the PBGC upon the request of the PBGC, should the plan be selected for post-distribution audit.

Issued in Washington, D.C., on this 29th day of July, 1985.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Edward R. Mackiewicz,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 85-18269 Filed 7-31-85; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Parts 2670 and 2675

Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal; Benefit Reductions and Suspensions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation sets forth the procedures by which the plan sponsor of a multiemployer plan terminated by mass withdrawal must notify plan participants and beneficiaries and the Pension Benefit Guaranty Corporation of benefit reductions and benefit suspensions. The regulation also prescribes certain determinations to be made by the plan sponsor with respect to the plan's solvency. If a multiemployer plan terminates by mass withdrawal, the Employee Retirement Income Security Act, as amended, requires the plan sponsor to amend the plan to reduce or eliminate certain benefits, to the extent that plan assets are not sufficient to pay all nonforfeitable benefits. If the terminated plan becomes insolvent, the Act requires the plan sponsor to suspend benefits above the highest level that can be paid out of the plan's available resources, but not below the level of benefits guaranteed by the PBGC. The Act requires the PBGC to issue regulations governing notice to participants and beneficiaries concerning these benefit suspensions. The Act also provides that the plan sponsor of a terminated plan that is insolvent has the same powers and duties as the plan sponsor of a non-terminated plan in reorganization that becomes insolvent, except to the extent PBGC regulations modify those powers and duties. The effect of this regulation is to prescribe certain powers and duties of a plan sponsor of a plan terminated by mass withdrawal and to prescribe the procedures for issuing the notices required by the statute.

EFFECTIVE DATE: This regulation is effective September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Ellan H. Spring; Corporate Policy and Regulations Department (611); 2020 K Street NW., Washington, D.C. 20006; 202-254-6138 (202-254-8010 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1983, the Pension Benefit Guaranty Corporation ("the PBGC") published a proposed rule on Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal: Plan Insolvency (48 FR 27092). Interested persons were invited to submit comments on the proposed rule. The PBGC received no comments in response to the proposed rule, but has made a number of minor changes in the rule. Only those changes are described in this preamble; a detailed discussion of the entire rule is contained in the preamble to the proposed rule.

The Regulation

The definition of "participants and beneficiaries reasonably expected to enter pay status" in § 2670.4 has been amended to clarify that those participants who will reach normal retirement age during the applicable period are included within its scope. In the preamble to the proposed rule, the PBGC had indicated such persons would normally be considered to be part of this group of persons. They have been added to the definition because the PBGC believes it is important to require that they be provided notices of actions affecting benefit levels.

A change has been made to reflect the requirements of section 4281(c) more accurately in the definition of "insolvent" in § 2670.4 and in § 2675.3(a), which establishes the requirement for annual solvency determinations. Section 4281(d)(2)(A)(i) requires that in order for a plan to be insolvent it must have "been amended to reduce benefits to the extent permitted by subsection (c). . . ." Section 4281(d)(2)(A)(ii) further provides that the plan's available resources must not be sufficient to pay benefits when due for the year. In the proposed rule, §§ 2670.4 and 2675.3(a) referred to plans that had benefits that were not eligible for the PBGC's guarantee under section 4022A(b) of the Act and had eliminated those benefits, and to plans in which all benefits were eligible for the PBGC's guarantee as of the date on which the plan terminated.

The references in the proposed rule to the elimination or non-existence of nonguaranteed benefits was too simplified a treatment of the reductions required by section 4281(c). While those reductions apply only to nonguaranteed benefits, the reductions are further limited by the rules for and limitations on benefit reductions in section 4244A (which prescribes rules for ongoing plans in reorganization), except to the extent the PBGC prescribes other rules and limitations (section 4281(c)(2)(C)).

The use of the phrase "elimination of all nonguaranteed benefits" in the proposed rule may have been read as a PBGC decision to make the section 4244A rules and limitations inapplicable to terminated plans. This was not intended; the PBGC intends at this time for the section 4244A rules to apply to benefit reductions in mass-withdrawal-terminated plans. Accordingly, § 2675.3(a) and the definition of "insolvency" in § 2670.4 have been revised to provide that a plan that has no benefits subject to reduction under section 4281(c), or that has been amended to eliminate all benefits subject to reduction under section 4281(c), may be insolvent.

The PBGC has added a parenthetical phrase to the scope of regulation (§ 2675.1(b)) to remind plan sponsors that a plan created as a result of a partition under section 4233 of the Act is treated as a mass-withdrawal-terminated plan and thus falls within the scope of this regulation.

Paragraph (a) of § 2675.3(a) (which deals with the periodic determinations of plan solvency) has been revised to clarify the plan year for which the plan sponsor is first required to make an annual solvency determination. As proposed, this paragraph required the plan sponsor of a plan with benefits subject to reduction to make a solvency determination for "the first plan year beginning after the amendment [eliminating all such benefits] is effective . . .". Because a mass-withdrawal-terminated plan may require several benefit-reduction amendments before all benefits subject to reduction under section 4281(c) are eliminated, the regulation has been clarified by adding a provision that the determination of solvency must be made only after the final amendment, *i.e.*, the one that eliminates the last benefits subject to reduction under section 4281(c).

The PBGC also has revised § 2675.3(b), relating to determinations of insolvency other than the regular annual determination, in order to clarify its intention that a plan sponsor make an insolvency determination at any time, including the year the plan terminates, it finds that the plan may be insolvent for the current or following plan year.

A minor change has been made in § 2675.5 (dealing with the notice of insolvency and annual updates) and § 2675.6 (covering the notice of insolvency benefit level). As proposed, these sections required that notices filed or issued after the regulatory deadline for annual solvency determination notices contain a statement indicating whether the notice is the result of an insolvency determination under § 2675.3(b). This requirement has been deleted from the information required to be provided to participants and beneficiaries; it is still included for the notices filed with the PBGC. Under the final rule, the notices to the PBGC must include a statement indicating whether the notice is the result of an insolvency determination under § 2675.3 (a) or (b). The revised PBGC notice will eliminate any uncertainty regarding the type of insolvency determination. In the case of participant and beneficiary notices, the PBGC believes the information is unnecessary.

The requirement that notices filed with the PBGC pursuant to §§ 2675.5 (a) and (c) and § 2675.7(a) include the case number assigned to the plan has been clarified to specify that the case number be the one assigned to the filing of the plan's notice of termination. In addition, a requirement for inclusion of this case number has been added to § 2675.2(d), which prescribes the contents of a notice of benefit reductions to be filed with the PBGC. Inclusion of this case number will facilitate PBGC's handling of the notices of benefit reductions and those relating to plan insolvency.

In addition to the changes described above, a number of editorial changes have been made for the purpose of eliminating ambiguity and clarifying the rule.

Finally, the PBGC has determined that this rule ultimately should be incorporated in a broader rule currently under development: "Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal." That rule will provide guidance to plan sponsors of mass-withdrawal-terminated plans on a variety of actions required by sections 4041A and 4281 of ERISA. However, because of the importance of the notices and actions prescribed in the instant regulation, the PBGC has decided to issue this rule at this time and to incorporate it into the broader rule when that rule is promulgated.

E.O. 12291 and Regulatory Flexibility Act

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by the PBGC. Defining "small plans" as those with under 100 participants, such plans represent less than 14% of all multiemployer plans covered by the PBGC (346 out of 2485). Further, small multiemployer plans represent only .4% of all small plans covered by the PBGC (346 out of 84,288). Moreover, the PBGC expects that this regulation will affect very few plans. Based on its experience to date, the PBGC estimates that no more than 10 multiemployer plans will be terminated by mass withdrawal in any given year, and that many of these plans will close out by distributing all plan assets in satisfaction of all nonforfeitable benefits under the plan. Thus, the PBGC expects there to be few plans that may need to reduce or suspend benefits. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects in 29 CFR Parts 2670 and 2675

Employee benefit plans, Pension insurance, Reporting and recordkeeping requirements.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #1212-0032.

In consideration of the foregoing, Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2670—DEFINITIONS

1. The authority for Part 2670 continues to read as follows:

Authority: Sec. 4002(b)(3), Pub. L. 93-406, as amended by Sec. 403(1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302).

2. Part 2670 is amended by adding a new § 2670.4 at the end to read as follows:

§ 2670.4 Definitions for insolvency determination notices.

For purposes of Part 2675—

"Available resources" means, for a plan year, the plan's cash, marketable assets, contributions, withdrawal liability payments and earnings, less reasonable administrative expenses and amounts owed for the plan year to the PBGC under section 4261(b)(2) of the Act.

"Financial assistance" means financial assistance from the PBGC under section 4261 of the Act.

"Insolvent" means that a plan is unable to pay benefits when due for the plan year. A plan terminated by mass withdrawal in not insolvent unless it has been amended to eliminate all benefits that are subject to reduction under section 4281(c), or in the absence of an amendment, no benefits under the plan are subject to reduction under section 4281(c).

"Insolvency benefit level" means the greater of the resource benefit level or the benefit level guaranteed by the PBCC for each participant and beneficiary in pay status.

"Insolvency year" means a plan year in which the plan is insolvent.

"Participants and beneficiaries reasonably expected to enter pay status" means plan participants and

beneficiaries (other than participants and beneficiaries in pay status), who, according to plan records, are disabled, have applied for benefits, or have reached or will reach during the applicable period the normal retirement age under the plan, and any others whom it is reasonable for the plan sponsor to expect to enter pay status before the end of the applicable period.

"Reorganization" means reorganization under section 4241(a) of the Act.

"Resource benefit level" means the highest level of monthly benefits that the plan sponsor determines can be paid for a plan year out of the plan's available resources.

"Terminate by mass withdrawal" means to terminate under section 4041A(a)(2) of the Act.

2. A new Part 2675 is added to read as follows:

PART 2675—POWERS AND DUTIES OF PLAN SPONSOR OF PLAN TERMINATED BY MASS WITHDRAWAL: NOTICES OF BENEFIT REDUCTIONS AND SUSPENSIONS

Sec.

Authority: Secs. 4002(b)(3) and 4281, Pub. L. 93–406, 88 Stat. 829, 1004 (1974), as amended by secs. 403 (1) and 104 (respectively), Pub. L. 96–364, 94 Stat. 1302 and 1261–3 (1980) (29 U.S.C. 1302(b)(3) and 1441).

§ 2675.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe certain powers and duties of plan sponsors of multiemployer plans terminated by mass withdrawl. This part establishes the procedures for notifying plan participants and beneficiaries and the PBGC of benefit reductions or suspensions, pursuant to section 4281 of the Act. This part also prescribes the determinations to be made by plan sponsors with respect to plan solvency, pursuant to section 4281 of the Act. The rules prescribed in this part supersede the notice requirements of section 4244A(b)(1)(A) and (b)(2) of the Act and the determination and notice requirements of section 4245 (d) and (e) of the Act.

(b) *Scope.* This part applies to multiemployer plans covered by section 4021 of the Act that have terminated by mass withdrawal under section 4041A(a)(2) of the Act (including a plan created by a partition pursuant to section 4233 of the Act).

§ 2675.2 Notices of benefit reductions.

(a) *Requirement of notice.* A plan sponsor of a multiemployer plan under which a plan amendment reducing benefits is adopted pursuant to section 4281(c) of the Act, shall so notify the PBGC and plan participants and beneficiaries whose benefits are reduced by the amendment. The notices shall be delivered in the manner and within the time prescribed and shall contain the information described in this section. The notice required in this section shall be filed in lieu of the notice described in section 4244A(b)(2) of the Act.

(b) *When delivered.* The plan sponsor shall mail or otherwise deliver the notices of benefit reduction no later than the earlier of:

(1) 45 days after the amendment reducing benefits is adopted; or

(2) The date of the first reduced benefit payment.

(c) *Method of delivery.* The notices of benefit reductions shall be delivered by mail or by hand to the PBGC and to plan participants and beneficiaries who are in pay status when the notice is required to be delivered or who are reasonably expected to enter pay status before the end of the plan year after the plan year in which the amendment is adopted. The notice to other participants and beneficiaries whose benefit is reduced by the amendment shall be provided in any manner reasonably calculated to reach those participants and beneficiaries. Reasonable methods of notification include, but are not limited to, posting the notice at participants' worksites or publishing the notice in a union newsletter or newspaper of general circulation in the area or areas where participants reside. Notice to a participant shall be deemed notice to that participant's beneficiary or beneficiaries.

(d) *Contents of notice to the PBGC.* A notice of benefit reduction required to be filed with the PBGC pursuant to paragraph (a) of this section shall contain the following information:

(1) The name of the plan.

(2) The name, address, and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so state.

(4) The case number assigned by the PBGC to the filing of the plan's notice of termination pursuant to Part 2673 of this chapter.

(5) A statement that a plan amendment reducing benefits has been adopted, listing the date of adopting and the effective date of the amendment.

(6) A certification, signed by the plan sponsor or its duly authorized representative, that notice of the benefit reductions has been given to all participants and beneficiaries whose benefit is reduced by the plan amendment, in accordance with the requirements of this section.

(e) *Contents of notice to participants and beneficiaries.* A notice of benefit reductions required under paragraph (a) of this section to be given to plan participants and beneficiaries whose benefit is reduced by the amendment shall contain the following information:

(1) The name of the plan.

(2) A statement that a plan amendment reducing benefits has been adopted, listing the date of adoption and the effective date of the amendment.

(3) A summary of the amendment, including a description of the effect of the amendment on the benefits to which it applies.

(4) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

§ 2675.3 Periodic determinations of plan solvency.

(a) *Annual insolvency determination.* The plan sponsor of a plan that has been amended to eliminate all benefits that are subject to reduction under section 4281(c) of the Act shall determine in writing whether the plan is expected to be insolvent for the first plan year beginning after the effective date of the amendment and for each plan year thereafter. In the event that a plan adopts more than one amendment reducing benefits under section 4281(c) of the Act, the initial determination shall be made for the first plan year beginning after the effective date of the amendment that effects the elimination of all such benefits, and a determination shall be made for each plan year thereafter. The plan sponsor of a plan under which no benefits are subject to reduction under section 4281(c) of the Act as of the date the plan terminated shall initially determine in writing whether the plan is expected to be

insolvent for the second plan year beginning after the first plan year for which it is determined under section 4281(b) of the Act that the value of nonforfeitable benefits under the plan exceeds the value of the plan's assets and shall make a determination for each plan year thereafter. A determination required under this paragraph shall be made no later than six months before the beginning of the plan year to which it applies.

(b) *Other determination of insolvency.* Whether or not a prior determination of plan solvency has been made under paragraph (a) of this section (or under section 4245 of the Act), a plan sponsor that has reason to believe, taking into account the plan's recent and anticipated financial experience, that the plan is or may be insolvent for the current or next plan year shall determine in writing whether the plan is expected to be insolvent for that plan year.

§ 2675.4 Notices of insolvency and annual updates.

(a) *Requirement of notices of insolvency.* A plan sponsor that determines that the plan is, or is expected to be, insolvent for a plan year shall issue notices of insolvency to the PBGC and to plan participants and beneficiaries. Once notices of insolvency have been issued to the PBGC and to plan participants and beneficiaries, no notice of insolvency need to be issued for subsequent insolvency years. Notices shall be delivered in the manner and within the time prescribed in this section and shall contain the information described in § 2675.5.

(b) *Requirement of annual updates.* A plan sponsor that has issued notices of insolvency to the PBGC and to plan participants and beneficiaries shall thereafter issue annual updates to the PBGC and participants and beneficiaries for each plan year beginning after the plan year for which the notice of insolvency was issued. However, the plan sponsor need not issue an annual update to plan participants and beneficiaries who are issued a notice of insolvency benefit level in accordance with § 2675.6 for the same insolvency year. A plan sponsor that, after issuing annual updates for a plan year, determines under § 2675.3(b) that the plan is or may be insolvent for that plan year need not issue revised annual updates. Annual updates shall be delivered in the manner and within the time prescribed in this section and shall contain the information described in § 2675.5.

(c) *Notices of insolvency—when delivered.* Except as provided in the next sentence, the plan sponsor shall mail or otherwise deliver the notices of insolvency no later than 30 days after the plan sponsor determines that the plan is or may be insolvent. However, the notice to plan participants and beneficiaries in pay status may be delivered concurrently with the first benefit payment made after the determination of insolvency.

(d) *Annual updates—when delivered.* Except as provided in the next sentence, the plan sponsor shall mail or otherwise deliver annual updates no later than 60 days before the beginning of the plan year for which the annual update is issued. A plan sponsor that determines under § 2675.3(b) that the plan is or may be insolvent for a plan year and that has not at that time issued annual updates for that year, shall mail or otherwise deliver the annual updates by the later of 60 days before the beginning of the plan year or 30 days after the date of the plan sponsor's determination under § 2675.3(b).

(e) *Notices of insolvency—method of delivery.* The notices of insolvency shall be delivered by mail or by hand to the PBGC and to plan participants and beneficiaries in pay status when the notice is required to be delivered. Notice to participants and beneficiaries not in pay status shall be provided in any manner reasonably calculated to reach those participants and beneficiaries. Reasonable methods of notification include, but are not limited to, posting the notice at participants' worksites or publishing the notice in a union newsletter or newspaper of general circulation in the area or areas where participants reside. Notice to a participant shall be deemed notice to that participant's beneficiary or beneficiaries.

(f) *Annual updates—method of delivery.* Each annual update shall be delivered by mail or by hand to the PBGC. Each annual update to plan participants and beneficiaries shall be provided in any manner reasonably calculated to reach participants and beneficiaries. Reasonable methods of notification include, but are not limited to, posting the notice at participants' worksites and publishing the notice in a union newsletter or newspaper of general circulation in the area or areas where participants reside. Notice to a participant shall be deemed notice to that participant's beneficiary or beneficiaries.

§ 2675.5 Contents of notices of insolvency and annual updates.

(a) *Notice of insolvency to the PBGC.* A notice of insolvency required under § 2675.4(a) to be filed with the PBGC shall contain the following information:

(1) The name of the plan.

(2) The name, address, and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so state.

(4) The IRS Key District that has jurisdiction over determination letters with respect to the plan.

(5) The case number assigned by the PBGC to the filing of the plan's notice of termination pursuant to Part 2673 of this chapter.

(6) The plan year for which the plan sponsor has determined that the plan is or may be insolvent.

(7) A copy of the plan document currently in effect, *i.e.*, a copy of the last restatement of the plan and all subsequent amendments. However, if a copy of the plan document was submitted to the PBGC with a previous filing, only subsequent plan amendments need be submitted, and the notice shall state when the copy of the plan document was filed.

(8) A copy of the most recent actuarial report for the plan. If the actuarial valuation was previouly submitted to the PBGC, it may be omitted and the notice shall state the date on which the document was filed.

(9) The estimated amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(10) The estimated amount of the plan's available resources for the insolvency year.

(11) The estimated amount of the annual benefits guaranteed by the PBGC for the insolvency year.

(12) A statement indicating whether the notice of insolvency is the result of an insolvency determination under § 2675.3 (a) or (b).

(13) A certification, signed by the plan sponsor or its duly authorized representative, that notices of insolvency have been given to all plan participants and beneficiaries in accordance with this part.

(b) *Notice of insolvency to participants and beneficiaries.* A notice

of insolvency required under § 2675.4(a) to be issued to plan participants and beneficiaries shall contain the following information:

(1) The name of the plan.

(2) A statement of the plan year for which the plan sponsor has determined that the plan is or may be insolvent.

(3) A statement that benefits above the amount that can be paid from available resources or the level guaranteed by the PBGC, whichever is greater, will be suspended during the insolvency year, with a brief explanation of which benefits are guaranteed by the PBGC.

(4) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

(c) *Annual update to the PBGC.* Each annual update required by § 2675.4(b) to be filed with the PBGC shall contain the following information:

(1) The case number assigned by the PBGC to the filing of the plan's notice of termination pursuant to Part 2673 of this chapter.

(2) A copy of the annual update to plan participants and beneficiaries, as described in paragraph (d) of this section, for the plan year.

(3) A statement indicating whether the annual update is the result of an insolvency determination under § 2675.3 (a) or (b).

(4) A certification, signed by the plan sponsor or a duly authorized representative, that the annual update has been given to all plan participants and beneficiaries in accordance with this part.

(d) *Annual updates to participants and beneficiaries.* Each annual update required by § 2675.4(b) to be issued to plan participants and beneficiaries shall contain the following information:

(1) The name of the plan.

(2) The date the notice of insolvency was issued and the insolvency year identified in the notice.

(3) The plan year to which the annual update pertains and the plan sponsor's determination whether the plan may be insolvent in that year.

(4) If the plan may be insolvent for the plan year, a statement that benefits above the amount that can be paid from available resources or the level guaranteed by the PBGC, whichever is greater, will be suspended during the insolvency year, with a brief explanation of which benefits are guaranteed by the PBGC.

(5) If the plan will not be insolvent for the plan year, a statement that full nonforfeitable benefits under the plan will be paid.

(6) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

§ 2675.6 Notices of insolvency benefit level.

(1) *Requirement of notices.* For each insolvency year, the plan sponsor shall issue a notice of insolvency benefit level to the PBGC and to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year. The notices shall be delivered in the manner and within the time prescribed in this section and shall contain the information described in § 2675.7.

(b) *When delivered.* The plan sponsor shall mail or otherwise deliver the notices of insolvency benefit level no later than 60 days before the beginning of the insolvency year. A plan sponsor that determines under § 2675.3(b) that the plan is or may be insolvent for a plan year shall mail or otherwise deliver the notices of insolvency benefit level by the later of 60 days before the beginning of the insolvency year or 60 days after the date of the plan sponsor's determination under § 2675.3(b).

(c) *Method of delivery.* The notices of insolvency benefit level shall be delivered by mail or by hand to the PBGC and to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year.

§ 2675.7 Contents of notices of insolvency benefit level.

(a) *Notice to the PBGC.* A notice of insolvency benefit level required by § 2675.6(a) to be filed with the PBGC shall contain the following information:

(1) The name of the plan.

(2) The name, address, and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so state.

(4) The IRS Key District that has jurisdiction over determination letters with respect to the plan.

(5) The case number assigned by the PBGC to the filing of the plan's notice of termination pursuant to Part 2673 of this Chapter.

(6) The insolvency year for which the notice is being filed.

(7) A copy of the plan document currently in effect, *i.e.*, a copy of the last restatement of the plan and all subsequent amendments. However, if a copy of the plan was submitted to the PBGC with a previous notice of insolvency or notice of insolvency benefit level, only subsequent plan amendments need be submitted, and the notice shall state when the copy of the plan was submitted.

(8) A copy of the most recent actuarial report for the plan. If the actuarial report was previously submitted to the PBGC, it may be omitted from the notice, and the notice shall state the date on which the document was filed and that the information is still accurate and complete.

(9) The estimated amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(10) The estimated amount of the plan's available resources for the insolvency year.

(11) The estimated amount of the annual benefits guaranteed by the PBGC for the insolvency year.

(12) The amount of financial assistance, if any, requested from the PBGC. When financial assistance is requested, the PBGC may require the plan sponsor to submit additional information necessary to process the request.

(13) A statement indicating whether the notice of insolvency benefit level is the result of an insolvency determination under § 2675.3(a) or (b).

(14) A certification, signed by the plan sponsor (or a duly authorized representative) that a notice of insolvency benefit level has been sent to all plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year, in accordance with this part.

(b) *Notice to participants in or entering pay status.* A notice of insolvency benefit level required by § 2675.6(a) to be delivered to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given, shall contain the following information:

(1) The name of the plan.

(2) The insolvency year for which the notice is being sent.

(3) The monthly benefit that the participant or beneficiary may expect to receive during the insolvency year.

(4) A statement that in subsequent plan years, depending on the plan's available resources, this benefit level may be increased or decreased but not below the level guaranteed by the

PBGC, and that the participant or beneficiary will be notified in advance of the new benefit level if it is less than the participant's full nonforfeitable benefit under the plan.

(5) The amount of the participant's or beneficiary's monthly nonforfeitable benefit under the plan.

(6) The amount of the participant's or beneficiary's monthly benefit that is guaranteed by the PBGC.

(7) The name, address and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

§ 2675.8 PBGC address.

All notices required to be filed with the PBGC under this part shall be addressed to the Case Classification and Control Division (542), Insurance Operations Department, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

§ 2675.9 Information collection.

The information collection requirements contained in §§ 2675.2, 2675.4, 2675.5, 2675.6, and 2675.7 of this regulation have been approved by the Office of Management and Budget under control number 1212–0032.

Effective Date. This part is effective September 3, 1985.

Issued in Washington, D.C. on this 29th day of July 1985.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its chairman to issue the same.

Edward R. Mackiewicz,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 85–18225 Filed 7–31–85; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation Operations: Requirements for Permits for Special Categories of Mining; Coal Preparation Plants

Correction

In FR Doc. 85–16376 beginning on page 28186 in the issue of Wednesday, July 10, 1985, make the following corrections:

1. On page 28189, second column, in § 785.21(d)(1), fourth line, "May 10, 1985" should have read "May 10, 1986". In the third column, in § 785.21(e), seventh line, "May 10, 1985" should have read "May 10, 1986".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 12–85–05]

Drawbridge Operation Requirements; California

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule which reorganized the Coast Guard regulations for drawbridges across the navigable waters of the United States published in the **Federal Register** on Tuesday, April 24, 1984 (49 FR 17450). This action is necessary to correct the name and location of the office where advance notice is to be given for the removal of the center span.

EFFECTIVE DATE: This rule becomes effective on July 18, 1985.

FOR FURTHER INFORMATION CONTACT: R.E. Guerra, (415) 437–3514.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely corrects the name and location for giving advance notice for opening the bridge. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsigificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 533, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information

The drafters of this rule are Mrs. Rose E. Guerra, project officer, and Lieutenant Wayne C. Raabe, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REQUIREMENTS

Subpart B—Specific Requirements

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46 and 33 CFR 1.05–1(g).

§ 117.165 [Amended]

2. Section 117.165 is amended by removing "Hastings Farms Office at San Francisco" and inserting in its place "Hastings Island Land Company office at Rio Vista".

Dated: July 18, 1985.

John D. Costello,

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

[FR Doc. 85–18247 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD 12–85–06]

Drawbridge Operation Requirements; California

AGENCY: Coast Guard, DOT.

ACTION: Final Rule; correction.

SUMMARY: This document corrects a final rule which reorganized the Coast Guard regulations for drawbridges across the navigable waters of the United States published in the **Federal Register** on Tuesday, April 24, 1984 (49 FR 17450). This action is necessary to correct the operating regulations for restoring three bridges to service and to add the mileage location of the bridges.

EFFECTIVE DATE: This rule becomes effective on July 18, 1985.

FOR FURTHER INFORMATION CONTACT: R.E. Guerra, (415) 437–3514.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely adds a part of a previously published regulation inadvertently left out of the final rule reorganizing the Coast Guard regulations for drawbridges. This part requires the bridges to be returned to service when notified by the Coast Guard to take such action. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 533, this action is exempt from

the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information

The drafters of this rule are Mrs. Rose E. Guerra, project officer, and Lieutenant Wayne C. Raabe, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REQUIREMENTS

Subpart B—Specific Requirements

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.191 is amended by revising § 117.191(b) and adding paragraph (c) to read as follows:

§ 117.191 San Joaquin River.

* * * * *

(b) The draws of the U.S. Navy Drawbridge, mile 39.8, Atchison, Topeka and Santa Fe railroad bridge, mile 40.6, and California Highway 4 bridge (Garwood Bridge), mile 41.6, need not be opened for the passage of vessels. The owners or agencies controlling the bridges shall restore the draws to full operation within six months of notification to take such action from the Commander, Twelfth Coast Guard District.

(c) Drawbridges above the Old River junction need not open for the passage of vessels.

Dated: July 18, 1985.

John D. Costello,

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

[FR Doc. 85–18246 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Cape Cod National Seashore, MA; Off-Road Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: These regulations will specifically designate the off-road vehicle routes at Cape Cod National Seashore. Oversand routes were first officially designated in the Off-Road Vehicle Management Plan for the Seashore which took effect on April 15, 1981. These rules modify the previous Plan to take into account new information regarding allocation of areas for off-road vehicle use. In addition, commerial dune taxi and guide fees have been increased to levels commensurate with other off-road vehicle fees and dune taxi permits are limited to the numbers issued in the 1981 season. These regulations will generally facilitate the management of off-road vehicles within Cape Cod National Seashore.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone: (617) 349–3785.

SUPPLEMENTARY INFORMATION:

Background

Off-road vehicle use on the beaches, primarily for fishing, predates Seashore authorization in 1961. The University of Massachusetts, under contract to the National Park Service, completed a comprehensive five-year study of the Impacts of Off-Road Vehicles on Cape Cod National Seashore in 1979. The National Park Service then published a series of management alternatives and held hearings. On March 27, 1981, it released a Management Plan for the Use of Off-Road Vehicles, which became effective on April 15, 1981.

The Plan, which has been in effect for four years, closed the high dunes of the Province Lands and a fragile area of outer beach between Herring Cove and Long Point, Provincetown. It essentially limited off-road vehicles to a corridor defined on the outer beach. Seashore protected beaches and town beach closures limited off-road vehicle use on a 16-mile section of outer beach during the summer season. The number of permits issued has steadily declined from a high of 4,469 in 1979 prior to plan implementation to 2,870 in 1984.

On April 15, 1981, the Conservation Law Foundation and others filed suit to terminate all off-road vehicle use at the Seashore. On May 25, 1984, the U.S. District Court for the District of Massachusetts ruled that the Management Plan adequately protected Seashore resources but remanded issues of appropriateness and user conflict to the agency for further consideration. The National Park Service Cooperative Research Unit at City University of New York completed a survey of beach users in the summer and fall of 1984. Route modifications are based on the results of this survey, experience with the Management Plan over four years, ecological considerations, geographical configurations of the Seashore, legal duties and responsibilities, public safety, visitor use and off-road vehicle statistics, existing local laws and regulations, scenic and aesthetic impacts, management feasibility and guidance given by the Court.

The ocean beach from the opening of Hatches Harbor around Race Point to High Head, a distance of 8 miles, will be open from April 15 through November 15, except when tides, beach configuration or bird nesting make the route impassable.

The beach area from High Head south to Coast Guard Beach in Eastham, a distance of 17.5 miles, previously open during all but the summer season, will be closed to all off-road vehicle use. This closure in an area of only limited off-road vehicle use will eliminate user conflicts while providing an additional area of vehicle-free beach throughout the year. In this section, there are 12 Seashore and town beaches and parking areas which will provide pedestrian access to fishing and other uses throughout the year. The closure between High Head and Head of the Meadow during the summer season will provide a mile and a-half buffer north of Head of the Meadow protected beach.

The corridor designation extends from a point 10 feet seaward of the Spring high tide drift line to the berm crest and is designed to protect vegetation in the drift line deposits, including any developing rhizomes. The utilization of the berm crest as the seaward limit of vehicle travel year-round is designed to protect pedestrians by maintaining a separation between pedestrians and vehicles. This restriction has been in effect since the Plan was adopted in 1981, although under the prior regulation it only applied during the period from May 15 through October 15.

All beach routes will be closed to general off-road vehicle use from November 16 through April 14. This closure is necessary to protect dormant beach grass and rhizomes during the winter period of abnormally high storm tides when the corridor is narrow or nonexistent and the delineator posts are removed to prevent loss by storms. However, to accommodate certain specialized uses, a limited access pass will be used. This pass will permit infrequent but traditional winter uses such as shellfishing in the town shellfish beds at Hatches Harbor, caretaker maintenance at dune cottages, and removal of flotsam and jetsam materials from the beach. The pass will be tightly controlled and the holder will not be

allowed to travel the beach within two hours on either side of high tide. Dune cottage residents with stipulated access rights will continue to have access to their individual cottage at any time that the route is passable. Dune taxi operations are limited to the period from April 15 through November 15.

Summary of Comments

On 4–16–85 the National Park Service published the proposed rule in the **Federal Register** (50 FR 15056) with a 30 day public comment period.

The National Park Service received a total of 1681 written comments, including eight petitions with a total of 428 signatures and 373 form letters, during the 30-day comment period. Of these, 1643 comments were from private individuals, 26 from organizations, four from State agencies, one from a city official, two from local town boards of Selectmen, two from town Conservation Commissions and one each from a town Shellfish Department and a Natural Resources Department. The Cape Cod National Seashore Advisory Commission also considered the proposed rule and provided comments.

Comments on the proposed rule were almost exclusively from those affiliated with organizations which either support or oppose continued off-road vehicle (ORV) use at Cape Cod National Seashore. The majority of the comments from people opposed to the route closure indicated displeasure with ORV restrictions in principle and not with specific areas or specific times of the year. Conversely, many of the comments supporting the closures indicated that the proposed closures were a "step in the right direction" but criticized the Service for not prohibiting ORV use entirely. The comments received and the Service's responses to them are as follows:

Analysis of Comments

Section 7.67(a)(1) Route Designations.

The vast majority of comments received addressed the proposed closure of additional areas to ORV use. 1455 commenters generally opposed these closures, many of them based on the concern that further closures at Cape Cod would set a precedent for closures at other national seashores. Two hundred twenty-five basically agreed with the proposal, although 92 of the latter advocated a total ban on ORV use at the Seashore. Comments on Route Designations generally included five major areas of concern: (1) Outer beach closure from High Head to Coast Guard Beach, (2) Winter closure from November 16 through April 14, (3) Closure of the 6-mile emergency route, (4) Continued use of the crossover route from the former Dunes Parking lot to the beach by cottage residents and dune taxis, and (5) Continued use of the outer beach from Hatches Harbor to High Head as an ORV route.

(1) *Outer Beach Closure* from High Head to Coast Guard Beach. Some 577 commenters, including 3 petitions containing 316 names, mentioned their opposition to further outer beach closures. Of these, only 21 specifically stated that they used this area for fishing from an ORV. Several said that no environmental damage could occur on these bluff-backed beaches because there is no vegetation to disturb. Other commenters suggested that this area should be open during the spring and fall for fishing, and a few suggested opening it only at night during that period. The Service responds that the opportunity for surf fishing with the use of a vehicle is still available in the area north and west of High Head. Far greater numbers of pedestrians than ORV users visit the 12 developed pedestrian beaches in this area. Access to surf fishing in this area remains available on foot. Due to existing town ordinances, the only actual daytime change in summer use will be a mile-and-a-half closure north of Head of the Meadow Beach. The Service has implemented this closure to provide pedestrians an area they can reliably use the year round for recreation or off-season beachcombing without the presence of ORVs.

A few commenters remarked that closure of this area would impact the commercial fisherman. The Service responds that commercial surf fishing is not permitted by Federal regulation on the lands and waters administered by the Service. A few comments were received concerning the need to retrieve lobster traps from closed areas. Routine ranger patrols recover any gear washed onto beaches in closed areas and the owners are notified.

Several comments were received that the closure of this section will result in overcrowding of the 8-mile area open to ORV use. The Service also rejects this contention. Only 1½ miles of this area between High Head and Head of the Meadow is presently open during daylight hours in the heavily-used summer season. This area receives little use by fishermen and, in fact, is often impassable at high tide.

ORV vehicle counts and use estimates indicate that use of Truro beaches at night is also minimal and seldom are there many vehicles south of High Head during the Spring and Fall, day or night.

While numerous commenters were critical of the reduction of areas open to ORV use, the Service points out that although less than 2.5% of the summer visitors use ORV's, 17% of the available, shoreline of the Seashore or 8 miles is open to ORV travel.

A few commenters mentioned the economic impact of these closures on businesses in local towns. The Service maintains that use of this area has had little, if any, effect on local business and that any users can still be accommodated in the areas open to ORV use.

Seven commenters made the point that these closures would adversely impact handicapped and aged individuals who would no longer have access to the beach in vehicles. The Service points out that these visitors would still have access in the areas open to ORV use.

Many commenters supported the Service proposal to close this section of beach to ORV use. The Service reaffirms its position that closure of this section will reduce user conflict while still leaving the most productive but isolated fishing grounds accessible by ORV during the fishing season.

(2) *Winter Closure.* The proposed winter closure includes the 8 miles of beach front from High Head to Hatches Harbor from November 16 through April 14. This closure was opposed in principle by 149 commenters, while many people favoring the proposed rules endorsed it. One commenter said the best fishing was in November, while another stated that November was cod fishing time. The Service has observed that fishing activity is usually over by early or mid-November, and most cod fishing takes place from boats, not from shore.

Several commenters were concerned about winter access for shellfishing at Hatches Harbor. The Service has modified the rule in this regard (see "Permits" below). However, it affirms the closure of this area to general ORV use during winter to preclude resource damage.

One commenter questioned the advisability of removing the delineator posts and closing this area in the winter. The Service responds that attempting to maintain these posts through the winter involves unnecessary expense and presents a potential hazard to vessels from posts uprooted by storm conditions.

(3) *Closure of the 6-mile emergency route to general ORV traffic.* One commenter objected to the closure of the emergency route to general ORV use. The Service responds that this route is

not necessary for beach vehicles and that they should not enter or should leave the beach in a timely manner by the designated route under storm tide conditions.

(4) *Use of Dune Taxi and Cottage Access Route across the High Dunes from Dunes Parking Area.* One organization and an Advisory Commisssion member questioned the need for this single route through the high dunes. The Service responds that this access must be provided by stipulation for one "improved" property owner and for other cottage residents. This route must also be kept open for administrative and emergency use by National Park Service patrol vehicles as it is the only high dune crossing available in the 5.5 mile section between Race Point Ranger Station and High Head. Dune taxis are permitted to traverse this trail to provide a high dunes interpretive experience to thousands of Seashore visitors annually. The shoulders of the single-vehicle-width trail will be planted with beach grass to control erosion.

(5) *Continued Use of the Beach from Hatches Harbor to High Head as an ORV Route.* The ninety-two commenters who urged a total ban on ORV use at the Seashore, were in fact, opposing the continued use of ORV's in this area. Many claimed that this accreting portion of the beach is the most fragile and most susceptible to environmental damage of any beach area in the Seashore. The Service responds that this 8-mile area is the most isolated but significant surf-fishing area in the Seashore and access by ORV is appropriate. Controlled use can be accommodated in this area with no demonstrated environmental damage. Through the placement of delineator posts and intensive enforcement during the open season, protection of the drift line and vegetation can be maintained.

Several commenters expressed concern for pedestrian safety in areas open to ORV use both during the day and at night. The Service's position is that pedestrians will no longer encounter ORV's on the beach south of High Head. The Service will continue to strictly enforce regulations in the areas open to ORV use to ensure that pedestrian safety is not compromised. There is no record of vehicle/pedestrian accidents occurring on the beaches of the Seashore.

Section 7.67(a)(2) Travel Restrictions.

Several commenters endorsed the Service's position of moving the vehicle corridor 10 feet seaward of the drift line to protect drift materials and buried rhizomes.

One organization suggested that an oversand route is closed any time that nesting birds prevent vehicle travel in the designated corridor, and therefore the entire oversand route should be closed from March through mid-August. The Service responds that the intent of the regulation is to allow Seashore management to close sections of beach when necessary to protect tern and plover nesting areas; total beach closure is not always necessary to protect colonial nesting birds.

Section 7.67(c)(3) Equipment Requirements.

One commenter suggested that the tire requirements should be crosschecked with manufacturers' specifications. The Service responds that tire standards have been developed to permit travel on the sands at Cape Cod with minimal impact. Often stock tires supplied with vehicles are not adequate for oversand use at Cape Cod.

Section 7.67(a)(4) Oversand Permits.

(E) Limited Access Pass. Several commenters, (including the Provincetown Selectmen, Shellfish Warden, and the Cape Cod National Seashore Advisory Commission) expressed concern that winter access to Hatches Harbor for shellfishing would be severely and unnecessarily curtailed by the single-day, limited-access pass. The Service agrees and proposes to delete the single-day provision for the access pass. The use can be strictly controlled regardless of whether the pass is for a day or a season, because the pass will specify the exact type of activity and route authorized. Any use or vehicle activity deviating from that described in the pass will be considered unauthorized use and subject the operator to enforcement action.

Section 7.67(a)(5) Camping.

Some commenters wrote that camping in self-contained vehicles should not be permitted on the beach, and one individual stated that ORV camping should not be allowed unless backcountry camping was permitted in the Seashore. The Service responds that camping is an appropriate public use authorized by the legislation for Cape Cod National Seashore. Two established camping areas for self-contained vehicles provide opportunities for beach camping and fishing access. Backcountry camping is not permitted at the Seashore due to the lack of sanitary facilities.

Other Comments

Although not specifically addressing sections in the proposed regulations, the Cape Cod National Seashore Advisory Commission adopted a motion recommending that "the Superintendent in his ongoing review of the ORV Management Plan give further consideration to: (1) Limitations on numbers of daily ORV's; (2) the ORV free area; (3) while recognizing the need for ORV access to the Cape Cod National Seashore for the purposes of hunting, fishing and shell-fishing."

The Service believes that limitations on numbers of daily ORV's are not necessary at this time. Maximum daily numbers exceeded 250 vehicles on only two days in 1984 and only on 13 additional days was the number over 200. The Service will continue to monitor daily numbers and reconsideration will be given to the imposition of a daily limit if user patterns and numbers change significantly. Authority for establishing use limits currently exists in 36 CFR 1.5, Closures and public use limits.

Reconsideration of the ORV free area by the Service is discussed above under Route Designations. The ORV Routes provide access to both surf fishing and shellfishing. However, the Service disagrees that the ORV is an appropriate or necessary means of access for hunting activities at the Seashore. Most hunting occurs in the lowland marsh or upland areas where ORV use is prohibited.

Drafting Information

The primary author of this regulation is Peter M. Hart, Cape Cod National Seashore.

Paperwork Reduction Act

The information collection requirements contained in § 7.67(a)(4) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* and assigned clearance number 1024–0026. The information is being collected to solicit information necessary for the Superintendent to issue off-road vehicle permits. This information will be used to grant administrative benefits. The obligation to respond is required to obtain a benefit.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is

based on the finding that no costs should result for any small entity.

As required by the National Environmental Policy Act (42 U.S.C. 4332, *et seq.*), the Service prepared an Analysis of Management Alternatives including an environmental assessment and a Record of Decision on Off-Road Vehicle Use in 1981 and an amended Record of Decision in March 1985 on those portions of this rulemaking which are other than correcting or clarifying in nature. Copies of these documents are available for review at the address noted at the beginning of the rule.

List of Subjects; 36 CFR Part 7

National Parks.

In consideration of the foregoing, 36 CFR, Chapter 1 is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 remains as follows:

Authority: 16 U.S.C. 1, 3, 9(a), 462(k).

2. In § 7.67, paragraph (a) is revised to read as follows:

§ 7.67 Cape Cod National Seashore.

(a) *Off-road operation of motor vehicles.*—(1) *Route designations.* The operation of motor vehicles, other than on established roads and parking areas, is limited to the following oversand routes during the prescribed dates:

(i) From April 15 through November 15 on the outer beach between the opening to Hatches Harbor, around Race Point to High Head, and including the beach access routes at Race Point and High Head and the bypass route at Race Point Light.

(ii) From January 1 through December 31 on controlled access routes for residents of individual dune cottages in the Province Lands.

(iii) From April 15 through November 15 on commerical dune taxi routes following portions of the outer beach and cottage access routes as described in the commerical vehicle permit.

(iv) Except as described in paragraph (a) (1) (ii), from November 16 through April 14 oversand travel is restricted to uses and routes approved in writing or by permit by the Superintendent.

(2) *Travel restrictions.* The operation of a motor vehicle on oversand routes is subject to all applicable provisions of Parts 2 and 4 of this chapter, as well as the specific provisions of this section.

(i) *Route Limits.* (A) On the beach, a vehicle operator shall drive in a corridor extending from a point 10 feet seaward of the Spring high tide drift line to the berm crest. An operator may drive below the berm crest only to pass a temporary cut in the beach but shall regain the crest immediately following the cut. Delineator posts mark the landward side of the corridor in critical areas.

(B) On an inland oversand route, a vehicle operator shall drive only in a lane designated by pairs of delineator posts showing the sides of the route.

(ii) An oversand route is closed at any time that tides, nesting birds or surface configuration prevent vehicle travel within the designated corridor.

(iii) When two vehicles meet on the beach, the operator of the vehicle with the water on the left shall yield.

(iv) When two vehicles meet on a single-lane oversand route, the operator of the vehicle in the best position to yield shall pull out of the track and then shall back into the established track before resuming the original direction of travel.

(v) When the process of freeing a vehicle which has been stuck results in ruts or holes, the operator shall fill the ruts or holes created by such activity before removing the vehicle from the immediate area.

(vi) The following are prohibited:

(A) Driving off a designated oversand route.

(B) Exceeding a speed of 15 miles per hour unless posted otherwise.

(C) Parking a vehicle in an oversand route so as to interfere with traffic.

(D) Riding on a fender, tailgate, roof or any other location on the outside of a vehicle.

(E) Driving a vehicle across a protected swimming beach at any time when it is posted with a sign prohibiting vehicles.

(F) Operating a motorcycle on an oversand route.

(3) *Equipment Requirements.* (i) EAach vehicle operated on an oversand route shall be equipped as follows:

(A) Shovel;

(B) Tow rope, chain, cable or other similar towing device;

(C) Jack;

(D) Jack support board;

(E) Low pressure tire gauge; and

(F) Five tires that meet or exceed standards established and made available by the Superintendent. These standards describe the approved tires for oversand travel and are subject to frequent revision due to technological nomenclature changes by tire manufacturers.

(ii) Operating a vehicle on an oversand route without the required equipment is prohibited.

(4) *Oversand Permits.* No oversand vehicle, other than an authorized emergency vehicle, shall be operated on a designated oversand route without an oversand permit issued by the Superintendent.

(i) *Private oversand permits.* The Superintendent may establish a system of special recreation permits for oversand vehicles and establish special recreation permit fees for these permits consistent with the conditions and criteria of Part 71 of this chapter.

(A) Prior to being issued a permit, an operator of an oversand vehicle shall:

(*1*) Demonstrate that the vehicle is equipped as required in paragraph (a) (3) of this section; and

(*2*) Demonstrate evidence of compliance with all federal and state regulations that apply to licensing, registering, inspecting and insuring such a vehicle.

(B) Prior to being issued a permit, an applicant for an oversand permit and any other operator of the applicant's vehicle shall view an oversand vehicle operation educational program prescribed by the Superintendent.

(C) The Superintendent shall affix an oversand permit to the permitted vehicle at the time of issuance.

(D) Transfer of an oversand permit from one vehicle to another is prohibited.

(E) During the period from November 16 through April 14 the Superintendent may issue a limited-access pass to the holder of an oversand permit.

(*1*) Travel under this pass is limited to that portion of the beach between High Head and Hatches Harbor only.

(*2*) Vehicle travel under this pass is prohibited within two hours either side of high tide.

(*3*) The pass will specify the times and routes of travel authorized.

(*4*) The pass may be issued for the following purposes:

(*i*) Access to town shellfish beds at Hatches Harbor;

(*ii*) Recovery of personal property, flotsam and jetsam from the beach; or

(*iii*) Caretaker functions at a dune cottage.

(ii) *Commercial Vehicle Permits.* The operation of a passenger vehicle for hire on a designated oversand route is permitted only pursuant to a commercial vehicle permit issued by the Superintendent, subject to all applicable regulations in this section and all applicable Federal, State and local regulations concerning vehicles for hire.

(A) Commercial vehicle permits are limited to 18, which is the number issued in the 1981 permit year.

(B) Each operator of a passenger vehicle for hire who is engaged in carrying passengers for a fee on a designated oversand route shall obtain a

guide permit issued by the Superintendent. Such permit may only be issued upon a showing that the applicant possesses adequate knowledge of the Seashore's off-road system and points of interest and has complied with all applicable Federal, State and local regulations.

(C) *Annual Permit Fees.*

(*1*) *Commercial Vehicle Permit:* $10 for each passenger carrying seat in the vehicle to be operated.

(*2*) *Guide Permit:* $15 for the calendar year or any part thereof.

(iii) Failure to comply with any provision of an oversand permit or with any regulation listed in this section or Part 2 or Part 4 of this chapter is prohibited and is grounds for immediate revocation of an oversand permit.

(5) *Camping.* (i) Camping is allowed only in two designated self-contained vehicle areas on the beach having a combined total capacity of 100 vehicles.

(ii) Only an operator and occupants of a vehicle having a self-contained water or chemical toilet and a permanently installed holding tank with a minimum capacity of 3 days' waste material may camp on the beach.

(A) An operator shall drive such vehicle off the beach for the purpose of emptying holding tanks at a dumping station at intervals of no more than 72 hours.

(B) Before returning to the beach, a vehicle operator shall check in as specified by the Superintendent.

(iii) An operator shall not drive a self-contained vehicle outside the limits of a designated camping area except when entering or leaving the beach by the most direct route.

(iv) Each oversand permit holder is limited to a maximum of 21 days camping on the beach from July 1st through Labor Day.

(v) Tents and camping trailers are prohibited on the beach.

(vi) Beach camping in any manner other than authorized by this section is prohibited.

(6) *Information collection.* The information collection requirements contained in § 7.67(a)(4) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026. The information is being collected to solicit information necessary for the Superintendent to issue off-road vehicle permits. This information will be used to grant administrative benefits. The obligation to respond is required to obtain a benefit.

§ 7.67 [Amended]

3. In § 7.67, paragraphs (b), (c) and (h) are removed.

4. In § 7.67, paragraph (d) is redesignated as (b), (e) as (c), (f) as (d), (g) as (e), and (i) (incorrectly codified as (1) Hunting) as (f).

Dated: July 12, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–18197 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A–4–FRL–2872–6]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants; Delegation of Additional Standards to Georgia

AGENCY: Environmental Protection Agency.

ACTION: Delegation of Authority.

SUMMARY: On June 5, 1985, the Georgia Department of Natural Resources requested that EPA delegate to the State the authority to implement and enforce the Federal new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) not previously delegated to Georgia except the NESHAP for radionuclides. Since EPA's review of pertinent Georgia laws, rules, and regulations showed them to be adequate to implement and enforce these Federal standards, the Agency has delegated the standards in question (listed below under "Supplementary Information") to Georgia. Affected sources should now contact the State rather than EPA on future matters.

EFFECTIVE DATE: June 17, 1985.

ADDRESSES: Copies of the State's request and EPA's letter of delegation are available for public inspection at EPA's Region IV office, 345 Courtland Street, NE, Atlanta, Georgia 30365. All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW, Atlanta, Georgia 30334, rather than the EPA Region IV.

FOR FURTHER INFORMATION CONTACT: Walter Bishop of the EPA Region IV Air Management Branch at the above address, telephone 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 101, 110, 111, and 112 of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce the Standards of Performance for New Stationary Sources NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) to any state which has adequate implementation and enforcement procedures. On May 3, 1976, EPA delegated to Georgia authority to implement and enforce NSPS, and NESHAP then extant. As additional categories have been promulgated, the State has requested authority for them; EPA has responded by making supplemental delegations of authority on August 8, 1977, April 15, 1982, and June 7, 1982.

On June 5, 1985, the Georgia Department of Natural Resources requested a delegation of authority for all standards in 40 CFR Parts 60 and 61 (except the NESHAP for radionuclides) which EPA had not previously delegated to the State. The State's request cited the May 1, 1985, action of the Georgia Board of Natural Resources adopting by reference all extant NSPS and NESHAP except those for radionuclides. On June 17, 1985, EPA Region IV responded by delegating to Georgia the NSPS and NESHAP listed below. The notation "R" indicates standards which were redelegated because they had been revised by EPA after an earlier delegation.

NSPS—40 CFR Part 60, Subpart

D	Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971 (R).
Da	Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978 (R).
G	Nitric Acid Plants (R).
K	Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and Prior to May 19, 1978 (R).
Ka	Storage Vessels for Petroleum Liquids Constructed After May 18, 1978 (R).
M	Secondary Brass & Bronze Ingot Production Plants (R).
O	Sewage Treatment Plants (R).
P	Primary Cooper Smelters (R).
S	Primary Aluminum Reduction Plants (R).
T	Phosphate Fertilizer Industry: Wet Process Phosporic Acid Plants (R).
U	Phosphate Fertilizer Industry: Superphosporic Acid Plants (R).
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants (R).
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants (R).
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983 (R).
AAa	Steel Plants: Electric Arc Furnace and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.
BB	Kraft Pulp Mills (R).
CC	Glass Manufacturing Plants (R).
EE	Surface Coating of Metal Furniture.
GG	Stationary Gas Turbines (R).
HH	Lime Manufacturing Plants.
LL	Metallic Mineral Processing Plants.
QQ	Graphic Arts Industry: Publication Rotogravure Printing.

NSPS—40 CFR PART 60, SUBPART—Continued

RR	Pressure Sensitive Tape and Label Surface Coating Operations.
SS	Industrial Surface Coating: Large Appliances.
TT	Metal Coil Surface Coating.
UU	Asphalt Processing and Asphalt Roofing Manufacture.
VV	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
WW	Beverage Can Surface Coating Industry.
XX	Bulk Gasoline Terminals.
FFF	Flexible Vinyl and Urethane Printing and Coating.
GGG	Equipment Leaks of VOC in Petroleum Refineries.
HHH	Synthetic Fiber Production Facilities.
JJJ	Petroleum Dry Cleaners
PPP	Wool Fiberglass Insulation Manufacturing Plants.

NESHAP—40 CFR PART 61, SUBPART

C	Beryllium (R).
D	Beryllium Rocket Motor Firing (R).
E	Mercury (R).
F	Vinyl Chloride (R).
J	Equipment Leaks (Fugitive Emission Sources) of Benzene.
M	Asbestos.
V	Equipment Leaks (Fugitive Emission Sources) [of VHAP].

Georgia sources subject to these Federal standards should now contact the State agency (see address above) rather than EPA Region IV.

(42 U.S.C. 7401, 7410, 7411, 7412, and 7601)

Dated: July 11, 1985.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 85-18106 Filed 7-31-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-4-FRL-2872-5]

Standards of Performance for New Stationary Sources National Emissions Standards for Hazardous Air Pollutants; North Carolina; Delegation of Additional NSPS and NESHAP Authority

AGENCY: Environmental Protection Agency.

ACTION: Delegation of Authority.

SUMMARY: On March 18, 1985, the North Carolina Division of Environmental Management requested that EPA delegate to the State the authority to implement and enforce Federal New Source Performance Standards (NSPS) for six additional categories of air pollution sources. The authority for two categories of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) was also requested by the State. Since EPA's review of pertinent North Carolina laws, rules and regulations showed them to be adequate to implement and enforce these Federal standards, the Agency delegated the authority for them to North Carolina. Affected sources will not deal with the State rather than EPA.

EFFECTIVE DATE: April 2, 1985.

ADDRESSES: Copies of the State's request and EPA's letter of delegation are available for public inspection at EPA's Region IV Office (345 Courtland Street, N.E., Atlanta, GA 30365). All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611, rather than to EPA Region IV.

FOR FURTHER INFORMATION CONTACT: Janet Hayward of EPA Region IV's Air Management Branch at the above address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with Sections 101, 110, 111 and 112 of the Clean Air Act, authorizes EPA to delegate the authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) and the National Emissions Standards for Hazardous Air Pollutants (NESHAP) to any State which possesses adequate implementation and enforcement procedures.

On November 24, 1976, EPA delegated to North Carolina the authority to implement and enforce NSPS and NESHAP for the source categories that had been promulgated by EPA as of March 23, 1976. As additional categories have been promulgated, the State has requested authority to implement them. EPA has responsed by making supplemental delegations of authority to North Carolina on October 22, 1980, December 4, 1981, October 19, 1982, and May 2, 1984. On March 18, 1985, the North Carolina Division of Environmental Management (DEM) requested the delegation of authority for the following NSPS categories contained in 40 CFR Part 60:

Subpart LL—Metallic Mineral Processing Plants
Subpart RR—Pressure Sensitive Tape and Label Surface Coating Operations
Subpart VV—Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry
Subpart FFF—Flexible Vinyl and Urethane Printing and Coating
Subpart GGG—Equipment Leaks of VOC in Petroleum Refineries
Subpart HHH—Synthetic Fiber Production Facilities

Also on March 18, 1985, the North Carolina DEM requested the delegation of authority for the following NESHAPs categories contained in 40 CFR Part 61:

Subpart J—Equipment Leaks (Fugitive Emissions Sources) of Benzene
Subpart V—Equipment Leaks (Fugitive Emissions Sources of Volatile Hazardous Air Pollutants)

After a thorough review of the State's request, the Regional Administrator determined that such delegation was appropriate with the conditions set forth in the original delegation letter of November 24, 1976. Thus, On April 2, 1985, EPA delegated to North Carolina the authority to implement and enforce the above NSPS and NESHAP categories. Sources in the State which are subject to the NSPS and NESHAP listed above will now deal with the State of North Carolina.

Authority: 42 U.S.C. 7401-7642.

Dated: July 23, 1985.

John A. Little,

Acting Regional Administrator.

[FR Doc. 85-18108 Filed 7-31-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 400

[BPO-020-CN]

Medicare and Medicaid Programs; Withholding the Federal Share

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects § 400.310 of the Medicare and Medicaid regulations by restoring content that was unintentionally omitted when the final rule was published.

FOR FURTHER INFORMATION CONTACT: Matt Plonski, (301) 594-9710.

SUPPLEMENTARY INFORMATION: In FR Doc. 50-19684, published on May 10, 1985, beginning on page 19687, we used the text of 42 CFR 400.310 as it appeared in the October 1, 1984 issue of the Code of Federal Regulations. We overlooked the fact that § 400.310 had been revised by final rules published on October 31, 1984 (49 FR 43654) to include an additional OMB information collection control number. Accordingly 42 CFR 400.310, is corrected to reflect the October 31, 1984 revision as follows:

§ 400.310 [Corrected]

1. By inserting, in the appropriate columns in § 400.310, immediately preceding the line "441.302–0938–0268", text to read as follows: 441.56(a)(1), 441.56(a)(2)(i)–441.56(a)(2)(iv), 441.56(d), 441.58(b), 441.60(a)(4)–441.60(a)(5), 441.60(c), 441.61(a)–0938–0354.

2. In addition, we are correcting a printing error in a regulation citation in § 400.310. The line "413.55–0938–0295" is corrected to read as follows: 431.55–0938–0295.

Dated: July 26, 1985.

K. Jacqueline Holz

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85–18279 Filed 7–31–85; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 8400, 8500 and 8600

Recreation Management; Amendments to Table of Contents

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the table of contents of Title 43 of the Code of Federal Regulations to change the designation of two parts, 8400 and 8600, to groups. This would be consistent with the designation of 8500 as a group in the publication of the final rulemaking Management of Designated Wilderness Areas in the **Federal Register** of February 25, 1985 (50 FR 7704).

EFFECTIVE DATE: August 1, 1985.

ADDRESS: Any suggestions or inquiries should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Eleanor R. Schwartz (202) 343–8735.

SUPPLEMENTARY INFORMATION: This final rulemaking changes the table of contents of Title 43 of the Code of Federal Regulations to designate as groups two parts that are presently reserved for future use, to provide consistency with the designation of "Group 8500" in the final rulemaking of February 25, 1985 (50 FR 7704), on wilderness management. Existing Parts 8400—Visual resource management [Reserved], 8500—Wilderness management, and 8600—Environmental education and protection [Reserved] are removed from Group 8300—Recreation Management and established as separate groups. New Groups 8400 and 8600 remain reserved.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. There are no additional information collection requirements imposed by this final rulemaking.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Group 8300, Subchapter 4, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Group 8300—Recreation Management, is amended by removing therefrom Part 8400—Visual resource management [Reserved], Part 8500—Wilderness management, and Part 8600—Environmental education and protection [Reserved], and by redesignating Parts 8400 and 8600 as Group 8400 and 8600, respectively.

Dated: July 22, 1985.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

[FR Doc. 85–18141 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6669]

Suspension of Community Eligibility

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 floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain 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) 646–2717, 500 C Street, Southwest, FEMA—Room 416, 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 floodplain 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 floodplain 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 floodplain 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 the 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. 553(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 floodplain 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 floodplain 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 floodplain 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, Floodplains.

The authority citation for Part 64 continues, to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

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 [1]
Region I					
Maine: York	Shapleigh, town of	230198B	Sept. 26, 1977, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985 Susp.	Jan. 17, 1975 and May 15, 1979.	Aug. 5, 1985.
Massachusetts:					
Middlesex	Billerica, town of	250183	Aug. 18, 1972, Emerg; Nov. 5, 1980, Reg. Aug. 5, 1985 Susp.	Sept. 20, 1974, Sept. 17, 1976, and Nov. 5, 1980.	Do.
Plymouth	Kingston, town of	250270B	Aug. 4, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp	June 28, 1974 and Oct. 29, 1976.	Do.
Norfolk	Millis, town of	250244C	Mar. 2, 1976, Emerg; July 2, 1980, Reg; Aug. 5, 1985, Susp.	July 19, 1974 and July 2, 1980	Do.
Essex	Salem, city of	250102B	June 23, 1972, Emerg; Mar. 15, 1977, Reg; Aug. 5, 1985, Susp.	July 26, 1974 and Mar. 15, 1977.	Do.
Region II					
New Jersey: Passaic	Totowa, borough of	340408B	May 23, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	June 28, 1974 and Sept. 10, 1976.	Do.
New York:					
Madison	Oneida city of	360408B	May 9, 1974, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Mar. 1, 1974 and May 28, 1976	Do.
Ulster	Saugerties, village of	361504C	Mar. 11, 1976 Emerg; Sept. 10, 1982, Reg; Aug. 5, 1985, Susp.	Nov. 15, 1974, June 18, 1976, and Sept. 10, 1982.	Do.
Region IV					
Kentucky: Marshall	Calvert City, city of	210164D	July 8, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	July 18, 1980	Do.
North Carolina:					
Tyrell	Columbia, town of	370233A	June 27, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Feb. 8, 1974	Do.
Pasquotank and Camden.	Elizabeth City, city of	370185D	June 20, 1973, Emerg; Apr. 3, 1978, Reg; Aug. 5, 1985, Susp.	Nov. 9, 1973 and Oct. 3, 1975	Do.
Beaufort	Pantego, town of	370016	Nov. 24, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Sept. 6, 1974 and Apr. 3, 1976	Do.
Washington	Roper, town of	370421B	Jan. 24, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.		Aug. 5, 1986.
Region VII					
Missouri: Livingston	Chillicothe, city of	290216B	Apr. 8, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Jan. 9, 1974 and Apr. 16, 1976	Aug. 5, 1985.
Region II: Minimal Conversions					
New York:					
Montgomery	Mohawk, town of	360452B	July 18, 1975, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Feb. 15, 1974 and Apr. 2, 1976	Do.
Herkimer	Newport, town of	361111A	June 3, 1976, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Nov. 15, 1974	Do.
Region III					
Pennsylvania:					
Lebanon	Cornwall, borough of	420968A	Apr. 17, 1973, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Nov. 15, 1974	Do.
Chester	West Sadsbury, township of	422281A	Mar. 23, 1976, Emerg; Aug. 5, 1985, Reg; Aug. 5, 1985, Susp.	Nov. 15, 1974	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: July 24, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-18207 Filed 7-31-85; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6670]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706. Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administrator, (202) 646-2717, 500 C Street, Southwest, Donohoe Building—Room 416, Washington, D.C. 20472.

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

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

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

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

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

List of Subjects in 4 CFR Part 64

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

PART 64—[AMENDED]

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Bedford	South Woodbury, township of	421350A	June 5, 1985, Emerg	Sept. 2, 1977 and Mar. 5, 1976.
Oklahoma: Logan	Coyle, town of	400097	June 7, 1985, Emerg	Aug. 13, 1976.
Texas:				
Grayson	Gunter, city of	480832	do	July 11, 1975.
Fort Bend	Fort Bend County municipal utility district No. 23 [1].	481590-New	June 11, 1985, Emerg	
Galveston	Bayou Vista, village of [2]	481589-New	Apr. 8, 1971, Emerg; Apr. 9, 1971, Reg	
New Hampshire: Sullivan	Newport, town of	330161D	May 12, 1975, Emerg; Apr. 18, 1983, Reg; May 16, 1983, Susp; and June 11, 1985, Rein.	June 14, 1974, Dec. 10, 1976, June 13, 1980, Apr. 18, 1983, and Apr. 17, 1985.
Vermont: Rutland	Fair Haven, town of	500094B	June 23, 1975, Emerg; Oct. 16, 1984, Reg; Oct. 16, 1984, Susp; and June 11, 1985, Rein.	July 19, 1974, Feb. 11, 1977, and Oct. 16, 1984.
Indiana: Monroe	Unincorporated areas	180444A	June 18, 1985, Emerg	Mar. 6, 1981.
Texas: Fort Bend	Fort Bend County municipal utility district No. 41 [3].	481591-New	June 27, 1985, Emerg	
New York: Warren	Glens Falls, city of	360872B	June 24, 1975, Emerg; June 5, 1985, Reg; June 5, 1985, Susp; and June 25, 1985, Rein.	May 31, 1974 and Oct. 10, 1975.
Region I				
Maine: York	South Berwick, town of	230157C	June 5, 1985, suspension withdrawn	Aug. 9, 1974, July 6, 1979 and Oct. 15, 1976.
Massachusetts:				
Barnstable	Bourne, town of	255210D	do	June 29, 1973, July 1, 1974, Jan. 2, 1976, and May 7, 1976.
Bristol	Fairhaven, town of	250054	do	May 31, 1974 and Oct. 1, 1983.
Barnstable	Mashpee, town of	250009E	do	Aug. 2, 1974, Sept. 15, 1978, and Oct. 1, 1983.
Bristol	Somerset, town of	255220B	do	Mar. 18, 1972, July 1, 1974, and Apr. 23, 1976.
Region II				
New Jersey:				
Morris	Washington, township of	340363B	do	Jan. 9, 1974 and June 4, 1976.
Orange	Newburgh, city of	360626B	do	Mar. 15, 1974 and July 23, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Do.	Newburgh, town of	360627A	do.	Dec. 17, 1976.
Sullivan	Liberty, town of	360823B	do.	June 21, 1974.
Rensselaer	Schaghticoke, village of	361058B	do.	Jan. 23, 1976 and June 11, 1982.
Do.	Valley Falls, village of	361469B	do.	Nov. 22, 1974 and July 23, 1976.
Region III				
Maryland: Charles	Unincorporated areas	240089-B	do.	Feb. 7, 1985 and Sept. 17, 1982.
Virginia:				
Rockingham	Broadway, town of	510135B	do.	May 17, 1974 and Apr. 30, 1976.
Do.	Mt. Crawford, town of	510224	do.	Aug. 16, 1974 and May 21, 1976.
Region VI				
Texas:				
Brazoria	Sufside Beach, village of	481266	do.	May 8, 1971, July 1, 1974 and June 10, 1977.
Tarrant	Westover Hills, town of	480615B	do.	Aug. 30, 1974 and Dec. 19, 1975.
Region VIII				
Colorado:				
El Paso	Fountain, city of	080061	do.	June 28, 1974, Oct. 24, 1975, and May 29, 1979.
Do.	Green Mountain Falls, town of	080062B	do.	Aug. 30, 1974 and Dec. 12, 1975.
Region X				
Oregon: Klamath	Klamath Falls, city of	410112B	do.	June 28, 1974 and Feb. 20, 1976.
Washington: Yakima	Unincorporated areas	530217B	do.	Dec. 27, 1974 and Aug. 9, 1977.
Region II: Minimal conversions				
New York:				
Jefferson	Adams, town of	360324C	do.	May 31, 1974, May 5, 1976 and Oct. 15, 1976.
Columbia	Ancram, town of	361312A	do.	Nov. 15, 1974.
Jefferson	Brownsville, town of	361063B	do.	Dec. 8, 1974 and Nov. 28, 1975.
Columbia	Greenport, town of	361319B	do.	Nov. 1, 1974 and July 23, 1976.
Essex	Keene, town of	361151C	do.	Nov. 1, 1974, July 16, 1976, and Dec. 22, 1978.
Chenango	McDonough, town of	361377A	do.	Jan. 31, 1975.
Essex	Newcomb, town of	361390A	do.	Jan. 24, 1975.
Columbia	New Lebanon, town of	360176C	do.	Apr. 12, 1974, July 30, 1976, and Nov. 12, 1976.
Jefferson	Rutland, town of	360350C	do.	June 7, 1974, Jan. 16, 1976, and Sept. 3, 1976.
Clinton	Saranac, town of	360171A	do.	Apr. 18, 1975.
Region III				
Pennsylvania:				
Crawford	Linesville, borough of	421560A	do.	Jan. 10, 1975.
Armstrong	Wayne, township of	421318B	do.	Sept. 13, 1974 and July 23, 1976.
Region X: Minimal Conversions				
Idaho:				
Latah	Deary, city of	160133A	do.	Jan. 17, 1975.
Idaho	Ferdinand, city of	160068B	do.	Sept. 6, 1974 and Apr. 9, 1976.
Adams	New Meadows, city of	160181A	do.	Feb. 21, 1975.
Washington:				
Stevens	Colville, city of	530187B	do.	Dec. 28, 1973 and Mar. 26, 1976.
Snohomish	Lynnwood, city of	530167B	do.	June 28, 1974 and Dec. 28, 1975.
Kittitas	Roslyn, city of	530299	do.	Oct. 22, 1976.
Region I				
Maine:				
Cumberland	Cape Elizabeth, town of	230043C	June 19, 1985, suspension withdrawn	Mar. 8, 1974, June 11, 1976, and Oct. 1, 1983.
Do.	Scarborough, town of	230052C	do.	May 17, 1974, Apr. 18, 1975, May 10, 1977, and Oct. 1, 1983.
Androscoggin	Turner, town of	230010B	do.	July 26, 1974 and Mar. 11, 1977.
Massachusetts:				
Barnstable	Brewster, town of	250003D	do.	Mar. 15, 1974, Oct. 15, 1976, Dec. 6, 1977 and Oct. 1, 1983.
Do.	Provincetown, town of	255218	do.	Mar. 2, 1973, July 1, 1974, and Apr. 9, 1976.
Essex	Rockport, town of	250100B	do.	Aug. 9, 1974 and Oct. 8, 1976.
Barnstable	Wellfleet, town of	250014B	do.	May 31, 1974 and July 9, 1976.
Region II				
New Jersey:				
Middlesex	Plainsboro, township of	340275B	do.	Do.
Morris	Rockaway, borough of	345315B	do.	Sept. 3, 1971, July 1, 1974, and Aug. 29, 1975.
Region IV				
Georgia:				
Glynn	Brunswick, city of	130093B	do.	May 24, 1974 and Jan. 9, 1976.
Rabun	Unincorporated areas	130156B	do.	Apr. 28, 1978.
Region V				
Ohio: Crawford	Galion, city of	390092C	do.	Mar. 15, 1974, Aug. 27, 1976, and July 20, 1979.
Wisconsin: Grant	Unincorporated areas	555557B	do.	May 25, 1973, July 1, 1974, and Aug. 20, 1976.
Region VI				
Texas: Jackson	do.	480379B	do.	Oct. 15, 1974 and Aug. 15, 1978.
Region X				
Idaho: Shoshone	Wardner, city of	160130B	do.	Sept. 6, 1974 and Jan. 30, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Region II: Minimal Conversions				
New York:				
Jefferson	Ellisburg, village of	360337B	do	Aug. 30, 1974 and Nov. 28, 1975.
Columbia	Hudson, city of	361512B	do	Nov. 15, 1974 and May 28, 1976.
Do	Lyonsdale, town of	360371B	do	Aug. 16, 1974 and July 16, 1976.
Do	Lyons Falls, village of	361065B	do	Nov. 1, 1974 and May 28, 1976.
Cayuga	Moravia, town of	360117B	do	June 14, 1974 and June 18, 1976.
Lewis	New Bremen, town of	360373B	do	Nov. 1, 1974 and May 14, 1976.
Do	Port Leyden, village of	361064A	do	July 11, 1975.
Region III				
Pennsylvania: Crawford	Pine, township of	422392B	do	Apr. 11, 1975 and Oct. 12, 1979.
West Virginia: Hardy	Unincorporated areas	540051B	do	Apr. 25, 1975 and Nov. 27, 1981.
Region X				
Oregon: Douglas	Oakland, city of	410271A	do	Nov. 22, 1974.
Washington: Grays Harbor	Oakville, town of	530064B	do	Dec. 13, 1974 and Dec. 19, 1975.

[1] The Fort Bend County Municipal Utility District No. 23, has adopted the County's (Fort Bend County) map for floodplain management and insurance purposes (Comm. No. 480228A; FHBM dated 7-9-76).

[2] The Village of Bayou Vista, (Galveston County) is a newly incorporated community eligible 6-7-85 that was participating in the Regular Program as an unincorporated area of Galveston County. The Village has adopted the County's FIS and FIRM for floodplain management and insurance purposes.

[3] Fort Bend County Municipal Utility District No. 41 has adopted the County's (Fort Bend County) FIS and FHBM and any revision thereto by reference for flood insurance and floodplain management purposes. (Comm. No. 480228A; FHBM dated 7-9-76).

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Issued: July 24, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-18208, Filed 7-31-85; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for Loch Lomond Coyote-thistle (Eryngium constancei)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines *Eryngium constancei* (Loch Lomond coyote-thistle) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). The plant is restricted to the bed of a shallow 7-acre vernal lake near the community of Loch Lomond in southern Lake County, California. The species is in danger of extinction principally as a result of potential dredging and filling of this seasonal wetland. To a limited extent, disturbances within the watershed of the vernal lake, and off-road vehicle use and trampling by hikers on the lake bottom also threaten the species. This emergency rule will implement Federal protection for 240 days, as provided by emergency provisions of the Act.

DATES: This emergency rule is effective on August 1, 1985, and expires on March 29, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Eryngium constancei (Loch Lomond coyote-thistle), a perennial herb of the parsley family, annually produces slender, weak scapes (leafless, flowering stalks) up to 30 centimeters (12 inches) in height, from its over-wintering rootstock (Sheikh 1978 and 1983).

The basal leaves, divided by septa (internal partitions), range from 10 to 20 centimeters (4 to 8 inches) in length. Slender petioles, 8 to 12 centimeters (3 to 5 inches) in length and usually longer than the leaf blade, bear diminutive spines. A dense "down" of minute hairs, unique to *Eryngium constancei*, covers the leaves and scapes. This character together with the species' sparse flowers distinguish *Eryngium constancei*, from its closest relative, *Eryngium aristulatum*, var. *Aristulatum*, and all other species of western north American *Eryngium* (Sheikh 1978 and 1983).

This species was first collected by Robert Hoover in 1941. M. Yusuf Sheikh and Lincoln Constance recollected *Eryngium constancei*, from the vernal lake near the community of Loch Lomond in sourthern Lake County, California, in 1973. Later Sheikh (1983) described *Eryngium constancei*, along with two other *Eryngium* taxa. Sheikh, as part of his doctoral study completed in 1978, intensively searched for and failed to discover additional populations of the plant at other localities. Subsequent searches made in 1984 by two botanists employed by the State of California did not reveal any new populations of the plant.

Eryngium constancei, grows abundantly within the borders of the meadow-like basin of the Loch Lomond lake at an elevation of 2,800 feet. Cabins and a paved road (State Route 175) encircle much of the southern and eastern sides of the lake basin. A forest of ponderosa pine (*Pinus ponderosa*) and California black oak (*Quercus kelloggii*) surrounds the periphery of the lake. Plants associated with the coyote-thistle and growing on the vernal lake bed include members of the following genera: *Eleocharis* (spikerush), *Downingia* (downingia), *Plagiobothrys* (allocarya), and two Federal candidate species, *Navarretia pauciflora* (few-flowered navarretia) and *Navarretia plieantha* (many-flowered navarretia). The latter species is listed as endangered by the State of California Department of Fish and Game (CDFG). The coyote-thistle is on the State's candidate list, and CDFG is now preparing documentation to list this species under State law as endangered. The soil of the lake bed consists of a fine, powdery, volcanic, silty clay. The terrain about the lake to the south and west generally faces the northeast and attains an elevation of 3,300 feet. This topography likely reduces overall solar exposure of the lake. The unusual combination of edaphic, topographic, and hydrologic features of the vernal

lake and its basin may explain the unique presence of the species at Loch Lomond.

On December 15, 1980, the Service published a revised notice of review for plants in the **Federal Register** (45 FR 82480). Included in this notice was *Eryngium constancei*, as a category-1 species. Category 1 includes taxa for which the Service has sufficient biological information to support listing as endangered or threatened. After Sheikh (1983) described the plant, the Service reevaluated the biological information supporting the listing of *Eryngium constancei*. Because of the absence of any perceived threat to the species at the time and due to the lack of time to consider fully all available data from outside sources, the Service included the species in category 2 (including species for which information indicates that listing is possibly appropriate, but for which further information is required to support a proposal) in a supplement to the 1980 notice, which was published November 28, 1983, in the **Federal Register** (48 FR 53650). Recent events regarding the potential alteration of this species' only known habitat provide conclusive evidence that it should be listed as endangered and prompt the Service to adopt an emergency rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Eryngium constancei*, should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Eryngium constancei*, Sheikh (Loch Lomond coyote-thistle), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The predominant threat facing *Eryngium constancei* is the imminent action planned by the owner of the species' habitat to dredge and fill Loch Lomond lake, the only known habitat for this species. Although the Service notes that approximately 85 percent of the lake bed remains suitable habitat for the plant, the portion of the lake bed dredged and filled in 1984 contained no *Eryngium constancei* in the spring of 1985. Doubtlessly, this disturbed portion of the lakebed contained the species prior to the 1984 dredge-and-fill action in similar densities as the undisturbed portion. Similar activity planned for the remainder of the vernal lake basin likely would result in the extinction of the species.

A shallow manmade ditch dug from the approximate center of the lake empties through the outflow of the lake, Cole Creek, to the north. This ditch may reduce the potential storage of the Loch Lomond lake, resulting in its being more ephemeral and shallower than it formerly was, when it could have flooded the cabins and road surrounding the lake in the winter and spring. Although it is unknown whether the construction of this ditch directly impacted *Eryngium constancei* in the past, the presence of this ditch may reduce the size and quality of the habitat for the species.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not applicable to this species.

C. *Disease or predation.* Although it is unknown whether grazing by livestock occurs within the lake bed, the Service believes the effects of such grazing would be negligible.

D. *The inadequacy of existing regulatory mechanisms.* Currently, a predischarge notice is needed prior to any fill of the vernal lake at Loch Lomond. Although the Corps may ultimately assert individual permit authority over this isolated wetland pursuant to the Clean Water Act, eventually the landowner still may receive an individual permit allowing for the fill of the vernal lake and thus the likely extinction of *Eryngium constancei*.

Eryngium constancei is not listed by the State of California at this time, although it may be shortly. Because the species is restricted to privately-owned land, existing laws provide limited protection for the plant.

E. *Other natural or manmade factors affecting its continued existence.* None known at this time.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to issue this emergency rule. Based on this evaluation, the preferred action is to list *Eryngium constancei* as endangered under the emergency provisions of the Act. Endangered as opposed to threatened status is appropriate because of the imminent threat of physical alteration of the lake basin, the only known habitat for the plant, which would undoubtedly result in the extinction of *Eryngium constancei*. Critical habitat is not designated in this rule for the reasons discussed below.

Reasons for Emergency Determination

The habitat of *Eryngium constancei*, including the watershed of the vernal lake, is privately owned. The present owner of the lakebed dredged and filled about an acre of the 7-acre vernal lake near its southern end of July 31, 1984. If the coyote-thistle was uniformly distributed in the lakebed, this action resulted in the probable loss of about 15 percent of the only known population of the species. Failure to secure necessary permits and approvals eventuated in a fine by Lake County and a halt to the dredge-and-fill operation in 1984. The owner of the lakebed, the only known habitat for the species, has expressed a desire to complete the dredge-and-fill activity for the remainder of the vernal lake.

Requests by the landowner for needed permits and approvals from CDFG and Lake County, and a meeting between the landowner and the Corps this spring underscore the imminent nature of this threat. If the Corps issues these permits in the future, this dredge-and-fill operation may proceed, thus threatening the species. No permits are required by the State that could prevent the destruction of this habitat. Should all of the vernal lake be affected by such physical modification, *Eryngium constancei* doubtlessly would become extinct.

The filling of isolated wetlands, like the vernal lake near Loch Lomond, pursuant to section 404 of the Federal Water Pollution Control Act (Clean Water Act), as amended, is authorized by general nationwide Corps permit (see regulations at 33 CFR 330.5 (a)(26)) as long as certain conditions are met. One such condition is that the "discharge will not jeopardize a threatened or endangered species as identified under the Endangered Species Act." Because of the need to preserve the physical integrity of the lake, the Service requested on April 3, 1985, that the U.S. Army Corps of Engineers (Corps) assert individual permit authority over the vernal lake near Loch Lomond pursuant to 33 CFR 330.8(b). On May 2, 1985, the Corps deferred any decision regarding the Service's request and reportedly advised the current landowner of the need to submit a "predischarge notice" to the Corps prior to any fill activity. The need for this notice resulted from a settlement agreement (National Wildlife Federation *et al.* v. John O. Marsh, Jr., Secretary of the Army, *et al.*) pursuant

to the Clean Water Act. Even if the Corps were to assert individual permit authority over the vernal lake near Loch Lomond, the landowner could eventually acquire an individual permit from the Corps to fill the vernal lake. On July 7, 1985, the landowner's representative formally requested necessary authorization from the Corps to proceed with planned development of the lake. The securing of any necessary permits and approvals from the Corps would permit the complete destruction of the habitat of *Eryngium constancei*. Other disturbances affecting the hydrology of the lake and its watershed, and hiker and ORV use of the lake bottom also threaten *Eryngium constancei*, although these threats seem more remote and less serious.

These recent events and the negative results of the 1984 field searches prompted the Service to prepare this emergency rule due to the significant risk posed to the well-being of the species. CDFG, now preparing documentation to list the plant as endangered under State of California law, requested the Service to take emergency action to list *Eryngium constancei* as an endangered species on April 24, 1985.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that determination of critical habitat is not prudent for *Eryngium constancei* at this time. Because of the highly vulnerable status of the only known population of the species at Loch Lomond, the lack of Federal protection from taking on non-Federal lands, and easy accessibility of the lone population, this finding is appropriate. Listing of the species as endangered publicizes its rarity and can make the plant attractive to collectors of rare plants and to vandals. Publication of precise maps and descriptions of critical habitat in the **Federal Register** would make this species even more vulnerable, could increase law-enforcement problems, and could contribute to the decline of the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the applicable prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Eryngium constancei*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate trade in *Eryngium constancei* is not known to exist. The Service anticipates few trade permits will ever be sought or issued because the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. The new prohibition now applies to *Eryngium constancei*. However, no populations are known to exist on Federal land at present. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to implement the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following comment. Because the species grows on private land, the Service anticipates that few collecting permits will be requested for this species. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Sheikh, M.Y. 1978. A systematic study of west North American *Eryngium* (Umbelliferae-Apiaceae). Unpublished Ph.D. dissertation, University of California, Berkeley.

Sheikh, M.Y. 1983. New taxa of western North American *Eryngium* (Umbelliferae). Madrono 30:93–101.

Author

The primary author of this rule is Mr. Jim A. Bartel, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, California 95825 (916/978–4866 or FTS 460–4866).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, until March 29, 1986, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

AUTHORITY: 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 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order to the List of Endangered and Threatened Plants:

§ 17.12 **Endangered and threatened plants.**

(h) * * *

* * * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*		
Apiaceae—Parsley family:						
Eryngium constancei	Loch Lomond coyote-thistle	U.S.A. (CA)	E	191E	NA	NA
*	*	*	*	*		

Dated: July 29, 1985.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-18416 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 50, No. 148
Thursday, August 1, 1985

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 7

[Docket No. PRM-7-2]

John L. Nantz; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is denying a petition for rulemaking submitted by John L. Nantz. The petitioner requested that the Commission adopt regulations to establish a formal procedure for Commission review of decisions to close advisory committee meetings or portions of those meetings. The petition is being denied on the grounds that current procedures are adequate to assure that advisory committees' use of exemptions from the requirement for open meetings are adequately justified and because Commission review would be an inefficient and unwarranted use of the Commission's resources.

ADDRESS: Copies of correspondence and documents cited in this document are available for public inspection and copying for a fee at the NRC's Public Document Room at 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Marjorie S. Nordlinger, Office of the General Counsel, Telephone: 202-634-1493; or John C. Hoyle, Office of the Secretary, Telephone: 202-634-3255, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: On October 26, 1984, the Commission published notice of receipt of a petition for rulemaking from John L. Nantz in which he requested that the Commission amend its regulations to establish a formal procedure to allow interested persons to petition the Commission for review of decisions to close advisory committee meetings or portions of those meetings (49 FR 43070). That notice fully explicated the petitioner's view on why a change was desirable and set forth the rule change that the petitioner had proposed.

In brief, the petitioner maintains that current Commission rules do not establish authority for ruling on appeals of closure determinations for meetings of advisory committees made, pursuant to the Commission's delegation and with the advice of the General Counsel,[1] by the Assistant Secretary as the Advisory Committee Management Officer.

The Commission sought public comment on the petition during a two-month period.

The Commission received four comment letters on this proposal. Three commenters supported the petition in light of broad principles favoring open meetings and public participation; however, none of the three addressed specifically the appeal process proposed by the petitioner or any problems related specifically to any unwarranted closing of advisory committee meetings.

The remaining commenter, Yankee Atomic Electric Co., asserted that under current practice there are adequate procedures to assure that advisory committees' use of exemptions from the requirement for open meetings are adequately justified. In particular, this commenter referred to the Federal Advisory Committee Act's requirement that any determination to close an advisory committee meeting "... shall be in writing and shall contain the reasons for such determination. [5. U.S.C., Appendix 1, Section 10(d)]". The commenter properly deduced that the written basis for closing must be sufficient for a reviewing court to determine whether the meeting was properly closed. *See e.g., Nader* v. *Dunlop*, 370 F. Supp 177 (D.D.C. 1973). In sum, the commenter concluded that "it is not apparent that the petitioner's recommended procedures are a necessary or preferred substitute for proper enforcement of current provisions in the Act."

The Commission agrees with Yankee Atomic Electric Co. that the current procedures are adequate for the reasons stated. Moreover, the practice whereby the Advisory Committee Management Officer reconsiders his own decisions on appeal parallels the procedure for appeal of closure of Commission meetings where it is the Commission itself that reconsiders its earlier decision. In addition, the Commission notes that the procedure Mr. Nantz supports would be impractical and would diverge from a strong policy of the Commission to extricate itself from nonessential procedural matters in order to conserve its resources for health and safety matters and matters of common defense and security which are its paramount responsibilities.

The petitioner argued that because the Commission makes the ultimate decision with respect to its own meeting closures, it should be the final level of review for advisory committee closures as well. This ignores the practical distinction that for its own meetings the Commission is already thoroughly cognizant of what is expected to be discussed and the analysis underlying closure. In order to rule on advisory committee closures, the Commission would have to be thoroughly briefed on the specific purpose of the particular meeting in question, what discussion was anticipated, and what analysis supported the closure decision. In the Commission's view, the expenditure of its resources on this undertaking would be unwarranted. Absent any contrary statutory provision, the Commission believes that any necessary review would more reasonably be undertaken by its delegate, the Assistant Secretary, with the advice of the General Counsel. The Commission notes that the Assistant Secretary, in his capacity as Advisory Committee Management Officer, would be informed already of the anticipated meeting content and could more efficiently and more expeditiously conduct any review or reconsideration. Accordingly, the Commission determines that rulemaking is neither necessary nor desirable at this time and denies the petition.

[1] The petition also suggests that such a delegation may be improper, reasoning that because section 8(b) of the Federal Advisory Committee Act (FACA) permits delegation of certain specific functions to the Advisory Committee Management Officer (ACMO), it is implied that other functions may not be delegated; but the requirement of that section that the head of an agency "designate," not "delegate," an ACMO to perform certain functions does not speak to, let alone answer, the question whether the function of deciding meeting closings may be delegated by the agency head to another. In the absence of any prohibition, the Commission concludes that its delegation is a proper exercise of its authority pursuant to Section 161n of the Atomic Energy Act of 1954, as amended.

Dated at Washington, DC this 26th day of July 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-18316 Filed 7-31-85; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 9

Minor Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the availability of records under the Freedom of Information Act to clarify and conform them to existing case law and to reflect long-standing agency practice. In addition, the NRC is amending its regulations to conform the reproduction costs for Privacy Act records to those currently charged at the NRC's Public Document Room and other NRC offices for publicly available documents. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

DATES: The comment period expires September 2, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of comments received are available for examining and copying for a fee at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: J.M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-429-7211.

SUPPLEMENTARY INFORMATION: 10 CFR Part 9, Public Records, is the Part of the NRC's regulations that governs the Freedom of Information and Privacy Acts and the Government in the Sunshine Act. Section 9.4 currently provides that any identifiable record, "whether in the possession of the NRC, its contractors, its subcontractors, or others, shall be made available for inspection and copying . . ." Current case law and agency practice is that records which are not in the possession or control of the NRC are not considered agency records under § 9.3a(b) and are not subject to mandatory disclosure under the Freedom of Information Act (FOIA). (See *Kissinger* v. *Reporters Committee for Freedom of the Press, et al* [445 U.S. 136 (1980)] and *Forsham* v. *Harris* [445 U.S. 169 (1980)].) Thus, while the NRC may have the right to inspect, audit, or even take possession of a contractor's or subcontractor's records, such records are not considered agency records for the purposes of the FOIA until the NRC takes actual possession of the records. The purpose of this clarifying amendment is to delete the obsolete reference to contractors and subcontractors in §9.4, and to conform NRC regulations to what has been the case law and NRC's practice for a number of years.

On June 18, 1985, the NRC published a Final Rule (50 FR 25204) which revised the charges for copying records publicly available at the NRC Public Document Room. The new charges reflected the change in copying charges resulting from the Commission's award of a new contract for the copying of records. At the time the Final Rule was published, conforming changes to § 9.85 were inadvertently overlooked. This clarifying amendment brings § 9.85 into conformance with agency practice, and deletes certain duplicative provisions regarding the prepayment of charges which are adequately covered under the agency's referenced FOIA regulations.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule 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 proposed rule.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. It merely clarifies existing Commission practice regarding the availability of documents under the Freedom of Information Act.

List of Subjects in 10 CFR Part 9

Freedom of information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

PART 9—PUBLIC RECORDS

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 9.

1. The authority citation for Part 9 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2210); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552 and 31 U.S.C. 9710. Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

2. Section 9.4 is revised to read as follows:

§ 9.4 Availability of records.

Any identifiable record in the possession of the NRC shall be made available for inspection and copying pursuant to the provisions of this part, upon request of any member of the public.

3. Section 9.85 is revised to read as follows:

§ 9.85 Fees.

Fees shall not be charged for search for or review of records requested pursuant to this subpart or for making copies or extracts of records in order to make them available for review. Fees established pursuant to 31 U.S.C. 483a and 5 U.S.C. 552a(f)(5) shall be charged according to the schedule contained in § 9.14 of this part for actual copies of records requested by individuals pursuant to the Privacy Act of 1974, unless the Director, Office of Administration, or designee, waives the fee because of the inability of the individual to pay or because making the records available without cost, or at a reduction in cost, is otherwise in the public interest.

Dated at Bethesda, Maryland, this 24th day of July 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-18315 Filed 7-31-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-8]

Airworthiness Directives; Sikorsky Model S-58 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would establish mandatory replacement time limits for tail rotor drive system intermediate gearbox bevel pinions and bevel gears on Sikorsky Model S-58 helicopters. The proposed AD is needed to prevent failure of the bevel pinion and bevel gear which could result in loss of tail rotor drive and loss of directional control of the helicopter.

DATES: Comments must be received on or before September 13, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, or delivered in duplicate to: Office of Regional Counsel, FAA, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Comments delivered must be marked: Docket No. 85-ASW-8.

Comments may be inspected at Room 158, Building 3B, Office of the Regional Counsel, Southwest Region, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Wayne E. Gaulzetti, FAA, Boston Aircraft Certification Office ANE-153, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7102.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of the Regional Counsel, Southwest Region, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped/post-card on which the following statement is made: "Comments to Docket Number 85-ASW-8." The postcard will be date/time stamped and returned to the commenter.

As a result of two service gear failures and the subsequent evaluations, the FAA has determined that an unsafe condition exists with the use of a bevel pinion or a bevel gear having more than 1,000 hours' time in service. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require replacement of the intermediate gearbox bevel pinion and bevel gear prior to the accumulation of 1,000 hours' time in service on Sikorsky Model S-58 helicopters.

Aircraft registration records indicate that this proposed regulation involves 180 aircraft with only seven operators owing four or more aircraft. The approximate cost per compliance event per aircraft would be $3,000. For an estimated 300 hours of operation per year, the annualized cost of this action would be $900 per aircraft or $162,000 for the fleet. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Sikorsky Aircraft: Applies to Sikorsky Model S-58 series helicopters certificated in all categories and fitted with tail rotor intermediate gearbox input bevel pinions, Part Number (P/N) S1635-64114-0, and output gears, P/N S1635-64115-0. (See Note 1 for exempt pinion and gear configurations.)

Compliance required as indicated, unless already accomplished.

(a) To preclude failure of pinions or gears identified above, accomplish the following:

(1) For applicable pinions or gears that have attained 750 or less hours' time in service on the effective date of this AD, replace with a serviceable pinion or gear as required, prior to their accumulation of 1,000 hour's time in service and at each 1,000 hours' time in service thereafter.

(2) For pinions or gears that have attained more than 750 hours' time in service on the effective date of this AD, replace with a serviceable pinion or gear as required, within the next 250 hours' time in service and at each 1,000 hours' time in service thereafter.

(3) Operators who have not kept records of hours' time in service on individual intermediate gearbox bevel gears and bevel pinions shall substitute rotorcraft hours' time in service in lieu thereof.

Note 1.—This AD is not applicable to helicopters fitted with tail rotor intermediate gears which utilize the following pinion and gear combinations:

(a) P/N 1635-64114-101 pinion and P/N S1635-64115-101 gear.

(b) P/N 1635-64114-102 pinion and P/N S1635-64115-102 gear.

(c) P/N 1635-64114-0 pinion and P/N S1635-64115-0 gear reworked in accordance with Sikorksy Service Bulletin 58B35-26. This rework includes remarking P/N S1635-64114-0 pinion and P/N S1635-64115-0 gear with TS-200-1 and TS-200-2, respectively.

Note 2.—Refer to the Equalized Inspection and Maintenance Program Manual SA 4047-20, Revision 10, dated December 14, 1984, or later FAA-approved revision for retirement times assigned to new or modified bevel pinions and bevel gears for the Model S-58BT, DT, ET, FT, HT, and JT helicopters, and to the Maintenance Manual SA 4045-15 Section IV, revised December 14, 1984, or later FAA-approved revision for retirement times assigned to new or modified bevel pinions and gears for the Model S-58A, B, C, D, E, F, G, H, and J helicopters.

(b) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Boston Aircraft Certification Office, ANE-150, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Fort Worth, Texas, on July 2, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-18191 Filed 7-31-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-85-1200; FR-2000]

Community Development Block Grants for Indian Tribes and Alaskan Native Villages—Selection Process

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the regulations governing the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages. The revision would incorporate new policies and procedures that would simplify and add flexibility to the rating and ranking process. Substantial changes would be made as follows: (1) The need and benefit measures would be eliminated in favor of a 51 percent low- and moderate-income benefit threshold requirement; (2) the approaches that a Tribe may take in pursuing its objectives would be broadened, particularly in the rehabilitation and economic development categories. Provision would be made for flexibility to introduce new approaches under the impact categories; (3) uniformity in quality factors would be established while allowing broad flexibility in developing the measures to be used; and (4) consultation with Tribes on rating and ranking procedures and measures would be emphasized.

DATE: Comments must be received by September 30, 1985.

ADDRESS: Interested persons are invited to submit comments regarding this rule to 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. Copies of all written comments received will be available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Leory Gonnella, Office of Program Policy Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone number (202) 755-6092. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This proposed rule would revise the policies and procedures for rating and ranking applications from Indian Tribes and Alaskan Native Villages for Community Development Block Grant assistance under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307). This revision is needed to correct deficiencies in the current system.

The current system contains factors for weighting both need (number and percent in poverty or unemployed) and benefit (number and percent of low- and moderate-income persons served). The use of these factors as they are currently structured has not been well accepted because of problems such as (1) the statistics for need often are inaccurate or not available; (2) large Tribes are at a disadvantage with respect to percentage calculations, while small Tribes are disadvantaged by the use of absolute numbers; (3) the need data are usually out of date; and (4) the needs among the Indian population are so great that to distinguish among projects on this basis makes little sense. This proposal would establish a threshold whereby all applicants would be required to show that, at a minimum, 51 percent of the beneficiaries of each project would be low- and moderate-income persons. Additional levels of benefit are included in some categories, beyond the 51 percent level, as quality considerations.

The current system allows Field Officers, in consultation with eligible applicants, to establish impact factors. This has, in practice, generally led to the development of a narrow range of factors that has limited the flexibility of applicants to deal with their most pressing problems in a manner designed to meet their Tribal objectives. This proposal allows a Field Office, in consultation with eligible applicants, to continue to establish impact factors, but mandates a more flexible approach, particularly in rehabilitation and economic develolpment, to allow Tribes more opportunity to focus on their primary objectives. The introduction of additional impact factors by a Field Office must not result in the system's becoming more restrictive. The rule contemplates that new factors would be introduced without additional regulatory changes being required. This flexibility would allow the system to grow as projects become more complex and sophisticated, and will encourage and facilitate Tribal self-determination.

Under the current system each Field Office, in consultation with the Tribes, develops quality factors and measures each year. These factors and their predecessors, which addressed quality concerns, were subject to the greatest change annually and often reflected attempts to deal with specific types of problems or concerns. Thus, each year the focus of the application needed to change to address new factors. This proposal would fix the quality factors to cover six major areas for each project category. Field Offices, in consultation with eligible applicants, would continue to establish the measures to be used each year. Thus, over time the measures could become more sophisticated as the skills in developing projects increased. This would allow Tribes to focus on the same major areas each year and to become skilled in dealing with them. The quality factors proposed represent indications of the potential success of a project, its cost effectiveness, and related benefits that will accure to a tribe.

For simplicity, three project categories are proposed. However, these categories may be subdivided to accommodate regional differences or preferences. For example, Community Facilities and Services, which is presented as a single category, may be subdivided into two categories. Economic Development could have as subsidiary categories Subsistence Development or Energy Development, or both. Thus, the actual number of categories to be used by a Field Office would be determined by that Office in consultation with eligible program applicants.

The weighting in the system is proposed at 40 percent for impact factors and 60 percent for quality factors. "Impact" primarily represents a level of need and a primary approach to the problem that is deemed necessary in undertaking and solving a problem. Thus, all applicants should be expected to direct their efforts to achieving maximum scores and should be able to do so. "Quality" measures how well the job will be carried out and how much will be accomplished for the level of Federal investment made. Since it is in the quality area that the greatest differences are expected, it has been assigned the greatest weight.

Finally, provision is made for waiver or modification of specific factors where their use would result in hardship or produce negative results for all applicants in the same jurisdiction.

This proposal reflects some dramatic changes in the current system and represents a major shift to allow more Tribal flexibility and self-determination. It builds upon and retains all the positive aspects of the current system and adds new optional approaches for project development. Quality factors are those that have been used in the past

and found to be effective and are presented in a manner that will allow use of many existing measures. For the most part, the impact and quality factors currently in use can easily be incorporated into the new framework. Thus, learning the new system will be simple since so many facets of the old system have been retained. Finally, the proposal strengthens Tribal involvement through the consultation process.

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, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

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

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule broadens the rating system by including more impact factors and simplifies it by eliminating need and benefit factors and limiting the number of quality factors. The new rating system would ensure a more uniform approach with more opportunities for Indian Tribes and Alaskan Native Villages to pursue their highest priority objectives without having a significant adverse economic impact on these entities.

This rule is listed as item 193, RIN 2506-AA33 (CPD-5-83) in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286, 17330) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number is 14.223.

List of Subjects in 24 CFR Part 571

Community development block grants, Grant programs—Housing and Community development, Grant programs—Indians, Indians.

Accordingly, the Department proposes to amend 24 CFR Part 571 as follows:

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

1. The authority citation for Part 571 would be revised to read as follows:

Authority: Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301-5320; Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 571.302 is amended by adding a new paragraph (a)(3) and by revising paragraph (c) to read as follows:

§ 571.302 Selection process.

(a) * * *

(3) *Benefit.* The applicant's project proposes that at least 51 percent of the persons benefitting from the project are of low- and moderate-income. If available data, in the judgment of the Field Office, indicate that less than 51 percent of the intended beneficiaries of the proposed project are low- and moderate-income persons, the Field Office shall determine that the applicant has not met this threshold requirement and reject the project from further consideration.

* * * * *

(c) Application rating system.

(1) Applications that meet the threshold requirements established in paragraph (a) of this section will be rated competitively within each Field Office's jurisdiction. Field Offices may conduct competitions among Tribes on the basis of size.

(2) All projects will be rated on the basis of their impact on the community development need identified and the quality of the proposed project. The specific measures, numbers, percentages, and definitions to be used for the Impact and Quality factors identified in this section are to be developed by each Field Office. Each of the categories may be subdivided into two or more subcategories better to deal with project ratings if a Field Office finds it desirable.

(3) The maximum value of the Impact factors described in this section shall be 40 percent, and the Quality factors shall be worth a total of 60 percent.

(4) Rating categories.

(i) Housing related categories.

(A) *Housing rehabilitation.*

(*1*) Impact factors.

(*i*) Maximum points will be awarded to those projects that propose to use a larger portion of the construction funds to rehabilitate homes to a standard condition, with the balance of the funds to be used for another housing-related purpose, or to projects that propose to implement a housing assistance strategy that identifies how housing needs are to be addressed and how, over time, homes to be assisted will be brought up to a standard condition or replaced. The evaluation of the effectiveness of a housing assistance strategy as an alternative to a project proposing to use most funds for rehabilitation will be based on criteria established through the consultation process required by § 571.6.

(*ii*) Lesser points will be awarded to those projects that propose to use a smaller portion of the construction funds to rehabilitate homes to a standard condition, with the balance to be used for another housing-related purpose.

(*iii*) The fewest points will be awarded to those projects that propose to use the smallest portion of the construction funds, as compared to the allocations under either paragraph (4)(i)(A)(*1*) (*i*) or (*ii*), to rehabilitate homes to a standard condition, with the balance to be used for another housing-related purpose.

(*2*) Quality factors. Points will be awarded for each of the following quality factors that is met. Whether:

(*i*) The project has the highest priority among the projects submitted by that Tribe.

(*ii*) Adopted policies are in place to guide the administration of the program.

(*iii*) Adopted housing standards exist with regard to which houses can be rehabilitated and what constitutes standard condition.

(*iv*) Energy conservation, Tribal contribution, or secondary benefit from the rehabilitation project is provided.

(*v*) Extraordinary low- and moderate-income benefit is provided by the project.

(*vi*) The proposed rehabilitation program reduces the cost of rehabilitation activities, or the program establishes a maintenance policy to protect the investment made in the housing units assisted.

(B) *Land to support new housing.*

(*1*) Impact Factors.

(*i*) Maximum points will be awarded for land acquisition to those projects that have no land or no suitable land for the construction of housing along with housing amenities.

(*ii*) Lesser points will be awarded to those projects that have land that is suitable for the construction of housing along with housing amenities, but such land is officially dedicated to another purpose.

(*iii*) The fewest points will be awarded to those projects for the acquisition of additional land to construct housing amenities only for existing housing.

(*2*) Quality factors. Points will be awarded for each of the following quality factors that is met. Whether:

(*i*) The project has the highest priority among the projects submitted by that Tribe.

(*ii*) The land to be acquired is suitable for housing.

(*iii*) The Housing Authority or Tribe, or both, have agreed to use the land to be acquired.

(*iv*) Housing resources have been committed to construct the housing, or will be committed by the Field Office or other organization at the time of approval.

(*v*) Support services are or will be made available and families are willing to relocate to the new location.

(*vi*) Land can be taken into trust; or a provision has been made for taxes and fees.

(ii) *Community facilities/services category.*

(A) Impact factors.

(*1*) Maximum points will be awarded to those projects that propose to provide a facility or service that is not available from sources either within or outside the community or reservation, and no functioning facility or service currently exists.

(*2*) Lesser points will be awarded to those projects that propose to provide a facility or service that is not available from sources either within or outside the community or reservation, and the current facility or service no longer functions in a reliable manner.

(*3*) The fewest points will be awarded to those projects that propose to expand or improve an existing facility or service to enhance the provision of current or future services.

(B) Quality factors. Points will be awarded for each of the following quality factors that is met. Whether:

(*1*) The project has the highest priority among the projects submitted by that Tribe.

(*2*) The facility will address a serious health and safety problem.

(*3*) The facility will be shared with other communities or Tribes; or other funds will be contributed in support of the facility; or a secondary benefit will result from the construction of the facility; or the facility will serve multiple purposes.

(*4*) A maintenance plan has been prepared which includes an adequate fund for future replacements, and a funding source has been identified to assure that the facility will be properly maintained.

(*5*) The design, scale and costs of the facility and the equipment proposed are appropriate to the need.

(*6*) Extraordinary low and moderate income benefit is provided by the project.

(iii) *Economic development category.*

(A) Impact factors.

(*1*) Maximum points will be awarded to those projects that propose an enterprise that (*i*) over its economic life will have a rate of return that is equal to or greater than that which has been fixed by the Field Office, or a cost-benefit ratio greater than one on publicly oriented projects; (*ii*) over its economic life the enterprise will have a rate of return that is equal to or greater than that which has been fixed by the Field Office, and will result in the creation of a certain number of jobs (the number of jobs will be determined by the Field Office after consultation with the Tribe); or (*iii*) over its economic life the enterprise will have a cost benefit ratio greater than one and provide a product, service or resource not otherwise available, or provide it at a significant lower cost.

(*2*) Lesser points will be awarded to those projects that propose an enterprise that, over its economic life, will have a rate of return that is less than the rate of return in pargraph (iii)(A)(*1*)(*i*).

(*3*) The fewest points will be awarded to those projects that propose an enterprise that, over its economic life, will have a rate of return that is less than the rate of return in paragraph (iii)(A)(*2*).

(*4*) No points will be awarded to a project that will have a rate of return below the minimum threshold established by the Field Office.

(B) Quality factors. Points will be awarded for each of the following quality factors that is met. Whether:

(*1*) The project has the highest priority among the projects submitted by that Tribe.

(*2*) The cost per job is less than a dollar amount determined by the Field Office.

(*3*) The percent of the grant leveraged by other resources is more than the appropriate percentage determined by the Field Office.

(*4*) The project meets the standards of quality for the type of project proposed.

(*5*) A legally accountable Tribal business management mechanism exists for completion and operation of the project.

(*6*) The project has an assured market; or will utilize special skills of members; or will provide multiple benefits.

(5) Individual factors may be waived or modified by the Secretary when the application of such a factor would result in a hardship for applicants to address, or would bring about a result that is not consistent with the needs of the applicants in that Field Office's jurisdiction.

(6) Additional impact factors may be added in order to expand Tribal opportunities for dealing with problems or meeting local needs, after consultation with eligible applicants and subject to the approval of the Secretary. New impact factors cannot replace the existing factors, and the weight assigned to the Impact category shall remain the same for new and existing factors. Quality factors may also be added or modified when new impact factors are proposed.

(7) The formula for calculating points for the above factors will be developed by the Field Office in consultation with eligible applicants. In no case may these calculations change the overall percentage values of the Impact and Quality factors (40 and 60 percent, respectively, of total points awarded).

Dated: July 8, 1985.

DuBois L. Gilliam,

Acting General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 85-18026 Filed 7-31-85; 8:45 am]

BILLING CODE 4210-29-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1602

Records and Reports: Local Union Equal Employment Opportunity Reports (EEO-3)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission is proposing an amendment to its reporting regulations that cover unlawful employment practices by local unions. The proposed amendments would reduce the filing requirements from once a year to once every two years for these unions. This change is intended to reduce the reporting burden on local unions. This action is consistent with the goal of the Paperwork Reduction Act

to minimize the federal paperwork burden.

DATE: Written comments must be received on or before September 30, 1985. The Commission proposes to consider comments for a period of at least 10 days.

ADDRESSES: Interested persons are invited to submit written comments regarding the revisions to Cynthia Matthews, Executive Officer, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20507. Copies of the comments submitted by the public will be available for review at the EEOC Library, Room 242, EEOC, 2401 E Street NW., Washington, D.C. 20507, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Survey Division, phone: (703) 756–6020.

SUPPLEMENTARY INFORMATION: Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the Equal Employment Opportunity Commission. Accordingly, the Commission has issued regulations which set forth the reporting requirements for various kinds of employers. Local unions in their capacity as employers have been required to submit annual reports to the EEOC. The Commission's experience with the use of local union reports indicates that a biennial collection of this information will adequately serve the Commission's needs and purposes for collecting the data. The change to biennial reporting is intended to reduce the reporting burden on local unions. This action is consistent with the goal of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, to minimize the federal paperwork burden. If this proposal is implemented, the Commission would require affected unions to file reports every other year thus substantially reducing the reporting burden. Note, however, that the recordkeeping requirements of § 1602.27 remain unchanged.

Since the decreased reporting requirement will not prejudice but will benefit local unions, the Commission concludes that a formal public hearing is not necessary.

This regulation has been reviewed in accordance with Executive order 12291. It does not require a regulatory impact analysis under Section 3 of that Order.

Similarly, the Commission certifies under 5 U.S.C. 3605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 29 CFR Part 1602

Equal employment opportunity, Reporting and recordkeeping requirements.

OMB Control Number: 3047–0006

The proposed regulation appears below.

By virtue of the authority vested in the Commission under section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(c), the Equal Employment Opportunity Commission hereby publishes the following proposed amendment to § 1602.22 of its regulations on Recordkeeping and Reports at Title 29 of The Code of Federal Regulations.

Signed at Washington, D.C. this 5th day of July 1985.

For the Commission.

Clarence Thomas,

Chairman.

Part 1602 is proposed to be amended as follows:

1. The authority citation for Part 1602 continues to read as follows:

Authorities: Secs. 709, 713, 78 Stat. 263, 265; 42 U.S.C. 2000e–8, 2000e–12, unless otherwise noted.

2. Section 1602.22 is revised to read:

§ 1602.22 Requirements for filing and preserving copy of report.

On or before December 31, 1986, and biennially thereafter, every labor organization subject to Title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate an executed copy of Local Union Report EEO–3 in conformity with the directions set forth in the form and accompanying instructions, provided that the labor organization has 100 or more members at any time during the 12 months preceding the due date of the report, and is a "local union" (as that term is commonly understood) or an independent or unaffiliated union. Labor organizations required to report are those which perform, in a specific jurisdiction, the functions ordinarily performed by a local union, whether or not they are so designated. Every local union or a labor organization acting in its behalf, shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of Title VII. It is the responsibility of all persons required to file to obtain from the Commission or its delegate necessary supplies of the form.

(Approved by the Office of Management and Budget under control number 3047–0006)

[FR Doc. 85–18002 Filed 7–31–85; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation Operations; Requirements for Permits for Special Categories of Mining; Coal Preparation Plants

Correction

In FR Doc. 85–16377 beginning on page 28180 in the issue of Wednesday, July 10, 1985, make the following corrections:

1. On page 28183, third column, in § 785.21(d)(1), fourth line, "May 10, 1985" should have read "May 10, 1986".

2. On page 28184, first column, in § 785.21(e), seventh line, "May 10, 1985" should have read "May 10, 1986".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD3–85–02]

Special Anchorage Area; Lake Champlain, Charlotte, VT

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Coast Guard is considering a proposal to establish a special anchorage area in Lake Champlain east of Thompson's Point, Charlotte, Vermont. There is no special anchorage area off the Vermont shore from Whitehall, N.Y. to Shelburne Bay near Burlington Vt. This area is well away from the navigational channel and not within the normal area of recreational navigation due to its position in a cove between Thompsons and Williams Points. The establishment of this special anchorage area should not create any safety, security or environmental hazards. The proposal would enhance navigational safety by alerting, through depiction on

appropriate nautical charts, transiting vessels that unlighted vessels or vessels not sounding fog signals may be present in the anchorage.

DATE: Comments must be received on or before September 16, 1985.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York, N.Y. 10004. The comments and other materials referenced in this notice will be available for inspection and copying at the Vessel Movement Office, Bldg. 109, Governors Island, New York. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade M. P. O'Malley, Vessel Movement Officer, Commander, Coast Guard Group New York, at (212) 668–7933.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3–85–02) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed.

The regulations may be changed in light 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, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG M.P. O'Malley, Project Officer, Coast Guard Group New York and Mrs. M.A. Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The area proposed for designation as a special anchorage lies in an area south of Thompsons Point, Charlotte, Vermont. This is an area of heavy recreational boating concentration and the area proposed for designation has been used as an anchorage for small boats for several years.

This rule would allow anchoring of small boats (vessels under 65 feet in length) without requiring them to display anchor lights or sound fog signals. It is anticipated that approximately 75 vessels will use this area at any given time. The area is well away from the navigable channel and is located where general navigation will not endanger or be endangered by unlighted vessels. The area would be open to the general public with access available at Point May Marina on Thompsons Point. The marina has a launch ramp and travel lift as well as parking facilities.

Economic Assessment and Certification

These proposed 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 of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Establishment of this proposed Special Anchorage Area will not require dredging or result in increased cost to any segment of the public. In fact, it may attract additional recreational boaters to the area which would have a favorable economic impact in commercial facilities providing services to these boaters.

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

List of subjects in 33 CFR Part 110

Anchorage Grounds.

Proposed Regulations:

PART 110—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071, 49 CFR 1.46 and 13 CFR 1.05–1(g).

2. In § 110.8, paragraph (g) is added to read as follows:

§ 110.8. Lake Champlain, N.Y. and Vt.

* * * * *

(g) *Charlotte, Vt.* An area shoreward of a line bearing 080 T from 44°16'12" N., 73°17'18" W., on Thompson's Point to 44°16'16" N., 73°16'40" W., on William's Point.

Dated: July 18, 1985.

P.A. Yost,

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

[FR Doc. 85–18249, Filed 7–31–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP LA/LB–85–08]

Safety Zone, Santa Cruz Island

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This regulation is exempt from the notice and comment provisions of 5 U.S.C. 553 because it involves a foreign or military affairs function of the United States. Nevertheless, to accommodate persons who may be affected by the regulation, a notice and comment period, followed by **Federal Register** publication, will be provided. This regulation establishes a safety zone in the vicinity of Santa Cruz Island. Tests of submerged and semi-submerged vessels will be conducted during a three month period. There will also be placement of fixed underwater sound systems making transit, anchoring or fishing hazardous. Limiting access to this area will serve to protect vessels and sensitive underwater gear.

DATES: Comments must be received on or before September 3, 1985.

ADDRESSES: Comments should be mailed to Commanding Officer, U.S. Coast Guard Marine Safety Office, Los Angeles/Long Beach, 165 N. Pico Avenue, Long Beach, CA 90802.

The comments will be available for inspection and copying at the Port Operations Department, U.S. Coast Guard Marine Safety Office Los Angeles/Long Beach. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas Jenkins, U.S. Coast Guard, U.S. Coast Guard Marine Safety Office, Los Angeles/Long Beach.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (COTP LA/LB–85–08) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-

addressed postcard or envelope is enclosed.

The regulations may be changed in light 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, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are Lieutenant Commander Thomas Jenkins, U.S. Coast Guard, project officer, Port Operations Department, U.S. Coast Guard Marine Safety Office, Los Angeles/Long Beach, and Lieutenant Joseph R. McFaul, U.S. Coast Guard, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

At intermittent times during the months of September through November, tests of submerged and semi-submerged vessels will take place in the waters off of Santa Cruz Island. There will be suspended hydrophone arrays in the water column and test vessels may not be visible, making transit of the area hazardous especially at night. Tests will be conducted as meterological and oceanographic conditions permit. The area will be patrolled as needed by Coast Guard cutters and vessels approaching the safety zone should follow the directions of the Coast Guard cutter.

List of Subjects in 33 CFR Part 165

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

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.T1176 to read as follows:

1. The authority citation for part 165 continues to read as follows:

(33 U.S.C. 11225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5)

2. A new § 165.T1176 is added to read as follows:

§ 165.T1176 Santa Cruz Island

(a) A safety zone is established to include all waters enclosed within lines drawn from the following points: beginning from a point on land located approximately at Latitude 33–57.9 N, Longitude 119–42.6 W, then due south to a point on the territorial sea located approximately at Latitude 35–54.9 N, Longitude 119–42.6 W, then following the limit of the territorial sea in an easterly direction to a point approximately located at Latitude 33–56.2 N, Longitude 119–34.5 W, then due north to a point on land located approximately at Latitude 33–59.2 N, Longitude 119–34.5 W, then returning along the shore to the beginning point.

(b) No person may swim, skin dive or scuba dive in the waters within the safety zone.

(c) No vessel may navigate, transit, fish, anchor or drift in the waters within the safety zone.

(d) Any vessel within the zone shall follow the directions of the patrolling Coast Guard cutter.

(e) This regulation is effective on September 3, 1985 and remains continuously in force until November 30, 1985.

(33 U.S.C. 1225, 1231, 49 CFR 1.46; and 33 CFR 165.3)

Dated: July 15, 1985.

L.E. Beaudin,

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

[FR Doc. 85–17697 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to the Bahamas and Greece

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to agreements with the postal administrations of the Bahamas and Greece, the Postal Service intends to begin Express Mail International Service with these countries at postage rates indicated in the tables below. The proposed service is scheduled to begin on October 6, 1985.

DATE: Comments must be received on or before August 31, 1985.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, [202] 245–4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410 (a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to the Bahamas and Greece at the rates indicated in the table below.

Lists of Subjects in 39 CFR Part 10

Foreign relations.

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

BAHAMAS EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service,[1] [2] up to and including—		On demand service,[2] up to and including—	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	34.80	2	26.80
3	38.60	3	30.60
4	42.40	4	34.40
5	46.20	5	38.20
6	50.00	6	42.00
7	53.80	7	45.80
8	57.60	8	49.60
9	61.40	9	53.40
10	65.20	10	57.20
11	69.00	11	61.00
12	72.80	12	64.80
13	76.60	13	68.60
14	80.40	14	72.40
15	84.20	15	76.20
16	88.00	16	80.00
17	91.80	17	83.80
18	95.60	18	87.60
19	99.40	19	91.40
20	103.20	20	95.20
21	107.00	21	99.00
22	110.80	22	102.80
23	114.60	23	106.60
24	118.40	24	110.40
25	122.20	25	114.20
26	126.00	26	118.00
27	129.80	27	121.80
28	133.60	28	125.60
29	137.40	29	129.40
30	141.20	30	133.20
31	145.00	31	137.00
32	148.80	32	140.80
33	152.60	33	144.60
34	156.40	34	148.40
35	160.20	35	152.20
36	164.00	36	156.00
37	167.80	37	159.80
38	171.60	38	163.60
39	175.40	39	167.40
40	179.20	40	171.20
41	183.00	41	175.00
42	186.80	42	178.80
43	190.60	43	182.60
44	194.40	44	186.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

GREECE EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service,[1] [2] up to and including—		On demand service,[2] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85-18259 Filed 7-31-85; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

[Docket No. 50707-5107]

Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to issue regulations that govern the taking of small numbers of non-depleted seals and sea lions by the Department of the Air Force incidental to launches of the space shuttle from Vandenberg Air Force Base over the Northern Channel Islands, California from 1986 through 1991. The Marine Mammal Protection Act (MMPA) requires NMFS to issue regulations when a request is made for a small take of marine mammals if NMFS finds, as it has done so, that the taking will have a negligible impact on the species.

DATES: Comments on the proposed regulations must be received on or before September 30, 1985.

ADDRESS: Comments should be addressed to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. A copy of the environmental assessment for this rule is available from the Office of Protected Species and Habitat Conservation from the same address.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz (Protected Species Division), 202-634-7529.

SUPPLEMENTARY INFORMATION:

Background

A 1981 amendment to the Marine Mammal Protection Act (MMPA) directs the Secretary (either Commerce or Interior) to allow, on request by U.S. citizens engaged in a specified activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals. Under the MMPA, the term taking means to harass, hunt, capture or kill. Permission may be granted for a period of five years or less. Taking may be allowed only if the species is not depleted, and if the Secretary, after notice and opportunity for public comment, finds that the total taking will have a negligible impact on the species and its habitat and on the availability of the species for subsistence uses. Regulations must be issued which include permissible methods of taking and means to reduce any adverse impact on the species and its habitat. The regulations must include the monitoring and reporting of the taking. General regulations implementing section 101(a)(5) were issued by NMFS on May 18, 1982 (50 CFR Part 228, Subpart A), and they include the methods for making the request and the mechanism for allowing the taking (by Letter of Authorization). Among other things, Letters of Authorization may specify the period of validity and any additional terms and conditions appropriate to the specific request.

After receiving a request from the Air Force for a small take of marine mammals incidental to space shuttle activities, NMFS published a notice of receipt of request for rulemaking and request for information in the **Federal Register** on May 4, 1984, and placed legal notices in the Santa Barbara California News-Press, the Los Angeles Times, and the Ventura California Star Press in August 1984 requesting information and comments from the public concerning the request. The only comments received were from the Marine Mammal Commission.

Summary of Proposed Specific Regulations

Specific regulations are proposed to govern the incidental taking of five species of seals and sea lions when the space shuttle is launched by the U.S. Air Force from Vandenberg Air Force Base (VAFB), California, from 1986 through 1991. These regulations do not regulate or restrict space shuttle activities but rather the taking of seals and sea lions incidental to those activities. These regulations are proposed based on a finding that space shuttle launches from VAFB over the Northern Channel Islands off the coast of California over the next five years may involve the taking (by harassment) of small numbers of non-depleted marine mammals, specifically California sea lions, northern sea lions, northern elephant seals, harbor seals, and northern fur seals. Further, NMFS believes that the total impact of the taking will have a negligible impact on the species, on their habitat, and on the availability of these species for subsistence uses.

The proposed regulations in Subpart C apply only to space shuttle launches and associated activities over the Northern Channel Islands off the coast of southern California which may involve the incidental taking of small numbers of seals and sea lions for the period 1986 through 1991. All activities must be conducted in a manner that minimizes adverse effects on the five species of seals and sea lions (pinnipeds) authorized to be taken and their havitat. No taking will be authorized during times of the year for which NMFS

cannot determine that the incidental taking will have a negligible impact on marine mammals. Currently, NMFS cannot determine that takings resulting from shuttle launches will be negligible during the most sensitive pupping and breeding seasons on San Miguel, the Northern Channel Island that will be most affected by the shuttle activities. The proposed regulations require the holder of the Letter of Authorization to cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the space shuttle launches on these species. The regulations require that the pinniped populations on San Miguel Island be monitored before, during, and after the first two launches that produce focused sonic booms over the Islands. In addition, a report must be submitted to NMFS within 90 days after any launch that produces a focused sonic boom over the Islands. At its discretion, NMFS will place an observer on San Miguel Island to monitor the impact of the sonic boom on the seals and sea lions. Under the general regulations which were issued in May 1982, a Letter of Authorization is required for the Department of the Air Force to take marine mammals incidental to space shuttle launches over the Northern Channel Islands. Any substantive changes to the Letter of Authorization will be subject to public review unless NMFS determines that an emergency exists which necessitates immediate action.

Summary of Request to Allow the Taking of Seals and Sea Lions Incidental to Space Shuttle Launches

On May 9, 1983, NMFS received a request from the Headquarters Space Division, Department of the Air Force, Los Angeles, California to allow the taking of small numbers of marine mammals incidental to space shuttle launches from VAFB. Additional information was received from the Air Force on November 8, 1983, August 16, 1984, November 20, 1984, and March 5, 1985. The taking is described as infrequent, incidental, and unintentional harassment due to focused sonic booms generated over the Northern Channel Islands when the space shuttle is launched from VAFB. Launches are expected to begin no earlier than January 1986 and continue through 1994. Out of 80 planned launches, a maximum of seven are predicted to occur in trajectories that will produce focused sonic booms over the Northern Channel Islands. Focused sonic booms occur when the space shuttle curves toward the horizontal, and its sonic boom is focused into a narrow zone of particularly high sound pressure.

The Air Force requested an authorization to potentially harass six species of pinnipeds including the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), northern sea lion (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostria*), northern fur seal (*Callorhinus ursinus*), and Guadalupe fur seal (*Arctocephalus townsendi*). Since NMFS has proposed adding the Guadalupe fur seal as a threatened species under the Endangered Species Act (ESA), we cannot consider allowing a take under this section of the MMPA. Any marine mammal listed as threatened or endangered under the ESA is considered depleted under the MMPA. If this species is listed, the Air Force will need to consult with NMFS to ensure that its actions are not likely to jeopardize the species' continued existence.

The Department of the Air Force prepared a Final Environmental Impact Statement in January 1978 and a Supplement to the Final Environmental Impact Statement in July 1983 for the Space Shuttle Program at VAFB. Also, it has prepared a plan to monitor the affects of the launches on the seals and sea lions on San Miguel Island. The information required by 50 CFR 228.24 was provided by the Air Force in its request.

Description of Space Shuttle Launches

Space shuttle launches are expected to begin from VAFB in early 1986 and continue through 1994. On launch, the shuttle vehicle will produce sonic booms of greater magnitude than conventional supersonic military aircraft. In addition, when the vehicle pitches over from vertical to horizontal flight, it will cause "focusing" of sonic boom energy that could potentially result in overpressures of up to 10 psf (pounds per square foot) in a narrow "focal region." This overpressure of 10 psf is equal to 147.6 decibels. Although most launches from VAFB will be directed over the open Pacific Ocean, a few (no more than 7) will be launched at an angle (150° to 180°) that will place them in a path over or near some of the Northern Channel Islands, especially San Miguel. When the shuttle returns to VAFB, it is expected to produce low intensity (0.5 to 2 psf) sonic booms over some of the Northern Channel Islands. Since the noise level from the return flights is about the same as from current supersonic military aircraft, this proposed ruling is concerned only with launches.

The Air Force contracted field, laboratory, and literature studies to determine the potential for focused sonic booms to adversely affect the marine mammals of the Northern Channel Islands and the Santa Barbara Channel. These studies concluded that significant adverse impacts on the population of marine mammals inhabiting the Channel Islands were unlikely but not impossibe. The Air Force has developed a plan to monitor sound pressure levels and marine mammal responses to shuttle sonic booms during the first few launches over the Channel Islands and return flights to VAFB. Part of the monitoring will be to verify the predictions the Air Force has made that the impact will be minimal and to modify any mitigating measures, if necessary, to make them more effective.

Pinnipeds of the Northern Channel Islands

The Northern Channel Islands are the above-surface projections of a western, largely submarine extension of the Santa Monica Mountains. The four islands (also called the Santa Barbara Channel Islands) from west to east are San Miguel, Santa Rosa, Santa Cruz, and Anacapa. These islands lie between 11 and 28 miles from the mainland and together comprise about 200 square miles of land.

In 1980, San Miguel, Santa Rosa, Santa Barbara, Anacapa, and Santa Cruz Islands were designated as the Channel Islands National Park. In 1980, the six nautical miles surrounding San Miguel, Santa Rosa, Anacapa, Santa Cruz, and Santa Barbara Islands were designated as a National Marine Sanctuary administered by NOAA. Prior to this, San Miguel Island was controlled by the U.S. Navy and managed by the U.S. National Park Service; the island was used for sheep ranching from the mid-1890s to the 1920s.

Since the Northern Channel Islands mark the southern breeding limit of some northern cold-temperature species of marine mammals and seabirds and the northern limit of some southern warm-temperate species, there is a diverse group of animals on the islands. Six pinniped species inhabit these islands including the Guadalupe fur seal at its northern limit and the northern fur

seal and the northern sea lion at their southern limit. All of the islands are used by pinnipeds for some purposes, but most of the breeding and pupping occurs on San Miguel Island. At some places on this island (Point Bennett, for example), the rookery areas of all five breeding species (the Guadalupe fur-seal has not established a breeding colony on the Channel Islands) are virtually side by side.

Although the populations of most of these pinnipeds were severely depleted by hunting in the latter part of the nineteenth century, some have recovered in recent years. NMFS estimates that 10,000 to 25,000 seals and sea lions may haul out on San Miguel Island at different seasons of the year, and the breeding and pupping months include mid-December through July.

TABLE 1.—POPULATION ESTIMATES OF SEALS AND SEA LIONS

Species	World	Pacific Ocean, N. America (including Alaska)	Southern California Bight	San Miguel Island (breeding season)
California Sea Lion, *Zalophus californianus*	177,000	157,000	74,000	May 15–July 31, 30,000.
Steller (Northern) Sea Lion, *Eumetopias Jubata*	230,000 to 240,000	210,000	100	May 15–July 31, <10.
Northern Elephant Seal, *Mirounga angustirostris*	100,000	100,000	30,000 to 35,000	Dec. 15–Feb. 28, 30,000.
Harbor Seal, *Phoca vitulina*	390,000 to 413,000	302,000	3,000	Mar. 1–Apr. 30, 1,000.
Northern Fur Seal, *Callorhinus ursinus*	1,262,000	874,000	4,000	May 15–July 31, 4,000.
Guadalupe Fur Seal, *Arctocephalus townsendi*	1,600	1,600	1 to 5	1.

1. Harbor seal (Phoca vitulina). Harbor seals are widely dispersed in the Atlantic, Arctic, and Pacific Ocean basins. The Pacific harbor seal ranges from Baja California to the eastern Aleutian Islands. Although harbor seals are generally solitary animals when at sea, they gather at feeding sites and haul out areas.

Harbor seals feed on octopods, squid and a variety of fish including herring, smelt, salmon, and cod. Harbor seals may live up to 40 years. Eagles, foxes, and coyotes prey on the newborn and young; sharks, killer whales, northern sea lions, bears, and walruses prey on the older animals.

Harbor seals are considered abundant throughout most of their range. Populations have increased substantially in the last 10 years. European populations are estimated at 48,000 to 51,500 animals, eastern Canada at 20,000 to 30,000, and U.S. Atlantic waters at 10,000 to 15,000. Between 312,000 to 317,000 individuals inhabit the Pacific Ocean although actual populations in this region may be higher.

In the Southern California Bight, the population is estimated at about 3,000 animals. On San Miguel during the breeding seasons, the population estimate is about 1,000. Numbers are lowest in December, increase gradually from February to June, then sharply decrease again to a minimum in December. Pups are born from February through May. Pups nurse for about 4 weeks; nursing extends to at least the end of May. Breeding activities occur from mid-April to mid-June.

2. Steller (northern) sea lion (Eumetopias jubatus). Northern sea lions are found in a large arc over the Pacific including the Sea of Japan, the Bering Sea, Aleutian Islands, Gulf of Alaska and the Channel Islands off California. They are the largest eared seal; the average weight of adult males is about 2,000 lbs, and adult females about 660 lbs. They feed on a wide variety of cephalopods and fish including walleye, pollock, Pacific cod, herring, shad, and lamprey. Killer whales sometimes prey on sea lions.

The Alaskan population is estimated at over 200,000 animals. The U.S.S.R. population is thought to be between 20,000 to 30,000. The British Columbia population is about 5,000; Oregon, about 2,000; and California, about 3,000. On San Miguel, the estimated population during the breeding season is probably not more than 10 animals. The lowest numbers occur in December-January; highest numbers occur during the summer. Females and juveniles may be present at any time of the year. Breeding occurs from late May through August with the peak number of pups present in early July.

3. California sea lion (Zalophus californianus). The three subspecies of the California sea lion inhabit the Pacific Ocean from the Galapagos Island to Baja California to British Columbia. The California population breeds along the Channel Islands and oceanic islands off Mexico. After the breeding season, males migrate as far north as Washington and British Columiba. Females and juveniles frequent the coastal waters of California and Mexico. Births occur from mid-May through early July off California and from October to December in the Galapagos Islands.

In the wild, this species feeds both day and night on squid, Pacific whiting, sardines, and opaleye fish. Killer whales and sharks prey on California sea lions.

The California population of seal lions numbers about 74,000 and the Mexican population about 83,000. The Galapagos Island population has stabilized at about 20,000 animals after recovering from sealing operations at the turn of the century.

On San Miguel, the population estimate during the breeding season is 30,000. The shore population increases from a low in December-January to a breeding season peak in July. Numbers decreases rapidly during the summer and fall months leveling off to the average low levels characteristic of October through January. Females and juveniles are present year-round. Breeding occurs from late May through August with the peak number of pups present in early July.

4. Northern elephant seal (Mirounga angustirostris). The northern elephant seal, the second largest species of pinniped, is found on offshore islands from Central Baja California to Pt. Reyes, north of San Francisco. Elephant seals can be found on rookeries at all times of the year although some wander as far north as southeastern Alaska. They are deep divers and feed on fish and cephalopods below 50 fathoms as well as on fish in shallow depths.

This species has made a remarkable recovery in its population numbers. In 1892, it was estimated that only 100 elephant seals remained, and they inhabited Guadalupe Island, Mexico. The total population now is about 100,000 animals with an estimated U.S. population of 45,000. In the southern California Bight, the population is estimated at 35,000 animals. On San Miguel Island, the estimated breeding season population is 30,000 and on San Nicolas, the population is about 5,000. The highest population numbers occur in January which coincides with the pupping and breeding season that begins around December 15. Numbers decline sharply after February and through March as post-breeding animals and weaned pups leave the Island. By April,

the beach population is relatively small. The population increases rapidly as juveniles and females haul out to molt, peaking again in May. This peak is followed by a sharp decline in June when mainly juveniles and subadult males are ashore followed by an increase in July of subadult and adult males. Numbers then decline through August reaching the annual minimum in September. Numbers increase in October and continue to rise through December as pups of the year return briefly followed by adult males and pregnant females in late November through early December.

5. Northern fur seal *(Callorhinus ursinus)*. The northern fur seal is one of the best known species of pinnipeds. Its biology and management have been the focus of an international treaty for over 75 years. The females and juveniles are highly migratory and range in a great arc across the North Pacific from the Sea of Japan through the southern Bering Sea down to the Channel Islands (San Miguel Island) off southern California. With the exception of the San Miguel breeding population, the animals migrate north in June to several island complexes. The largest numbers congregate on the Pribilof Islands in the eastern Bering Sea and lesser numbers on the Commander Islands, Sea of Okhotsk, and Kuril Island in the western North Pacific.

Fur seals eat herring, anchovy, walleye, pollock, Pacific whiting, capelin, salmon, and squid. Killer whales and sharks prey on northern fur seals; northern sea lions prey on fur seal pups.

There are an estimated 865,000 animals in Alaskan waters; 463,000 in Soviet waters; and 4,000 in southern California waters. The peak number of hauled-out animals on San Miguel Island occurs in mid-July with a post-breeding season decline continuing through December. Some females and yearlings may be present at any time, with the highest number of pups present in early July. These animals are generally at sea for seven consecutive months from November through late May.

6. Guadalupe fur seal *(Arctocephalus townsendi) (not included in proposed regulations)*. After 1923, the Guadalupe fur seal generally was regarded as extinct. In 1949, one adult male was seen on San Nicolas Island off California, and a breeding colony was discovered on Guadalupe Island off Mexico in 1954. In August 1984, about 1,600 seals were counted on Guadalupe Island and occasional sightings have been made of animals in the offshore waters of Baja California and southern California. Since 1968, small numbers of non-breeding animals, usually sub-adult males, have been observed on San Miguel Island.

Discussion of Potential Impacts of Space Shuttle Activities on Pinnipeds, Their Habitat, and Their Availability for Subsistence.

Following is a summary of the information provided by the Air Force concerning the impact of the proposed action on the species. The Air Force funded several studies in anticipation of the shuttle launch from VAFB. These studies generally concluded that significant adverse impacts on the populations of marine mammals inhabiting the Channel Islands are unlikely but not impossible.

Currently, the shores of San Miguel Island are subjected to noises from surf, wind, animal vocalizations, boats, and aircraft including an average of eight sonic booms per month. Local sound levels range from 56 to 69 decibels. The maximum sound level is 116 decibels (from supersonic aircraft). In air, marine mammals are generally less sensitive than humans to the low-frequency sound of sonic booms. Humans have been exposed to impluse noise similar in magnitude to the sonic booms expected from the shuttle with no permanent hearing effects and only temporarily reduced hearing sensitivity (referred to as TTS-temporary threshold shift). Outside an approximately 4.4 mile by 1,000 foot zone directly under the flight path, almost all sonic boom sound will be reflected at the water's surface. Only individuals in this zone will experience significant focused boom energy. Animals in the water exposed to focused boom energy have only a small chance of experiencing minor TTS. Although space shuttle-generated sonic booms are unlikely to cause permanent hearing damage to marine mammals in or out of the water, they may cause minor reduction in hearing sensitivity in a few individuals. The Air Force anticipates that this effect will be temporary and will not affect their survival or adversely affect the population.

The Air Force also states that although pinnipeds have not been studied directly, studies of other mammals have shown little effect on physiology and reproduction by impulse noise similar to shuttle booms.

On San Miguel Island, time-lapse photographic monitoring has shown that in response to a specific stimulus large numbers of pinnipeds move suddenly from the shoreline to the water. These events have occurred at a frequency of about 24 to 36 times per year for sea lions and seals other than harbor seals, and about 48 to 60 times annually for harbor seals. Visual stimuli such as humans and low-flying aircraft are much more likely to elicit this response than strictly auditory stimuli such as boat noise or sonic booms. It is rare for mass movement to take place in a "panic," and no resulting pup or adult mortality has been observed under these circumstances. The Air Force expects the space shuttle sonic booms, both launches and returns, will increase the frequency of sudden movements toward the water by 20 percent for harbor seals and by 15 percent for the other seals and sea lions. During the 1981 breeding season, additional tests were conducted on San Nicolas Island using a carbide pest control cannon to simulate the loud impulse sound of a sonic boom. The noise level of the cannon was reported to be 156 decibels. The animals studied were the northern elephant seal, considered tolerant to disturbance, and the California sea lion, one of the most easily disturbed pinnipeds. These studies concluded that habitat use, population growth, and pup survival were unaffected by the simulated sonic boom noise. Most physiological effects such as those on reproduction, metabolism and general health, or on the animals' resistance to disease, are caused by much greater cumulative sound exposures (intense continuous noise) than those expected from shuttle booms (infrequent, loud, short-duration noise), which have less potential for affecting physiology.

The Air Force contractors (Hubbs-Sea World Research Institute and San Diego State University) believe that the space shuttle sonic booms will not produce auditory or nonauditory effects in Channel Island pinnipeds of sufficient magnitude to measurably influence population levels. Some temporary hearing threshold shift is likely following the exceptionally loud focused boom created by launches flying directly over the islands, but this threshold change should last a short time (minutes to hours) and minimally distrupt animals. Although the startle effect of the shuttle boom may cause some panic and concomitant physiological stress, the frquency of booms will be low compared to the frequency of naturally-induced startle-causing events. According to one of the Air Force contractors (Chappel, 1980), there will be no adverse effect on pinniped survival since no significant increase in stress-related pathology is anticipated, nor is any disruption of the reproductive cycle considered probable. Yet, the possibility of more serious

consequences cannot be rules out since the information available in the literature regarding hearing is sparse.

In November 1984, NMFS received new data from the Air Force which now believes that the maximum overpressure expected under the flight path for space shuttle launches should be about 10 psf (147 decibels) instead of the original 'worse case' scenario of 30 psf (157 decibels). These new data are a result of measurements taken from the east coast launches of space shuttles STS–7 and STS–410D to characterize the peak overpressures expected in the focus boom region. The Air Force believes the impact should be considerably less than originally anticipated.

Although the Air Force does not expect any significant effects on the Channel Islands populations of pinnipeds due to the launches, it has indicated that it will consider mitigation measures if any of the first few launches result in adverse, unacceptable, or catastrophic impacts to the pinnipeds on San Miguel Island. The Biological Monitoring Plan for the Channel Islands which is being developed for the Air Force by Hubbs-Sea World Research Institute and San Diego State University will attempt to verify biological impacts by monitoring wildlife responses during the first launches and return flights.

If the results of the initial launches indicate that the impacts to the Channel Islands are extemely adverse or could result in an unacceptable or catastrophic impact, the Air Force has stated that restrictions will be implemented within mission constraints. One of the restrictions would be not to plan any launch azimuths near 150° (or those affecting San Miguel) during the months of May through July, and special consideration would be given to using launch windows between sensitive breeding periods in the months of March and April.

However, scientists from NMFS and the Marine Mammal Commission have expressed concern that the focused overpressures of the magnitude possible could cause significant hearing damage or other impacts on these pinnipeds especially during the sensitive pupping and breeding months.

The Marine Mammal Commission stated that focused overpressures of the magnitude possible could cause significant hearing damage or other impacts on seals and sea lions on San Miguel; experiments should be conducted to test hypotheses concerning the effects of shuttle-generated booms on pinniped hearing before providing the requested exemption; disturbance during pupping and breeding seasons (15 December–31 January for northern elephant seals; 1 March–30 April for harbor seals; and 15 May–31 July for sea lions and fur seals) should be avoided unless it can be shown that disturbance during these periods will have negligible effects; pinniped populations on San Miguel Island should be monitored before, during, and after shuttle launched expected to produce sonic booms over San Miguel; and a NMFS observer should be present to monitor the research and sonic boom impact on San Miguel.

NMFS scientists believe that focused sonic booms, even at an estimated level of 10 psf, have the potential to disrupt pupping and breeding activities of pinnipeds on San Miguel Island. They recommend that initial launches over the Island be limited to non-breeding seasons so that effects of the focused boom may be evaluated without jeopardizing the reproductive efforts of the animals. While we are concerned about all three breeding seasons, the most sensitive time is May 15 to July 31 when three species are using San Miguel for pupping, nursing, and breeding. We believe there is a greater chance of startling large groups of animals at this time which could cause stampeding to the water and trampling or displacement of pups. Although there are 10,000 to 25,000 pinnipeds on the Island year round, one of the largest concentrations of animals occurs during this season. January and February are also times when large numbers of pinnipeds are present because this is the peak time for nothern elephant seals to use the Island. Although the highest number of elephant seals occurs during January and February, pupping begins around December 15 and nursing and breeding activities taper off around March 1. The third breeding season is March and April when about 1,000 harbor seals use the Island. Although harbor seals are known to be sensitive to disturbance, their numbers on San Miguel are considerably less than that of the other breeding populations.

While NMFS believes that focused sonic booms at a predicted level of 10 psf (147 decibels) may affect some of the pinnipeds on the Island, the available data suggest that the taking will have a negligible impact on the populations of the five species that use the Island if the taking does not occur during the most sensitive pupping and breeding seasons which includes May 15 through July 31 and January 1 through February 15. After we have had an opportunity to evaluate information obtained from monitoring the first two launches that produce a focused sonic boom over San Miguel or any other new information, we will determine whether the effects of future launches are likely to be negligible. Based on any new information, we will consider allowing a take at other times of the year. The anticipated Letter of Authorization will not allow takings during the most sensitive seasons, January 1 through February 15 and May 15 through July 31. As provided for in section 101(a)(5) of the MMPA, the Secretary of Commerce is directed to withdraw or suspend the permission to take marine mammals if it is found that the taking is having, or may have, more than a negligible impact on one or more of the species. Any substantive modifications of the Letter of Authorization will be subject to public review and comment except in an emergency situation.

None of the pinniped species present on the Northern Channel Islands are used for subsistence in this region. Two of the northern ranging species, the northern fur seal and the harbor seal, are taken for subsistence purposes in Alaskan waters. Populations inhabiting California and/or Mexican waters, such as the California sea lion and the northern elephant seal, are not taken for subsistence.

Applicability to other Laws, Regulations, and Requirements

The proposed regulations would authorize the taking of small numbers of seals and sea lions incidental to space shuttle activities over the northern Channel Islands in California from 1986 through 1991.

NMFS has prepared an Environmental Assessment that determines that the regulations proposing to allow the taking of five species of seals and sea lions will not have a significant impact on the human environment and, therefore, does not constitute a major action under the National Environmental Policy Act. The Environmental Assessment is available on request (see **ADDRESS** of this rule).

The NOAA Administrator has determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The estimated impact of this proposed rulemaking is expected to be minor since the only expense involves the Air Force monitoring the effects of the focused sonic booms on the pinnipeds on San Miguel Island, an activity which the Air Force planned to do before it requested a take of marine mammals. Therefore, the regulatory impact review prepared by NMFS concludes that the rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual

industries, or government agencies; or significant adverse effect on competition, employment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed action will not have a significant impact on a substantial number of small entities.

The Paperwork Reduction Act does not apply since the Department of Commerce is requesting reports from only the Department of the Air Force.

Dated: July 26, 1985.

William G. Gordon,

Assistant Administrator for Fisheries.

List of Subjects in 50 CFR Part 228

Marine mammals, Reporting and Recordkeeping requirements.

PART 228—[AMENDED]

Accordingly, it is proposed to amend 50 CFR by adding a new Subpart C to Part 228 as follows:

Subpart C—Taking of Marine Mammals Incidental to Space Shuttle Activities

Sec.

Authority: 16 U.S.C. 1371(a)(5), unless otherwise specified.

Subpart C—Taking of Marine Mammals Incidental to Space Shuttle Activities

§ 228.21 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of California sea lions, northern sea lions, northern elephant seals, harbor seals, and northern fur seals by U.S. citizens engaged in space shuttle activities at Vandenberg Air Force Base, California that result in focused sonic booms over the Northern Channel Islands off southern California.

§ 228.22 Effective dates.

Regulations in this subpart are effective from January 1, 1986 through December 31, 1991.

§ 228.23 Permissible methods.

(a) The incidental, but not intentional, taking of seals and sea lions by U.S. citizens holding a Letter of Authorization is permitted during the course of the following activity: Space Shuttle Transportation System (STS) launches from Vandenberg Air Force Base, California.

(b) The activity identified in § 228.23(a) must be conducted in a manner which minimizes to the greatest extent possible adverse impacts on seals and sea lions and their habitat.

§ 228.24 Prohibitions.

(a) A take will not be authorized for those times of the year for which NMFS cannot determine that the incidental taking will have a negligible impact on marine mammals.

§ 228.25 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization (see § 228.6) are required to cooperate with the National Marine Fisheries Service and any other Federal, State, or local agency monitoring the impacts on seals and sea lions. The Holder must notify the Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA, 213–548–2575, of any potential take at least two weeks prior to the launch in order to satisfy § 228.25(d).

(b) Holders of Letters of Authorization must designate an individual or individuals to observe and record the effects of focused sonic booms on seals and sea lions that inhabit the Northern Channel Islands.

(c) The pinniped populations on San Miguel Island must be monitored before, during and after the first two launches that produce focused sonic booms over San Miguel. Special attention must be paid to the effects on hearing in pinnipeds and their behavioral responses.

(d) At its discretion, the National Marine Fisheries Service may place an observer on San Miguel Island to monitor the research and sonic boom impact on the seals and sea lions.

(e) A report must be submitted to the Assistant Administrator for Fisheries within 90 days of any launch that produces a focused sonic boom over the Northern Channel Islands. This report must include the following information:

(1) Date and time of launch;

(2) Dates and locations of any research activities related to monitoring the effects of the focused sonic booms on pinniped populations;

(3) Results of any monitoring activities concerning hearing and behavioral responses;

(4) Results of any population studies made of pinnipeds on the Channel Islands before and after launch.

§ 228.26 Modifications of Letters of Authorization.

(a) In addition to the provisions of § 228.6, any substantive modifications of the Letters of Authorization will be made after notice and opportunity for public comment.

(b) The requirement for notice and public review in § 228.26(a) will not apply if the National Marine Fisheries Service determines that an emergency exists which poses a significant risk to the well-being of the species or stocks of marine mammals concerned or which significantly and deterimentally alters the scheduling of space shuttle launches.

[FR Doc. 85–18240 Filed 7–31–85; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 650

Atlantic Sea Scallop Fishery; Correction

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

ACTION: Notice of availability of a fishery management plan amendment; correction.

SUMMARY: This document corrects the date given for submitting comments on Amendment 1 to the fishery management plan for the Atlantic Sea Scallop Fishery that was published July 18, 1985, 50 FR 29240.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride, Scallop Management Coordinator, 617–281–3600, ext. 244.

In FR Doc. 85–17135, page 29240, third column under the **"DATE"** heading, the sentence should read "Comments on the amendment should be submitted on or before September 27, 1985."

Dated: July 26, 1985.

Joseph W. Angelovic,

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

[FR Doc. 85–18239 Filed 7–31–85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 148
Thursday, August 1, 1985

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

Price Support Program for Milk; Terms and Conditions of the 1985–86 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Determination.

SUMMARY: This notice sets forth proposed determinations with respect to the level of price support for milk effective October 1, 1985. The notice also sets forth certain other determinations related to the milk price support program including the factors utilized to establish purchase prices for dairy products acquired by the Commodity Credit Corporation (CCC) in order to make price support available to producers for milk and the CCC sales policy.

DATE: Comments must be received on or before September 16, 1985 in order to be assured of consideration.

ADDRESS: Comments should be addressed to: Director, Commodity Analysis Divison, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles N. Shaw, Leader, Dairy and Sweeteners Group, Commodity Analysis Divison, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7601. The Preliminary Regulatory Impact Analysis describing the proposed action and its impact is available from Dr. Shaw.

SUPPLEMENTARH INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "major" since the provisions of this notice will have an effect on the economy exceeding $100 million.

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 Catelog of Federal Domestic Assistance.

The Regulatory Flexibility Act is not applicable to this notice since 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.

This notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is required.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The comment period for this notice has been limited to 45 days. This is to allow time for consideration of the comments prior to October 1, 1985.

Statutory Authority

Section 201(c) of the Agricultural Act of 1949 (the "1949 Act") provides that the price of milk shall be supported at a level not in excess of 90 percent nor less than 75 percent of parity as the Secretary of Agriculture determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

Background

When the current provisions of section 201(d) of the 1949 Act which govern the milk price support program expire on September 30, 1985, the price of milk will be supported under the provisions of section 201(c) of the 1949 Act. Section 201(c) provides that the price of milk shall be supported between 75 and 90 percent of parity through purchases of milk or the products of milk. At the present time, the support price at 75 percent of parity is estimated to be $16.22 per hundredweight for milk of 3.67 percent milkfat content. A support price of $16.22 per hundredweight would be an increase of $4.62 per hundredweight from the support price of $11.60 per hundredweight which is applicable for the period July 1 through September 30, 1985. Milk would continue to be supported by removing surplus milk from the market through purchases of butter, cheese and nonfat dry milk (NDM). However, the Secretary proposes to review the terms and conditions for purchases of these products by the Commodity Credit Corporation (CCC), including the form in which each of these products is purchased and the prices and premiums which are paid by CCC for each of these products in their various forms. Comments is requested on the method used to establish these prices. An example of CCC purchase prices is set forth in the notice published on July 5, 1985, in the Federal Register (50 FR 27647). Review will include, but not be limited to, the present policy of (1) establishing manufacturing margins (make allowances) at $1.22 per cwt. for milk used to manufacture butter and NDM and $1.37 per cwt. for milk used to manufacture cheese; (2) establishing the purchase price for block cheese with the purchase price for barrel cheese being established at 4.25 cents per pound below the purchase price for block cheese; (3) using a single nationwide support purchase price for butter; (4) allocating a value of $.10 per cwt. of milk used to manufacture cheese to whey solids-not-fat in calculating the support purchase price for cheese; and (5) limiting the low moisture premium for cheese purchases by providing that no additional premium is paid for moisture of less than 34 percent. In addition, it is proposed that any increase in the support price for milk which may be adopted effective Octoer 1, 1985, shall be allocated, when determining butter and NDM purchase prices, two-thirds to butter and one-third to NDM. It is also proposed that the present CCC sales policy with respect to dairy products be continued.

An increase in the support price for milk of the magnitude indicated can be expected to result in sharp increases in

milk production limited only in the short-run to the biological timetable necessary to increase dairy herds. Milk production will increase sharply and commercial use will decline in response to the higher support price, which will result in significantly greater purchases of surplus dairy products at the higher support purchase prices and greatly expand government cost. Establishing the support price at 75 percent of parity is, therefore, sufficient to assure adequate supplies of milk. Since any increase in the support price to more than 75 percent of parity would result in higher production, lower consumption and greater government purchases, a higher level of support has not been proposed.

The support purchase prices for butter, cheese and NDM are established at levels that will allow processors to pay farmers the announced support price. In establishing the support purchase prices, the Secretary takes into account the inter-product price relationships of these products so that the dairy industry is not forced into changing the quantities in which the various products are produced; *e.g.*, butter and NDM are both products of the same milk so there is a direct relationship between their prices. In addition, the butter price becomes the basis for the value of butterfat and cream used in all dairy products.

Proposed Determinations

It is proposed that:

(1) The price of milk will be suported during the marketing year beginning October 1, 1985, at 75 percent of parity which, at the present time, is estimated to be $16.22 per hundredweight for milk of 3.67 percent butterfat content.

(2) Prices paid by the Commodity Credit Corporation for the purchase of butter, NDM and cheese under the price support program shall be adjusted to reflect changes in the price support level made effective on October 1, 1985. With respect to the calculation of purchase prices of dairy products under the price support program, CCC will, in addition to accounting for other factors:

(a) figure into the calculation of such prices a manufacturing margin of $1.37 per cwt. of milk used to manufacture cheese and $1.22 per cwt. of milk used to manufacture butter and NDM;

(b) establish the purchase price for block cheese and establish a purchase price for barrel cheese at 4.25 cents per pound below the purchase price for block cheese;

(c) establish a single nationwide price for CCC purchases of butter;

(d) take into account a value of $.10 per cwt. of milk used to manufacture cheese for whey solids-not-fat in calculating CCC purchase prices for cheese;

(e) limit premiums for low moisture for cheese in order that no additional premium will be paid for moisture of less than 34 percent; and

(f) apportion any increase in the support price for milk which may be adopted effective October 1, 1985, two-thirds to the butter purchase price and one-third to the NDM support purchase price.

(3) Under the CCC sales policy, dairy products purchased under the price support program for the marketing year beginning October 1, 1985, shall be sold by CCC domestically at a price which is not less than the higher of: (1) 110 percent of the CCC purchase prices for such dairy products in effect at the time of the sale or (2) the market price for such products.

The public is invited to submit in writing to the Director, Commodity Analysis Division, data, views and recommendations concerning the determinations to be made. In order to be assured of consideration, all submissions must be received by the Director not later than September 16, 1985. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Commodity Analysis Division, ASCS, USDA, Room 3741 South Building during regular business hours (8:15 a.m.—4:45 p.m.).

Authority: Secs. 201 and 401 of the Agricultural Act of 1949, 63 Stat. 1052, as amended, 63 Stat. 1054, as amended (7 U.S.C. 1446, 1421); and Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended, 62 Stat. 1072 (15 U.S.C. 714b and 714c).

Signed at Washington, D.C., on July 26, 1985.

John R. Block,

Secretary of Agriculture.

[FR Doc. 85-18211 Filed, 7-31-85; 8:45 am]

BILLING CODE 3410-05-M

Federal Grain Inspection Service

Request for Comments on Designation Applicants in the Geographic Areas Currently Assigned to Idaho Grain Inspection Service (ID), Lewiston Grain Inspection Service, Inc. (ID), and Utah Department of Agriculture (UT)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to Idaho Grain Inspection Service (Idaho), Lewiston Grain Inspection Service, Inc. (Lewiston), and Utah Department of Agriculture (Utah).

DATE: Comments to be postmarked on or before September 16, 1985.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the June 3, 1985, **Federal Register** (540 FR 23323). Applications were to be postmarked by July 3, 1985. Idaho, Lewiston, and Utah, were the only applicants, and each applied for designation renewal in the areas currently assigned to those agencies.

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

Authority: Pub. L. 94582, 90 stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: July 19, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-18216 Filed 7-31-85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Areas Currently Assigned to Lima Grain Inspection Service, Inc. (OH) and Virginia Department of Agriculture and Consumer Services (VA)

AGENCY: Federal Grain Inspection Service (FGIS)

ACTION: Notice.

SUMMARY: Pursuant ot the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to provide official services in the geographic currently assigned to each specified agency. The official agencies are the Lima Grain Inspection Service, Inc., and Virginia Department of Agriculture and Consumer Service.

DATE: Applications to be postmarked on or before September 3, 1985.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conard, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by an qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Lima Grain Inspection Service, Inc. (Lima), 2242 Arcadia Avenue, Lima, OH 45805, was designated under the Act as an official agency to provide inspection functions on February 1, 1983. The Virginia Department of Agriculture and Consumer Services (Virginia), 1100 Bank Street, Washington Building, Richmond, VA 23209, was designated under the Act as an official agency to provide inspection and weighing functions on February 1, 1983.

Each official agency's designation terminates on January 31, 1986. Section 7(g)(1) of the Act states, generally, that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Lima, in the State of Ohio pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the northern Defiance County line; the eastern Defiance County line south to U.S. Route 24; U.S. Route 24 northeast to State Route 108;

Bounded on the East by State Route 108 south to Putnam County; the northern and eastern Putnam County lines; the eastern Allen County line; the northern Hardin County line east to U.S. Route 68; U.S. Route 68 south to U.S. Route 47;

Bounded on the South by U.S. Route 47 west-southwest to Interestate 75; Interstate 75 south to the Shelby County line; the southern and western Shelby County lines; the southern Mercer County line; and

Bounded on the West by the Ohio-Indiana State line from the southern Mercer County line to the northern Defiance County line.

An exception to the described geographic area is the following location situated inside Lima's area which has been and will continue to be serviced by East Indiana Grain Inspection, Inc.: Payne Cooperative Association, Payne, Paulding County.

The geographic area presently assigned to Virginia, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for dsignation, is the entire State of Virginia, except those export port locations within the State.

Interested parties, including Lima and Virginia, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning February 1, 1986, and ending January 31, 1989. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: July 19, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85–18217 Filed 7–31–85; 8:45 am]

BILLING CODE 3410-EN-M

Designation of East Indiana Grain Inspection, Inc. (IN)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: This notice announces the designation of East Indiana Grain Inspection, Inc., as an official agency responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: September 1, 1985.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services in the eastern portion of the State of Indiana in the March 1, 1985, **Federal Register** (50 FR 8352). Applications were to be postmarked by April 1, 1985; East Indiana was the only applicant. East Indiana has been providing official inspection services in the area on an interim basis since March 1, 1985.

FGIS announced the applicant name and requested comments on same in the May 1, 1985, **Federal Register** (50 FR 18543). Comments were to be postmarked by June 17, 1985; none were received.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that East Indiana is able to provide official services in the geographic area for which it is being designated. Effective September 1, 1985, and terminating August 31, 1988, East Indiana will provide official inspection services in its specified geographic area, which is the entire area previously described in the March 1 Federal Register.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address: East Indiana Grain Inspection, Inc., 2017 Enterprise Avenue, Muncie, IN 47302.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: July 19, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-18215 Filed 7-31-85; 8:45 am]

BILLING CODE 3410-EN-M

Voluntary Cancellation of Designation Issued to Lubbock Grain Inspection and Weighing (TX) and Request for Designation Applicants

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: This notice announces that Lubbock Grain Inspection and Weighing (Lubbock) is voluntarily cancelling its designation effective November 30, 1985. This notice also requests a designation applicants, for the geographic area currently assigned to Lubbock. Lubbock will continue to provide official services until a replacement agency can be designated.

DATE: Applications to be postmarked on or before September 3, 1985.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Mr. Raymond Anthis, doing business as Lubbock Grain Inspection and Weighing, requested voluntary cancellation of this designation, effective November 30, 1985. Lubbock will continue to provide official services until a replacement agency can be designated.

Section 7(f)(1) of the U.S. Grain Standards Act, as Amended (Act), specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

The geographic area, in Texas, which is available to the applicant selected for the new designation is as follows:

Bounded on the North by the northern Cochran County line; the northern Hockley County line east to FM 303; FM 303 north to U.S. Route 84; U.S. Route 84, including Sudan, Texas southeast to FM 37; FM 37 east to FM 179; FM 179 north to FM 1914; FM 1914 east, not including Hale Center, Texas, to FM 400; FM 400 south to FM 37; FM 37 east to the Hale County line; the eastern Hale County line; the northern Crosby and Dickens County lines;

Bounded on the East by the eastern Dickens, Kent, Scurry, and Mitchell County lines;

Bounded: on the South by the southern Mitchell, Howard, Martin, and Andrews, County lines; and

Bounded on the West by the western Andrews, Gaines, Yoakum, and Cochran County lines.

In addition, the area includes El Paso County.

Interested parties are hereby given opportuntiy to apply for official agency desingation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning December 1, 1985, and will not exceed a three-year period. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Divison, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: July 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-18214 Filed 7-31-85; 8:45 am]

BILLING CODE 3410-EN-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 17, 1985, at the Federal Building, 301 West Congress, Tucson, Arizona. The purpose of this meeting is to discuss The Coronado National Forest Land Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telepohone 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: July 22, 1985.

R.B. Tippeconnic,

Forest Supervisor.

[FR Doc. 85-18183 Filed 7-31-85; 8:45 am]

BILLING CODE 3410-11-M

Tonto National Forest Grazing Advisory Board; Meeting

The Tonto National Forest Grazing advisory board will meet September 19, 1985, at 10:00 a.m. at the Payson Ranger Station in Payson, Arizona. The purpose of this meeting is to cover the following agenda items:

1. Review the proposed expenditure of Range Betterment Funds for Fiscal Year

1985, as authorized by Pub. L. 94–579 (FLPMA section 403).

2. General review and status including Board recommendations concerning development of Allotment Management Plans.

The meeting will be open to the public. Persons who wish to attend should notify James L. Kimball, Forest Supervisor, Tonto National Forest, 2324 E. McDowell Rd., P.O. Box 5348, Phoenix, Arizona 85010, telephone: (602) 225–5200. Written statements may be filed with the Board, before or after the meeting.

Oral statements may be made by public attendance when recognized by the Chair.

July 22, 1985.

James L. Kimball,

Forest Supervisor.

[FR Doc. 85–18325 Filed 7–31–85; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Tallahaga Creek Watershed, MS

AGENCY: Soil Conservation Service.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: A.E. Sullivan, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Mississippi, is hereby providing notification that a record of decision to proceed with the installation of the Tallahaga Creek Watershed projects is available. Single copies of this record of decision may be obtained from A.E. Sullivan at the address shown below.

FOR FURTHER INFORMATION CONTACT: A.E. Sullivan, State Conservationist, Soil Conservation Service, 100 West Capitol Street, Sutie 1321, Jackson, Mississippi 39269, telephone 601–960–5205.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consulation with State and local officials.)

Dated: July 23, 1985.

A.E. Sullivan,

State Conservationist.

[FR Doc. 85–18184 Filed 7–31–85; 8:45 am]

BILLING CODE 3410–16–M

Cade Branch Critical Area Treatment RC&D Measure, Indiana

AGENCY: Soil Conservation Service, USDA.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cade Branch Critical Area Treatment RC&D Measure, Hamilton County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment (erosion control). The planned works of improvement include the relocation of the stream channel, grade stabilization structures, critical area planting, and streambank protection. Approximately one acre will be seed to grass.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: July 25, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85–18311 Filed 7–31–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 308]

Resolution and Order Approving the Application of the State of Hawaii for a Special-Purpose Subzone for Dole in Honolulu

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application submitted on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, by the Hawaii State Department of Planning and Economic Development, filed with the Foreign-Trade Zones Board (the Board) on October 2, 1984, requesting authority for special-purpose subzone status for the pineapple cannery of the Dole Processed Food Company, a division of Castle & Cooke, Inc., located in Honolulu, Hawaii, within the Honolulu Customs port of entry, the board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Office of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board, Washington, DC

Grant of Authority to Establish a Foreign-Trade Subzone in Honolulu, Hawaii

Whereas, by an Act of Cogress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved,

and where a significant public benefit will result;

Whereas, the State of Hawaii Department of Planning and Economic Development, on behalf of the State of Hawaii, grantee of Foreign-Trade Zone No. 9, has made application (filed October 2, 1984, Docket No. 44–84, 49 FR 40068) in due and proper form to the Board for authority to establish a special-purpose subzone at the cannery of Dole Processed Food Company in Honolulu, Hawaii, within the Honolulu Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied and that there are special circumstances in this case relating to the industry involved and its location;

Now, Therefore, in accordance with the application filed October 2, 1984, the Board hereby authorizes the establishment of a subzone at Dole's cannery in Honolulu, designated on the records of the Board as Foreign-Trade Subzone No. 9C, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC this 26th day of July 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Theodore W. Wu,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

Dennis M. Puccinelli,

Acting Executive Secretary.

[FR Doc. 85–18255 Filed 7–31–85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-409]

12-Hydroxystearic Acid From Brazil: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that 12-hydroxystearic acid from Brazil is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of 12-hydroxystearic acid from Brazil that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by October 8, 1985.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that 12-hyroxystearic acid from Brazil is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(b)) (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 8.19 percent.

If this investigation proceeds normally, we will make a final determination by October 8, 1985.

Case History

On December 28, 1984, we received a petition from Union Camp Corporation on behalf of the U.S. industry producing 12-hydroxystearic acid. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that 12-hydroxystearic acid from Brazil is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the U.S. International Trade Commmission (ITC) of our action and initiated such an investigation on January 17, 1985 (50 FR 3372). The ITC subsequently found, on February 11, 1985, that there is a reasonable indication that imports of 12-hydroxystearic acid from Brazil are materially injuring a United States industry. On March 13, 1985, the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition. On April 1, 1985, we granted the request (50 FR 13644).

Scope of Investigation

The product covered by this investigation is 12-hydroxystearic acid currently provided for under item number 490.2650 and 490.2670 of the *Tariff Schedules of the United States, Annotated.* We investigated sales of this product which were made by two Brazilian producers and sold to the United States during the period of investigation, July 1, 1984, through December 31, 1984. The firms investigated wer Sanbra, S.A. and Braswey, S.A. Sales by these firms accounted for approximately 75 percent of Brazilian 12-hydroxystearic acid sold to the United States during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided for in section 772 of the Act, for Braswey, S.A. we compared United States price based on purchase price, as the product was sold to unrelated purchasers prior to importation into the United States. For Sanbra, S.A. we compared United States price based on exporter's sales price, as the product was sold to unrelated purchasers in the United States after the date of importation. For Braswey, S.A. we calculated the purchase price based on the C.I.F., duty paid, packed price to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight, U.S. Customs duty, marine insurance and brokerage. For Sanbra, S.A. we calculated the exporter's sales price on the C.I.F. duty paid, packed or C.I.F. duty paid delivered, packed price to unrelated purchasers in the United States. We make deductions, where appropriate, for foreign brokerage, handling and port charges, ocean freight, marine insurance, foreign inland freight, U.S. Customs duty, U.S. brokerage, U.S. Inland freight, U.S. insurance, credit expenses and other selling expenses incurred in the United States.

Section 772(d)(1)(C) of the Act requries that indirect taxes imposed upon home market merchandise, but which have not been collected upon exported merchandise by reason of its exportation to the United States, be added to the United States price, "but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation". Such a tax, the "ICM" (internal circulation tax), is imposed on home market sales, but varies with the destination of the merchandise in the home market. Therefore, no single tax rate can be applied as an addition to U.S. sales. We have deducted this tax from the home market prices of both companies. We have also deducted the FINSOCIAL tax and IPI tax from home market prices in which they were included.

Foreign Market Value

Sales of such merchandise in the home market were used to represent foreign market value, as provided for in section 773(a) of the Act. Calculations of foreign market value for Sanbra, S.A. were based on delivered or ex-factory, packed prices to unrelated purhasers in the home market. Deductions were made, where appropriate, for inland freight. We also made deductions for credit expenses. We deducted home market indirect selling expenses to offset U.S. indirect selling expenses. We also adjusted for differences in packing costs.

Calculations of foreign market value for Braswey, S.A. were based on delivered packed prices to unrelated purchasers in the home market. We made deductions for inland freight. We also adjusted for differences in credit terms. For some home market sales used for comparison to U.S. purchase price, sales commissions were paid in one market and not the other. In these cases we made ajustments for the differences between commissions in the applicable market and indirect selling expenses in the other market used an an offset to the commissions, if accordancing with § 353.15(c) of the regulations. We adjusted for differences in packing costs.

Comparisons were made between sales occurring within the same month. Braswey, S.A. claimed and adjustment for technical services expenses incurred on home market sales. This adjustment has not been allowed pending further clarification of the nature of these services and the method of quantification. They also claimed an allowance for warehousing expenses incurred in the home market. As these expenses reflected pre-sale interest costs on warehouse inventory, this adjustment was not allowed. Both Braswey, S.A. and Sanbra, S.A. argue that certain small quantity sales should not be considered in our calculations because such comparisons should be of comparable quantities. We have found no pattern of pricing based on quantities. Accordingly, we have used these sales in our calculations. Sanbra, S.A. alternatively makes the same claim for exclusion of certain sales based in differences in level of trade. we find no sufficient delineation of levels of trade or cost difference quantifications to permit such an allowance. In calculating foreign market value, we made currency conversions from Brazilian cruzeiros to United States dollars in accordance with § 353.36(a)(1) of our regulations, using, as appropriate, certified daily or quarterly exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative dtermination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of 12-hydroxystearic acid from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price.

The weighted-average margins are as follows:

Manufacturer/seller/exporter	Weighted-average margin percentage
Braswey, S.A.	18.04
Sanbra, S.A.	7.14
All others	8.19

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 11:00 a.m. on August 30, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephne number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten

copies must be submitted to the Deputy Assistant Secretary by August 23, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of publication of this notice, at the above address in at least 10 copies.

Dated: July 25, 1985.

[FR Doc. 85-18250 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-501]

Rock Salt From Canada: Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from the respondents in this investigation to postpone the final determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A). Based on this request, we are postponing our final antidumping duty determination as to whether sales of rock salt from Canada have occurred at less than fair value until not later than November 27, 1985.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins, 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) 377-1756.

SUPPLEMENTARY INFORMATION: On February 19, 1984, we announced the initation of an antidumping duty investigation to determine whether rock salt from Canada, is being, or is likely to be, sold in the United States at less than fair value (50 FR 7808). We issued our preliminary affirmative determination on July 8, 1985 (50 FR 28602). That notice stated that we would issue a final determination by September 20, 1985. On July 10, 1985, counsel for respondents requested that we extend the period for the final determination until not later than the 135th day after publication of our preliminary determination in accordance with section 735(a)(2)(A) of the Act. If exporters who account for a significant proportion of exports of the subject merchandise request an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, we grant the request and postpone our final determination until not later November 27, 1985.

This notice is published pursuant to section 735(d) of the Act.

Scope of Investigation

The product under investigation is rock salt, in bulk and packaged form, as currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 420.9400 and 420.9600, respectively.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on October 16, 1985, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 9, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 23, 1985.

[FR Doc. 85-18251 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-403]

Termination of Antidumping Duty Investigation; Carbon Steel Wire Rod From the German Democratic Republic

AGENCY: International Trade Administration, Import Administration.

ACTION: Notice.

SUMMARY: In a letter dated July 19, 1985, petitioners withdrew their antidumping duty petition, filed on September 26, 1984, on carbon steel wire rod (wire rod) from the German Democratic Republic (GDR). Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, 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) 377-2830.

SUPPLEMENTARY INFORMATION:

Case History

On September 26, 1984, we received a petition from Atlantic Steel Company, Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, on behalf of the U.S. industry producing wire rod.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on October 16, 1984 (47 FR 42773). On November 13, 1984, the ITC found that there was a reasonable indication that imports of wire rod from the GDR materially injure, or threaten material injury to, a United States industry. On March 5, 1985, we made a preliminary determination that wire rod from the GDR was being, or was likely to be, sold in the United States at less than fair value and that "critical circumstances" did not exist with respect to imports of the merchandise under investigation (50 FR 9815).

Scope of Investigation

The product under investigation is carbon steel wire rod, currently classifiable under item 607.17 of the Tariff Schedules of the United States (TSUS).

Withdrawal of Petition

In a letter dated July 19, 1985 from Atlantic Steel Company, Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, petitioners notified us that they were withdrawing their September 26, 1984 antidumping duty petition, and requested that the investigation be terminated (a copy of petitoners' letter is appended to this notice). Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition the administering authority may

terminate an investigation after giving notice to all parties to the investigation. This withdrawal is based on a bilateral arrangement with the Government of the GDR to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawal and our intention to terminate.

For these reasons, we are terminating our investigation.

Dated: July 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 19, 1985.

Re: Carbon Steel Wire Rod from the German Democratic Republic.

Mr. Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, Washington, DC 20230.

Attention: Central Records Unit, Room B-099.

Dear Mr. Kaplan: We have been advised by the United States Trade Representative ("USTR") that the United States has entered into an Arrangement with the German Democratic Republic which establishes import ceilings for various steel products, including carbon steel wire rod. The Arrangement provides that all pending petitions and outstanding orders under the trade laws concerning Arrangement products from the German Democratic Republic are to be withdrawn or terminated as a condition precedent to its entry in force. Included among these pending matters is the ongoing investigation involving carbon steel wire rod initiated by Petition filed on September 26, 1984.

Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel Texas, Inc., and Raritan River Steel Company are the Petitioners in the East German proceeding, in which the Department has made a preliminary determination that the wire rod imported from the respondent during the period of investigation was sold at less than fair value by a substantial margin. Petitioners' expectation, therefore, is that should this investigation proceed to an order, antidumping duties would be imposed to deal specifically with this "unfairly traded" steel wire rod. Petitioners understand that the Arrangement with the German Democratic Republic is intended by the United States to accomplish equivalent or better results through export restraint.

Where, as here, the Respondent in the antidumping investigation, Metalurgiehandel, has executed the Arrangement under authority of the German Democratic Republic and the entry in force of an Arrangement contemplates withdrawal of pending antidumping petitions, the Petitioners are entitled to construe the Arrangement as the functional equivalent of a suspension of an investigation. As you know, a suspension agreement requires the exporters to eliminate the injurious effect of sales at less than fair value as provided in Section 734(c) of the 1979 Trade Agreements Act. In these circumstances, Petitioners agree to withdraw their Petition in the expectation that the German Democratic Republic exporter of wire rod, and the parties importing such wire rod, will take into account the requirement of Section 734(c)(1)(A) of the Act which calls for a commitment that "the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented."

Petitioners recognize that there are no procedures to ensure that there will be no "suppression or undercutting of price levels of domestic products by imports. . ." of the wire rod that will be licensed for importation. Accordingly, Petitioners advise the Department that should there be price undercutting or suppression, as defined in Section 734(c), by East German producers of wire rod, or by importers thereof, they will consider it their perogative at any time to initiate proceedings under the trade laws, including the antidumping law (and/or the countervailing duty law should that be deemed appropriate at the time) without regard to whether or not the Arrangement is in effect. In circumstances where there is such price undercutting or suppression of domestic prices, the stated purpose of the Arrangement will be abrogated and it will not be a suitable alternative to proceedings under the unfair trade laws.

In sum, the Petitioners, in reliance upon the wire rod import ceiling set forth in the Arrangement with the German Democratic Republic and its other terms and conditions and upon the further provisions and understandings of this letter, withdraw the Petition conditioned upon the following:

1. That the Department will provide assurance, by the notice published in the *Federal Register*, that the Arrangement with the German Democratic Republic is in full force and effect and subject to no contingency (whether expressed in the Arrangement or any modifications thereof by side letter or otherwise) that would revise, delay, or impair the implementation of the specific restraints concerning wire rod.

2. That the United States does not plan to agree to any modifications of the Arrangement that would affect the obligations of the German Democratic Republic concerning wire rod to the detriment of the domestic industry during the Arrangement term.

3. That Petitioners do not waive any statutory rights or otherwise restrict their rights to take action against East German imports under the trade laws should they deem such action appropriate.

4. That the Arrangement with the German Democratic Republic is a "bilateral arrangement" within the meaning of Section 804 of the Steel Import Stabilization Act of 1984 and the President is authorized to enforce the Arrangement pursuant to Section 805(a) of said Act. As a consequence of those provisions and the requirements and terms of the Arrangement, the United States will prohibit entry into the Customs territory of the United States of wire rod from the German Democratic Republic that: (i) Is not accompanied by an export certificate, and (ii) is not issued consistent with the quantitative limitations specifically applicable to the German Democratic Republic as defined by the Arrangement.

5. That the Department will publish this letter in the **Federal Register**, together with the notice that the Petitioners have withdrawn the Petition conditioned upon satisfaction of the terms set forth herein.

Petitioners reiterate that the withdrawal of the Petition contemplated by this letter does not have any force or effect, and provides the Department with no authority to terminate the investigation, until the foregoing provisions are met.

Respectfully submitted,

Charles Owen Verrill, Jr., Esq.,

Wiley & Rein, 1776 K Street, NW., Washington, D.C. 20006, (202) 429-7000.

Counsel for Petitioners: Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., Raritan River Steel Co.

David E. Birenbaum, Esq.,

Fried, Frank, Harris, Shriver & Jacobson (A Partnership Including Professional Corporations) 600 New Hampshire Ave., NW., Washington, D.C. 20037, (202) 342-3500.

Counsel for Petitioner: Atlantic Steel Co.

[FR Doc. 85-18252 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-410]

Hydrogenated Castor Oil From Brazil: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that hydrogenated castor oil from Brazil is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of hydrogenated castor oil from Brazil that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by October 8, 1985

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Ofice of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that hydrogenated castro oil from Brazil is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(b)) (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 3.88 percent.

If this investigation proceeds normally, we will make a final determination by October 8, 1985.

Case History

On December 28, 1984, we received a petition from Union Camp Corporation on behalf of the U.S. industry producing hydrogenated castro oil. In accordance with the filing requirements of § 353.36 of the Commeerce Regulations (19 CFR 353.36), the petition alleged that hydrogenated castor oil form Brazil is being, or is likely to be, sold in United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the U.S. International Trade Commission (ITC) of our action and initiated such an investigation on January 17, 1985, (50 FR 3372). The ITC subsequently found, on February 11, 1985, that there is a reasonable indication that imports of hydrogenated castor oil from Brazil are materially injuring a United States industry. On March 13, 1985, the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition. On April 1, 1985, we granted the request (50 FR 13644).

Scope of Investigation

The product covered by this investigation is dydrogenated castor oil currently provided for under item number 178.2000 of the *Tariff Schedules of the United States, Annotated.* We investigated sales of this product which were made by two Brazilian producers and sold to the United States during the period of investigation, July 1, 1984, through December 31, 1984. The firms investigated were Sanbra, S.A. and Brasweys, S.A. Sales by these firms accounted for approximately 75 percent of Brazilian hydrogenated castor oil sold to the United States during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided for in section 772 of the Act, for Braswey, S.A. we compared United States price based on purchase price, as the product was sold to unrelated purchasers prior to importation into the United States. For Sanbra, S.A. we compared United States price based on exporter's sales price, as the product was sold to unrelated purchasers in the United States after the date of importation. For Braswey, S.A. we calculated the purchase price based on the C.I.F., duty paid, packed price to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight, U.S. Customs duty, marine insurance and brokerage. For Sanbra, S.A. we calculated the exporter's sales price on the C.I.F. duty paid, packed or C.I.F. duty paid, delivered, packed price to unrelated purchasers in the United States. We make deductions, where appropriate, for foreign brokerage, handling and port charges, ocean freight marine insurance, foreign inland freight, U.S. Customs duty, U.S. brokerage, U.S. inland freight, U.S. insurance, credit expenses and other selling expenses incurred in the United States.

Section 772(d)(1)(C) of the Act requires that indirect taxes imposed upon home market merchandise, but which have not been collected upon exported merchandise by reason of its exportation to the United States, be added to the United States price, "but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation". Such a tax, the "ICM" (internal circulation tax), is imposed on home market sales, but varies with the destination of the merchandise in the home market. Therefore, no single tax rate can be applied as an addition to U.S. sales. We have deducted this tax from the home market prices of both companies. We have also deducted the FINSOCIAL tax and IPI tax from home market prices in which they were included.

Foreign Market Value

Sales of such merchandise in the home market were used to represent foreign market value, as provided for in section 773(a) of the Act. Calculations of foreign market value for Sanbra, S.A. were based on delivered or ex-factory, packed prices to unrelated purchasers in the home market. Deductions were made, where appropriate, for inland freight. We also made deductions for credit expenses. We deducted home market indirect selling expenses to offset U.S. indirect selling expenses. We also adjusted for differences in packing costs.

Calculations of foreign market value for Braswey, S.A. were based on delivered packed prices to unrelated purchasers in the home market. We made deductions for inland freight. We also adjusted for differences in credit terms. For some home market sales used for comparison to U.S. purchase price, sales commissions were paid in one market and not the other. In these cases we made adjustments for the differences between commissions in the applicable market and indirect selling expenses in the other market used as an offset to the commissions, in accordance with § 353.15(c) of the Regulations. We adjusted for differences in packing costs.

Comparisons were made between sales occurring within the same month. Braswey, S.A. claimed an adjustment for technical services expenses incurred on home market sales. This adjustment has not been allowed pending further clarification of the nature of these services and the method of quantification. They also claimed an allowance for warehousing expenses incurred in the home market. As these expenses reflected pre-sale interest cost on warehouse inventory, this adjustment was not allowed. Both Braswey, S.A. and Sanbra, S.A. argue that certain small quantity sales should not be considered in our calculations because such comparisons should be of comparable qualities. We have found no pattern of pricing based on quantities. Accordingly, we have used these sales in our calculations. Sanbra, S.A. alternatively makes the same claim for exclusion of certain sales based on differences in level of trade. We find no sufficient delineation of levels of trade or cost difference quantifications to permit such an allowance. In calculating foreign market value, we made currency

conversions from Brazilian cruzeiros to United States dollars in accordance with § 353.36(a)(1) of our Regulations, using, as appropriate, certified daily or quarterly exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of hydrogenated castor oil from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price.

The weighted-average margins are as follows:

Manufacturer/seller/exporter	Weighted-average margin percentage
Braswey, S.A.	1.11
Sanbra, S.A.	6.17
All others	3.88

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 11:00 a.m. on August 30, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by August 23, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of publication of this notice, at the above address in at least 10 copies.

Dated: July 25, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-18253 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

Department of Agriculture

SN 6-734,647, Boll Weevil Trap.

Department of Health and Human Services

SN 6-623,923, Process for Site-Specific Mutagenesis without Phenotypic Selection.

SN 6-675,276, Synthesis and Utilization of 17-Methyl and 17-Cyclopropylmethyl-3, 14-Dihydroxy-4, 5-Epoxy 6-Fluoromorphinans (Foxy and Cyclofoxy) As [^{18} F]—Labeled Opioid Ligands for Positron Emission Transaxial Tomography (PETT).

SN 6-741,600, Isolated, Soluble Immunogen Against Schistosoma Mansoni and A Method of Vaccination Employing Same.

SN 6-743,570, Human Monocytes Cultured in Suspension in Serum Free Medium.

Department of the Air Force

SN 6-541,594, Test Target for Adative Optics.

SN 6-541,820, CCD Gaussian Convolution Method.

SN 6-640,623, Over-Center Toggle Latch.

SN 6-693,927, Vision Test Chart and Method Using Gaussians.

SN 6-726,872, Total Internal Reflection Modulator/Deflector.

SN 6-727,507, Tunable Acousto-Optic Filter with Improved Spectral Resolution and Increased Aperture.

SN 6-729,388, Improved Temperature Detection System for Use on Film Cooled Turbine Airfoils.

SN 6-738,817, Photoionization Technique for Growth of Metallic Films.

SN 6-739,413, Instantaneous Frequency Measurement Receiver with Digital Processing.

SN 6-742,825, Signal Analysis Receiver with Acousto-Optic Delay Lines.

Department of the Army

SN 6-742,152, Dual Optical Mechanical Position Tracker.

SN 6-744,344, Rechargeable Lithium-Organic Electrolyte Battery Having Overcharge Protection and Method of Providing Overcharge Protection for A Lithium-Organic Electrolyte Battery.

[FR Doc. 85-18238 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China; Correction

July 29, 1985.

On July 22, 1985 a letter from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (50 FR 29716), which established new limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in China and exported during 1985. In the notice document which preceded that letter, the TSUSA numbers identifying coveralls, overalls, jumpsuits and similar apparel in Category 359 pt. should have been 379.0822, 379.6410, 383.0828 and 383.5027. In the letter to the Commissioner of Customs which followed that notice the units amount designated for Category 359 pt.[1] should have been pounds, instead of dozen.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18278 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DR-M

Temporary Visa Waiver for Certain Man-Made Fiber Sweater Jackets

July 29, 1985.

On May 24, 1985 and June 27, 1985 notices were published in the **Federal Register** (50 FR 21485 and 26600), which announced a visa waiver procedure for acrylic knit sweater jackets with sherpa-style or quilted nylon linings with polyester fiber filling, visaed as women's, girls' and infants' sweaters in Category 646. The purpose of this notice is to advise the public that the waiver procedure is being extended through December 31, 1985 for merchandise entered or withdrawn from warehouse for consumption in the United States by that date. Additionally, coverage of this extended waiver procedure is being broadened to include men's and boys' sweater jackets of the types described above, visaed as Category 645, but which were reclassified into Category 634 by the U.S. Customs Service ruling of April 10, 1985.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18254 Filed 7-31-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the responses to the Recommendations, Requests for Information, Statements of Appreciation, and Continuing Concerns made by the Committee at the 1985 Spring Meeting; discuss current issues relevant to women in the Services; and plan the program for the Semi-Annual Meeting scheduled for 27-31 October 1985 in Santa Maria, California.

All meeting sessions will be open to the public.

DATE: August 19, 1985, 1:30-5:00 p.m. and August 20, 1985, 9:30-11:30 a.m.

ADDRESS: OSD Conference Room 1E801 No. 7, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, D.C. 20301-4000; telephone (202) 697-2122.

SUPPLEMENTARY INFORMATION: Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must notify the point of contact listed above no later than August 2, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 29, 1985.

[FR Doc. 85-18205 Filed 7-31-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Identification Requirements for Drivers Hauling Department of Defense (DOD) Material Under a Transportation Protective Service (TPS)

AGENCY: Department of Army, Military Traffic Management Command, Department of Defense.

ACTION: Notice of new driver identification requirement.

SUMMARY: The DOD requires all commercial drivers employed to handle shipments moving under a transportation protective service to carry adequate identification which verifies their affiliation with the carriers named on the bill of lading.

As a result of recent changes to Department of Defense Policy, Chapter 226 of the Military Traffic Management Regulation, which governs the movement of classified and sensitive material, carriers must ensure that drivers employed to handle DOD shipments requiring a TPS including CONFIDENTIAL or sensitive shipments have in their possession a valid driver's license, and a medical examiner's certificate, employee record card or similar document, one of which must include the driver's photograph. From the documents provided, a shipper must be able to verify the driver's affiliation with the carrier named on the bill of lading.

EFFECTIVE DATE: September 1, 1985.

FOR FURTHER INFORMATION CONTACT: Betty Yanowsky, (202) 756-1565 or CPT Virginia Closs, (202) 756-2030.

SUPPLEMENTARY INFORMATION: A TPS includes: Protective Security Service, Armed Guard Surveillance, Dual Driver Protective Service and DOD Constant Surveillance Service. A shipment requiring a TPS will be accompanied by documentation in the form of a bill of lading which designates the TPS required.

Peter J. Ladzinski,

Alternate, Department of the Army, Liaison with Federal Register.

[FR Doc. 85-18273 Filed 7-31-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 19 thru 29 August 1985.

Times of Meeting: 0800-1700 hours weekdays and as needed on weekends.

Place: National Academy of Sciences Study Center, Woods Hole, Massachusetts.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle will meet for discussions of briefings to-date to develop and write the final report. The study effort

addresses the following areas: Logistics manning, training and personnel management. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7047.

Sally A. Warner,

Administrative Officer Army Science Board.

[FR Doc. 85–18196 Filed 7–31–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 19 thru 29 August 1985.

Times of Meeting: 0800–1700 hours weekdays and as needed on weekends.

Place: National Academy of Sciences Study Center, Woods Hole, Massachusetts.

Agenda: The Army Science Board 1985 Summer Study on Training and Training Technlogy—Applications for AirLand Battle will meet for discussions of briefings to-date to develop and write the final report. The study effort addresses the following areas: Doctrine and training integration, training effectiveness, and training application. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer Army Science Board.

[FR Doc. 85–18195 Filed 7–31–85; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee; National Energy Security Policy Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee National Energy Security Policy Task Force will meet August 29–30, 1985, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to clearly understand the policy implications of the energy security problem facing the United States. The entire agenda for the meeting will consist of discussions of key issues regarding the parameters of national energy security policy, their implications for U.S. Navy operations, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 904, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: July 29, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–18257 Filed 7–31–85; 8:45 am]

BILLING CODE 3810–AE–M

Chief of Naval Operations; Executive Panel Advisory Committee; Personal Excellence and National Security Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Personal Excellence and National Security Task Force will meet September 9–10, 1985, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to examine Navy personnel policies and programs. The entire agenda for the meeting will consist of discussions of key issues regarding future U.S. and Soviet naval manpower requirements, the national security implications of the dwindling quantity of quality youth in the U.S. and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 904, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: July 29, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–18258 Filed 7–31–85; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Naval Special Warfare Panel will meet on August 21–23, 1985, at the Naval Ocean Systems Center, San Diego, California. The agenda will include technical briefings on existing capability of the Navy's special warfare forces. The meeting will commence at 8:30 A.M. and terminate at 4:00 P.M. on August 21, commence at 9:00 A.M. and terminate at 4:00 P.M. on August 22, and commence at 8:30 A.M. and terminate at 5:00 P.M. on August 23, 1985. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the technological capability of Naval Special Warfare forces to respond to warfare situations that require mobile, self-contained forces of an unconventional nature. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000. Telephone number (202) 696–4870.

Dated: July 29, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, USN Reserve, Federal Register Liaison Officer.

[FR Doc. 85-18256 Filed 7-31-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Privacy Act of 1974: Notice To Amend the Pell Grant Application File

AGENCY: Department of Education.

ACTION: Notice to amend a system of records.

SUMMARY: The Secretary gives notice to amend the Privacy Act system of records described as: 18-40-0014/Pell Grant Application File ED/OPE/OSFA. The Secretary proposes to revise the first sentence under the routine uses for that system of records. The revised routine use clearly permits the disclosure of information in this system of records to agents of institutions that process the institutions' Pell Grant payments to students. This disclosure will expedite Pell Grant operational procedures.

DATE: Comments on the revised routine use must be received on or before September 3, 1985. The proposed changes to the system of records notice are effective without further notice on that date unless the Secretary publishes a revised notice.

ADDRESSES: Interested persons are invited to submit written data, views, or arguments on the revised routine use for this system of records. Comments on the revised routine use should be addressed to the Privacy Act Officer, Office of Legislation and Public Affairs, Department of Education, Room 2089, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 2089 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bill Bush, Branch Chief, Data Management Branch, Division of Systems Design and Development, Room 4624, ROB-3, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245-0812.

SUPPLEMENTARY INFORMATION: The notice for this system of records—the Pell Grant Application File ED/OPE/OSFA—was published in the Federal Register at 46 FR 29633, June 2, 1981. Minor changes to the notice were published in the Education Department's last annual **Federal Register** publication of system notices at 47 FR 16832, April 20, 1982.

The amendment to the notice made by this document proposes to revise one of the routine uses for this system of records. The proposed routine use, which will expedite Pell Grant operational procedures, is revised to clarify that the Department may disclose information contained in this system of records to agents that act as institutions' financial aid officers in providing Pell Grant payments to students.

Currently, a student completes a release statement on the student financial aid application which permits the Department to send information from the application to the student's college. However, some institutions have contracted with an agent or consulting firm (referred to herein as "agents") to act as the instititions' financial aid administrators. The Department has been sending the application information to the respective institutions to ensure compliance with the above-mentioned system of records notice. The institutions then forward the information to their agents for processing.

This amendment to the notice will permit the Department also to release the processed student aid application data records from this file directly to an institution's agent. As discussed, the agent already receives this information from the schools. This *direct* release to the agent from the Department, however, will result both in time and cost savings. Time will be saved because the institution no longer will need to perform the liaison activity between its agent and the Department. Savings will accure because the Department will be forwarding the information to the institution's agent. It should be pointed out that applicants will still receive a Student Aid Report and that the addition to this notice will not change this procedure.

These amendments to the Pell Grant Application File do not alter the system of records. The same individuals are covered by the notice; the type and categories of information remain the same; the manner in which the records are organized, indexed, and retrieved remains the same; and the purpose of the system of records remains unchanged.

Because the changes to this system of records are discussed comprehensively in this preamble, the Secretary publishes only the amendment to this notice.

Dated: July 29, 1985.

William J. Bennett,

Secretary of Education.

The Secretary revises the system of records notice for system 18-40-0014, Pell Grant Application File, by amending the first sentence under the routine uses as follows:

18-40-0014

SYSTEM NAME:

Pell Grant Application File. ED/OPE/OSFA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Identifying information and eligibility index of applicants is provided to those institutions of postsecondary education or their agents in which the applicants plan to enroll or are enrolled.

* * * * *

[FR Doc. 85-18274 Filed 7-31-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Handicapped Special Studies Program; Proposed Annual Evaluation Priorities

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Evaluation Priorities.

SUMMARY: The Secretary proposes annual evaluation priorities for the Handicapped Special Studies program. Studies have been selected to ensure effective use of program funds and to meet study requirements including the Education of the Handicapped Act.

DATE: Comments must be received on or before October 30, 1985.

ADDRESS: Comments should be addressed to: Susan Sanchez, Research Projects Branch, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue S.W., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Susan Sanchez. Telephone: (202) 732-1064.

SUPPLEMENTARY INFORMATION: The Handicapped Special Studies program, authorized by Section 618 of Part B of the Education of the Handicapped Act, as amended, supports studies to evaluate the impact of the Act including States' efforts towrds the provision of a free appropriate public education to handicapped children (20 U.S.C. 1401,

1411 *et seq.*). Section 618 of the Act requires that the results of these studies be included in the annual report submitted to the Congress by the Department.

Under section 618(c) of the Act, as amended by the Education of the Handicapped Act Amendments of 1983, Pub. L. 98-199, the Secretary is expressly required to submit to the appropriate committees of each House of the Congress and publish in the **Federal Register** for review and comment proposed annual priorities for evaluations conducted under section 618. In fiscal year 1985, five priorities were announced of which four were contract awards. Those contracts will be supported for a second year in fiscal year 1986. Only two priorities will be proposed for new awards in fiscal year 1986.

Priorities

(a) *Educational Progress of Handicapped Students.* This proposed priority would support a contract to implement a study design that was developed under a fiscal year 1984 priority funded under this program. The design implementation contract will collect, analyze and report data for a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, and examine their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education. This study is specifically required by Section 618(e)(1) of the Act, as added by the Education of the Handicapped Act Amendments of 1983. This award is to implement the longitudinal study design activity announced in the fiscal year 1984 special studies priorities.

(b) *State Educational Agency/Federal Evaluation Studies Projects.* This proposed priority would support evaluation studies to assess the impact and effectiveness of programs assisted under the Education of the Handicapped Act. Within this priority, studies will be invited that address: (1) The impact and effectiveness of criteria used to determine eligibility and placement of students in various program options; (2) the impact and effectiveness of related services provided to handicapped students; or (3) the impact of graduation and competency test standards on the educational opportunities provided handicapped students. However, applications that meet the invitational priorities described in items (1)-(3) will not receive a competitive preference over other applications that propose evaluation studies that assess the impact and effectiveness of programs assisted under the Education of the Handicapped Act. In accordance with Section 618(d) of the Act, as amended by the Education of the Handicapped Act Amendments of 1983, the Secretary proposes to enter into cooperative agreements with State educational agencies to carry out these studies.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of propsed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed evaluation priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3517, Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1418)

(Catalog of Federal Domestic Assistance Number 84.159; Handicapped Special Studies)

Dated: July 29, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-18275 Filed 7-31-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Worldwide Refining Trends Task Group; Rescheduling of Meeting

The date of July 25, 1985, sixth meeting of the Worldwide Refining Trends Task Group has been changed. The new date should read: Thursday, August 15, 1985, starting at 9:00 a.m. in the Conroe Room of the Four Seasons Hotel, Houston Center, 1300 Lamar Street, Houston, Texas. Notice of this meeting appeared in 50 FR 29250, Thursday, July 18, 1985 (FR Doc. 85-17141, filed July 17, 1985).

Issued at Washington, D.C., July 23, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85-18319 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 85-14-NG]

Natural Gas Imports; Northridge Petroleum Marketing U.S., Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada For Short-Term and Spot Markets.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 17, 1985, of an application filed by Northridge Petroleum Marketing U.S., Inc. (Northridge) for blanket authorization to import up to 100 Bcf of Canadian natural gas. The gas would be purchased from Northridge Petroleum Marketing, Inc., the applicant's Canadian parent corporation, over a two-year period beginning on the date of first delivery for short-term, direct sales to purchasers located primarily in the mid-Atlantic and Midwestern United States. The details of individual transactions including identification of purchasers, volumes, prices, and terms will be negotiated before the gas is delivered. The applicant proposes to make quarterly reports to the ERA.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on September 3, 1985.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., (202) 252-9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy,

Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6667

SUPPLEMENTARY INFORMATION: On July 17, 1985, Northridge filed an application for blanket authorization to import up to an aggregate of 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. The applicant is a corporation registered in the State of Colorado. It is a wholly-owned subsidiary of Northridge Petroleum Marketing, Inc., a Canadian corporation engaged in the marketing of crude oil, natural gas and refined petroleum products.

Northridge asserts that all the gas to be imported will be purchased from the parent company, which will in turn acquire the gas from a variety of Canadian producers, and will be sold in short-term, direct sales to purchasers located primarily in the mid-Atlantic and Midwestern United States. According to the applicant, the current deliverability available for sale to U.S. purchasers through its parent is a minimum of 300 MMcf per day.

Northridge's role in importing the gas will be solely that of a reseller. The U.S. purchasers are expected to include end-users, local distribution companies, and pipelines. Northridge anticipates that the gas will generally be used to displace higher-priced energy supplies.

The applicant intends to use existing transmission systems and does not require the construction of new or separate facilities in order to import the gas. Northridge requests authority to use any existing pipeline facilities at the United States-Canada border to effect delivery of the imported volumes.

Northridge states that the specific terms of each sale will be the result of negotiations between it and U.S. purchasers, and will be responsive to current market conditions for natural gas. No agreement between Northridge and its purchasers under the requested authorization will exceed two years in duration.

Northridge claims that, in order to be able to compete with available domestic supplies in the developing U.S. spot markets, it must be able to quickly negotiate and execute contracts with its U.S. purchasers. It believes that submitting these individual short-term sales contracts for regulatory review prior to each import sale could result in the loss of sales, which would in turn foster the inefficient allocation of competitive energy sources in the market. Northridge states that the ERA will be able to retain regulatory control through Northridge's proposed periodic reporting procedures. Under those procedures, Northridge would file, within forty days following each calendar quarter, a summary of all market sales it has made. Each sale summary would include the import and sale prices, amount of gas imported, duration of the sales agreement, contract adjustment and take provisions (if any), the Canadian suppliers to Northridge's parent company, the U.S. purchasers, and the U.S. market served.

Northridge asserts that approval and implementation of its import application will have a positive impact on the environment in cases where its gas displaces the consumption of high sulfur fuel oil and coal. The applicant also maintains that the importation of Canadian natural gas will serve the public interest because the terms, including the price, for each of its sales will be freely negotiated, thus ensuring the market-competitiveness of each import arrangement and promoting the efficient allocation of gas in the marketplace. Northridge states that these features of its anticipated import arrangements are in full conformance with the February 1984 policy guidelines and the delegation orders issued by the Secretary of Energy.

This application is one of a number received by the ERA concerning purchases of imported gas for spot and short-term market opportunities. The authorization sought would provide applicant with blanket import approval to negotiate and transact individual short-term, direct sale arrangements without further regulatory action. In many respects, this application is similar to other blanket imports the ERA has recently approved.

Public comment on this application is encouraged by this notice. Intervention requirements will be liberally applied and the views expressed by interested parties will be given careful and thorough consideration in evaluating Northridge's application. 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 (49 FR 6684, February 22, 1984). The objective of this policy, with its strong emphasis on competitive arrangements and contract flexibility, is to free commercial parties from undue government interference in determining contract terms and reflects the importance of buyer-seller negotiation. Parties that may oppose this application should comment in their responses on 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

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intevene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–033–B, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., September 3, 1985.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. 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, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. 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 on 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 trail-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. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northridge'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 July 25, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-18324 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-019; OFP Case No. 63028-9281-21-22]

Notice of Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification from Golden Valley Electric Association, Inc. (GVEA), for an exemption from the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On June 10, 1985, Golden Valley Electric Association, Inc. (GVEA), of Fairbanks, Alaska, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent reliability of service exemption for a proposed new electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in any new electric powerplant and the construction of such a powerplant without the capability to use an alternate fuel as a primary energy source. Final rules setting forth the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501 and 503. The final rules governing the reliability of service exemption, 10 CFR 503.40 were published at 46 FR 59872 (December 7, 1981).

The proposed 80 MW gas turbine powerplant, named Hollywood GV, for which GVEA seeks an exemption will use natural gas as its primary generation fuel. Construction on the unit is scheduled to commence by April 1993, with an on-line date of September 1995. GVEA plans to share the plant site with the proposed Hollywood 1 and 2 generation complex of the Matanuska Electric Association, Inc. (MEA) (OFP Case No. 61050-9275-21, 22-22), having obtained agreement to proceed from the Alaska Generation and Transmission Cooperative, Inc. (AEG&T), the cooperative formed by MEA. Both parties anticipate substantial savings in pooling of land and labor resources, including minimizing environmental impacts, when compared to stand-alone plant sites. The GV construction plan calls for full participation with AEG&T in site preparation, design, and sizing of all auxiliary equipment. Gas for the Hollywood GV unit will be produced from various gas fields located in the Beluga and Kenai areas. Enstar, the local area supplier of natural gas, is the owner of the Alaska Pipeline Service Company which operates a main 20-inch diameter gas transmission line within 4 miles of the Hollywood complex. Enstar has recently contracted with major producers for approximately one-half a trillion cubic feet of gas. In addition, there are substantial uncommitted proven reserves in the area. This assures a continuing, adequate supply for the proposed powerplant. The unit will not use any gas produced from the Prudhoe Bay Unit of Alaska.

After receipt of information from GVEA, ERA has determined that the petition includes sufficient evidence to support a determination on the exemption request and it is, therefore, accepted pursuant to 10 CFR 501.3. ERA retains the right, however, to request additional relevant information from GVEA at any time during the proceeding should circumstances or procedural requirements so require. A review of the petition is provided in the **"SUPPLEMENTARY INFORMATION"** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials relating to the proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of the reasons therefor, will be published in the **Federal Register.**

DATES: Written comments are due on or before September 16, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. Docket No. ERA-FC-85-019 should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, D.C. 20585, Telephone (202) 252-4708;

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: GVEA headquartered at Fairbanks, Alaska, is a nonprofit, member-owned electric cooperative supplying all generation requirements necessary to its members (approximately 24,078 retail customers as of the end of 1984). Recent power requirement studies made by GVEA indicate an additional increment will be needed by mid-1990. As the cooperative does not have any alternate sources, it is proposing the installation of an 80 MW gas turbine prowerplant to be called Hollywood GV to provide for anticipated growth and system reliability. The geographic location of the unit is to be on a 40 acre area at Township 17 North, Range 3, west of the Seward Meridian, Alaska. Construction is scheduled to commence April 1993.

Section 212(f) of FUA and 10 CFR 503.40 provides for a permanent exemption for powerplants necessary to maintain reliability of service. In addition, section 317 of Pub. L. 97-394 (42 U.S.C. 8322) provides that:

In the case of any new electric powerplant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978, to use natural gas . . . the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted . . . Nothing in this section shall apply to any new electric powerplant using natural gas produced from the Prudhoe Bay unit of Alaska.

In accordance with the requirements of 10 CFR 503.40(a) and (c), petition for a permanent exemption for Hollywood GV powerplant includes evidence and supporting information demonstrating that the GV powerplant is a qualifying powerplant under section 317 of Pub. L. 97-394; that no alternate power supply exists; and that the use of mixtures in the unit is not feasible. In addition, GVEA submitted an environmental impact analysis, as required by 10 CFR 503.13.

NEPA Compliance: In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality' implementing regulations, 40 CFR § 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considred a major Federal action significantly affecting the quality of the environment. If an EIS is determned to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by EPA does not constitute a determination that GVEA is entitled to the exemption requested. That determination will be based on the entire record of the proceeding, including any comments recieved during the public comment period provided for in this notice.

Issued in Washington, D.C., on July 25, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-18321 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 85-07-NG]

Natural Gas Imports/Exports; Great Lakes Gas Transmission Co.; Order Removing Condition From Authorization

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order removing condition from authorization to import and export Canadian natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on July 24, 1985, the ERA Administrator issued an Opinion and Order approving Great Lakes Gas Transmission Company's (Great Lakes) application to amend its authorization to import and export Canadian natural gas from and to TransCanada Pipelines Limited (TransCanada). The approval authorizes Great Lakes to increase the volumes it imports and exports from 815,000 Mcf to 825,000 Mcf of natural gas per day from November 1, 1985, to November 1, 20005. The Order removes the condition stipulated in DOE/ERA Opinion and Order No. 81 which conditioned final approval of the authorization upon completion by the ERA of an environmental review of Great Lakes' proposal to construct an auxiliary gas pipeline to facilitate the 10,000 Mcf per day increase.

The text of the Opinion and Order follows:

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9590

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

Issued in Washington, D.C., on July 26, 1985.

Paula A. Daigneault,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[ERA Docket No. 85-07-NG; DOE/ERA Opinion and Order No. 81A]

Order Removing Condition From Authorization To Import and Export Natural Gas From Canada

July 24, 1985.

I. Background

On May 9, 1985, the Administrator of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued DOE/ERA Opinion and Order No. 81 (Order No. 81) to Great Lakes Gas Transmission Company (Great Lakes), conditionally authorizing it to increase the daily volumes of natural gas it imports from and exports to Canada.[1] Order No. 81 amended DOE/ERA Opinion and Order No. 70[2] by increasing the volumes that Great Lakes is authorized to import and export for TransCanada Pipelines Limited (TransCanada) from 815,000 Mcf per day to 825,000 Mcf per day for the period November 1, 1985, to November 1, 2005, conditioned upon subsequent completion by the ERA of an environmental review of Great Lakes' proposal to construct an auxiliary natural gas pipeline near the Canadian border.

In order to import and export the incremental volumes, Great Lakes proposed to construct approximately 15 miles of 12-inch loop pipeline parallel to its existing pipeline that serves Sault Ste. Marie and Rudyard, Michigan, and Sault Ste. Marie, Ontario. Pursuant to Section 7(c) of the Natural Gas Act, Great Lakes filed an application with the Federal Energy Reulatory Commission (FERC) on March 4, 1985, for a certificate of public convenience and necessity to construct the additional pipeline capacity.[3] Great Lakes stated it would be unable to increase deliveries by 10,000 Mcf per day to the point of interconnection with TransCanada's facilities at Sault Ste. Marie, Michigan without constructing the proposed pipeline.

The National Environmental Policy Act of 1969 (NEPA) requires the ERA Administrator to give appropriate consideration to the environmental effects of gas import and export authorizations. At the time Order No. 81 was issued, the environmental analysis of the Great Lakes project had not been completed. The Administrator issued an authorization conditioned upon completion of an environmental analysis, with a final order to be issued after DOE review of such an analysis prepared by the FERC and the

[1] *Great Lakes Gas Transmission Company*, DOE/ERA Opinion and Order No. 81, issued May 9, 1985, [1 ERA ¶ 70.597].

[2] *Great Lakes Gas Transmission Company*, DOE/ERA Opinion and Order No. 70, issued January 23, 1985, (1 ERA ¶ 70.583).

[3] FERC Docket No. CP85-333-000 (50 FR 12861, April 1, 1985).

completion by the DOE of its NEPA responsibilities.[4]

II. Environmental Determinations

The FERC conducted a review of Great Lakes' proposed pipeline construction, and issued a final Environmental Assessment (EA) on July 23, 1985.[5] The EA assessed the environmental impacts associated with the proposed construction of approximately 15 miles of 12-inch loop pipeline parallel to Great Lakes' existing pipeline. In the EA, the FERC determined that the environment would not be significantly affected by Great Lakes' pipeline construction project. This conclusion was reached after reviewing analyses completed by the Michigan Department of Natural Resources, the U.S. Fish and Wildlife Service and the Michigan State Historic Preservation Office. The FERC EA indicates that Great Lakes would mitigate environmental impacts in the vicinity of the proposed construction (whether they pertain to wetlands, timber or agricultural lands) by ". . . [reverting] the land back to its original use following construction." [6]

The DOE has reviewed the EA prepared by the FERC and finds the environmental impacts of the proposed pipeline construction to be adequately assessed. This study is thus adopted and incorporated by reference by the DOE into its decision on this matter.[7] The DOE has completed its environmental review of the proposed project, and has determined that the project would not constitute a major federal action significantly affecting the quality of the human environment. Therefore, the DOE has concluded as a result of its environmental review that the decision made in Order No. 81 is not affected.

III. Decision

The authorization contained in Ordering Paragraph A of Order No. 81 was conditioned upon issuance of a further ERA order after review by the DOE of the FERC environmental analysis of this project, and the completion by the DOE of its NEPA responsibilities. This environmental review process has been completed. I find that the environmental condition in Order No. 81 has been satisfied. Accordingly, the condition contained in Ordering Paragraph B is hereby removed from the final authorization in Order No. 81.

Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is hereby ordered that the condition set forth in Ordering Paragraph B of DOE/ERA Opinion and Order No. 81, issued May 9, 1985, is removed.

Issued in Washington, D.C., on July 24, 1985.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 85-18318 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 85-12-NG]

Natural Gas Imports; Texas Eastern Transmission Corp.; Application To Amend Import Authorization

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 15, 1985, of the application of Texas Eastern Transmission Corporation (Texas Eastern) to amend its existing import authorization, based on a May 30, 1985, amending agreement between Texas Eastern and its supplier ProGas Limited (ProGas) of Calgary, Alberta, Canada. The amending agreement: (1) Extends the term of the arrangement for a two-year period from November 1, 1987, to October 31, 1989; (2) reduces take-or-pay obligations; (3) establishes a two-part demand/commodity pricing structure that would result in a price paid to ProGas of $3.11 (U.S.) per MMBtu and a delivered price of $3.97 per MMBtu; and (4) provides for periodic price reviews. Texas Eastern requests that its application be processed expeditiously.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111.

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on September 3, 1985.

FOR FURTHER INFORMATION CONTACT:

Tom Gehring, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9759

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: On April 24, 1981, in DOE/ERA Opinion and Order No. 32 (Order No. 32),[1] Texas Eastern was authorized to import Canadian gas from ProGas for the period from November 1, 1982, to October 31, 1987, under a gas sales contract dated May 17, 1979. The agreement provided for the sale of a maximum quantity of 75,000 Mcf of natural gas per day, with an 85 percent take-or-pay obligation. The contract set the price at the rate prescribed by the Canadian government for gas exported to the U.S. Order No. 32 authorized an import price not to exceed $4.94 (U.S.) per MMBtu, the border price at that time. The volumes purchased by Texas Eastern currently enter the U.S. at Emerson, Manitoba, through pipeline facilities of Great Lakes Transmission Company (Great Lakes). Great Lakes delivers the gas to ANR Pipeline Company (ANR) at an existing delivery point near Farwell, Michigan. ANR then delivers the gas to Texas Eastern at an interconnecting delivery point.

On May 30, 1985, Texas Eastern and ProGas agreed to contract changes which would: (1) Extend the term of the import from October 31, 1987, to October 31, 1989; (2) reduce Texas Eastern's minimum annual take-or-pay obligation from 85 percent to 60 percent of the contract quantities; (3) replace the $4.94 import price with a new two-part demand/commodity pricing formula subject to adjustment based on ProGas' costs for processing and transportation rendered by TransCanada Pipe Lines

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[4] *See* Ordering Paragraph B, Order No. 81. The FERC, which under DOE Delegation Order 0204-112 (49 FR 6090, February 22, 1984) has authority for "approval or disapproval of the construction and operation of particular facilities . . ." for imports and exports, must perform an environmental review before making its decision.

[5] FERC Office of Pipeline and Producer Regulation, *Environmental Assessment For Great Lakes Gas Transmission Company—Docket No. CP85-333-000*, July 23, 1985.

[6] In its findings and determinations, the FERC has required the applicant to implement specific mitigation measures to reduce environmental impacts.

[7] *See supra* note 5.

[1] Natural Gas Pipeline Company of America, Michigan Wisconsin Pipe Line Company (now ANR Pipeline Company), Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Texas Eastern Transmission Corporation, DOE/ERA Opinion and Order No. 32, issued April 24, 1981, 1 ERA ¶ 70,530).

Limited and on changes in the prices on No. 2 and No. 6 fuel oils in New York harbor as listed in Platt's Oilgram Price Report; and (4) provide for periodic price reviews. The price may be renegotiated annually, if necessary, to make the price of the gas comparable to the price of major energy sources competing in Texas Eastern's market. In addition, the price may be renegotiated in the event Texas Eastern makes a new PGA filing whereby its average gas purchase cost varies upward or downward by more than 5 percent.

The amendment establishes a benchmark commodity price beginning April 1, 1985, of $2.61 (U.S.) per MMBtu, from which future adjustments will be calculated. According to Texas Eastern, at 100% load factor, that price plus the demand charges would yield a cost at the international border of $3.11 (U.S.) per MMBtu. At the time the base commodity price was agreed upon, the total deliverd price in Texas Eastern's east coast markets was $3.97 per MMBtu.

In support of its application, Texas Eastern submits that the Canadian gas is an integral part of its system supplies and continuation of the imports under the amended sales agreement is essential to meet its future market requirements.

In addition, Texas Eastern asserts that the proposed amendment meets the policy guidelines of the Department of Energy because it: (1) Provides sufficient flexibility to permit pricing and volume adjustments, as required by market conditions and available competing fuels including domestic natural gas; (2) contains provisions that will make the imported gas remain competitive in Texas Eastern's markets over the life of the amended sales agreement; and (3) contains price renegotiation provisions that will permit contractual price adjustments in the event of changed circumstances.

Furthermore, based upon the historical reliability of Canadian import supplies, as well as the historical reliability of the ProGas gas supplies already imported under the existing import authorization, Texas Eastern contends that the imported gas supplies are a secure, reliable source of gas supply. Finally, under the new pricing provision, the applicant claims that the gas will be competitive in Texas Eastern's markets.

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. (49 FR 6684, February 22, 1984.) The objective of this policy, with its strong emphasis on competitive arrangements and contract flexibiity, is to free commercial parties from undue government interference in determining contract terms and reflects the importance of buyer-seller negotiation. Parties who may oppose this application should comment in their responses on 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

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., September 3, 1985.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. 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, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. 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. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of Texas Eastern's application is availble 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 July 25, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-18322 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 9243-000 et al.]

Hydroelectric Applications (Columbia Hydro Associates, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 9243-000.

c. Date Filed: May 27, 1985.

d. Applicant: Columbia Hydro Associates.

e. Name of Project: Claverack Dam Project.

f. Location: The Claverack Creek near the Town of Columbiaville, Columbia County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Thomas Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 200-foot-long, 12-foot-high concrete

gravity Claverack Dam; (2) a reservior having a surface area of 1 acre with negligible storage and a normal water surface elevation of 140 feet msl; (3) an existing 80-foot-long, 40-footdiameter penstock; (4) an existing powerhouse containing one new generating unit with an installed capacity of 400kW; (5) an existing 20-foot-long, 50-foot-wide tailrace; (6) a proposed 200-foot-long, 12.5 kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 1,800,000 kWh. The existed dam and project facilities are owned by John Fiorillo and Columbia County.

k. Purpose of Project: All project power generated would be sold to the Niagara Mohawk Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks, issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $125,000.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 9244–000.

c. Date Filed: May 29, 1985.

d. Applicant: Orange Hydro Associates.

e. Name of Project: Cuddeback Project.

f. Location: On the Neversink River in Orange County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Thomas Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 300-foot-long, 35-foot-high rock, masonary, concrete gravity Cuddebackville Dam; (2) a reservior having a surface area of 2 acre with negligible storage having a surface elevation of 450 feet msl; (3) an existing 4,000-foot-long, power canal; (4) an existing 25-foot-long, 10-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit having an installed capacity of 1,200 kW; (6) a proposed 100-foot-long, 25-foot-wide tailrace; (7) a proposed 100-foot-long, 12.5-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 4.5 GWh. The Cuddebackville Dam and existing facilities are owned by the Village of Cuddebackville, the Delaware and Hudson Canal Associates, and Mr. George Van Langen.

k. Purpose of Project: All project power generated would be sold to the Town of Middletown, New York.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks, issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $125,000.

a. Type of Application: Preliminary Permit.

b. Project No.: P–9255–000.

c. Date Filed: May 31, 1985.

d. Applicant: Southbridge Associates.

e. Name of Project: Westville Lake Dam.

f. Location: On the Quinebaug River in Worcester County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, Room 600, Washington, DC 20005.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Westville Lake Dam and reservoir and would consist of: (1) An existing penstock 100 feet long and 8 feet in diameter; (2) a proposed powerhouse 50 feet long and 50 feet wide containing one proposed turbine/generator with a rated capacity of 1,000 kW; (3) a proposed tailrace 100 feet long; (4) a new 12–kV transmission line approximately 1200 feet long and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 4.3 Gwh operating under a net hydraulic head of 83 feet. Project power will be sold to the Massachusetts Municipal Wholesale Electric Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

l. Proposed Scope of Studies under Permit: A preliminary permit, is issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

a. Type of Application: Preliminary Permit.

b. Project No.: P–9257–000.

c. Date Filed: June 3, 1985.

d. Applicant: Onondaga Hydro Associates.

e. Name of Project: Otisco Lake.

f. Location: On the Otisco Lake in Onondaga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, Room 600, Washington, DC 20005.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of (1) An 18-foot-high and 426-foot-long existing concrete dam including spillway at elevation 788 m.s.l. owned by Onondaga County; (2) a 512-acre reservoir with an existing storage capacity of 2,000 acre-feet at surface elevation 788.2 m.s.l.; (3) a proposed penstock 325 feet long and 28 inches in diameter; (4) a proposed powerhouse 25 feet long and 25 feet wide containing one proposed turbine/generator with a rated capacity of 55 kW; (5) a proposed tailrace channel 25 feet long and 5 feet wide; (6) a new 12–kV transmission line 400 feet long; and (7) appurtenant facilities. The estimated averge annual energy produced by the Project would be 120,000 kWh operating under a net hydraulic head of 17 feet. Project power would be sold to the City of Syracuse, New York.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

l. Proposed Scope of Studies under Permit: A preliminary permit, is issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

a. Type of Application: Preliminary Permit.

b. Project No.: 9258–000.

c. Date Filed: June 3, 1985.

d. Applicant: Blanchard Hydro Associates.

e. Name of Project: F. Joseph Sayers Dam.

f. Location: On the Bald Eagle Creek in Centre County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, Room 600, Washington, DC 20005.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' F. Joseph Sayers Dam and Reservoir and would consist of: (1) A proposed penstock 525 feet long and 60 inches in diameter (2) a proposed powerhouse 25 feet wide and 50 feet long containing one proposed turbine/generator with a rated capacity of 1,625 kW; (3) a proposed channel tailrace 25 feet wide and 125 feet long; (4) a new 46–kV transmission line approximately 5400 feet long; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 9.9 million kWh operating under a net hydraulic head of 100 feet. Project power will be sold to the West Penn Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

l. Proposed Scope of Studies under Permit—A preliminary permit, is issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

6 a. Type of Application: Preliminary Permit.

b. Project No.: P–9260–000.

c. Date Filed: May 31, 1985.

d. Applicant: Adirondack Hydro Development Corporation.

e. Name of Project: Sissonville.

f. Location: On the Raquette River in St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Alan W. Rothe, Ayers, Lewis, Norris & May, Inc., 3983 Research Park Drive, Ann Arbor, MI 48104.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of: (1) The reconstruction of an existing concrete dam which is 11 feet high and 370 feet wide including spillway at elevation 392 feet USGS; (2) a proposed 20-acre reservoir with a maximum storage capacity of 120 acre-feet at 395 m.s.l.; (3) a proposed concrete powerhouse approximately 40 feet wide and 100 feet long containing one turbine/generator with an installed capacity of 2.2 MW; (4) a proposed headrace channel fan approximately 160 feet long and 60 feet wide; (5) a proposed tailrace channel extending approximately 950 feet and 60 feet wide; (6) a proposed 13.2-kV transmission line approximately 300 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 12 million kWh operating under a net hydraulic head of 15 feet. Project power would be sold to the Niagara Mohawk Power Corporation. The dam is owned by the applicant.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $47,000.

7 a. Type of Application: Preliminary Permit.

b. Project No.: P–9283–000.

c. Date Filed: June 10, 1985.

d. Applicant: Summit Hydropower.

e. Name of Project: Fitchville Pond.

f. Location: On the Yantic River in New London County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Duncan Broatch, Summit Hydropower, P.O. Box 122, Putnam, CT 06260.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 27-foot-high and 200-foot-long stone masonry and concrete gravity dam with a spillway crest elevation of 154.0 feet NGVD; (2) a 61-acre surface reservoir with a storage capacity of 759 acre-feet with a maximum surface elevation of 152.0 feet NGVD; (3) a new 10-foot-long and 15-foot-wide rectangular steel penstock; (4) a proposed powerhouse 30 feet long and 30 feet wide to contain one turbine/generator unit with an installed capacity of 135 kW; (5) a proposed tailrace channel; (6) an existing three-phase 4800-volt transmission line 75 feet long; and (7) appurtenant facilities. The estimated average annual energy producted by the project would be 600,000 kWh. The owner of the dam is Mr. Seymour Adelman.

k. Purpose of Project: Project energy would be sold to Northeast Utilities Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

8 a. Type of Application: Major License.

b. Project No.: 4412–005.

c. Date Filed: October 31, 1984.

d. Applicant: Thornton Lake Resource Company.

e. Name of Project: Thornton Creek.

f. Location: On Thornton Creek tributary to the Skagit River, in Whatcom County, Washington, and affecting lands within the Ross Lake National Recreation Area.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: William L. Devine, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, WA 98266.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 5-foot-high, 40-foot-long overflow-type reinforced-concrete dam having spillway crest elevation 2,435.0 feet; (2) a gated intake structure at the right (west) bank having a siuiceway; (3)a 5,500-foot-long, 30-inch-diameter underground steel pipeline; (4) a 4,000-foot-long, 30-inch-diameter steel

penstock; (5) a powerhouse containing a generating unit rated at 5,000-kW; (6) a 150-foot-long tailrace; (7) a 13,190-foot-long underground 4,160-volt transmission line to the proposed Damnation Creek Substation; and (8) an access road to the dam and an access road to the powerhouse. The average annual energy generation is estimated to be 19.8 GWh. Applicant estimates that the project cost would be $7,478,000 in 1986 dollars.

k. Purpose of Project: Project energy would be sold.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

9 a. Type of Application: Major License (Existing Dam).

b. Project No.: 4656-002.

c. Date Filed: July 27, 1984.

d. Applicants: Boise-Kuna Irrigation District, New York Irrigation District, Nampa and Meridian Irrigation District, Wilder Irrigation District and Big Bend Irrigation District.

e. Name of Project: Arrowrock Dam Hydroelectric.

f. Location: At the Bureau of Reclamation's existing Arrowrock Dam on the Boise River in Elmore, Boise, and Ada Counties, Idaho near the town of Boise, within the Boise National Forest on lands under Reclamation withdrawal, Corp's of Engineer Land and land administered by the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Gerald Guentz, Chairman, Boise Project Board of Control, 214 Broadway, Boise, ID 83702.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would consist of: (1) Two 13-foot-diameter, 180-foot-long penstocks, having steel trashracks at the entrance of each penstock, to be located through the existing Arrowrock Dam; (2) a 70-foot-wide, 120-foot-long, 130-foot-high powerhouse located on the left side of the Boise River Channel at elevation 3,070 feet containing two 30-MW generating units with a total average annual energy output of 167.6 million kWh, operating under a head of 149 feet; (3) a 90-foot-wide, 50-foot-long tailrace discharging into the existing Corps of Engineer's Lucky Peak Lake reservoir, over a concrete-capped weir at elevation 3,026 feet; (4) a switchyard and transformer located adjacent to the powerhouse; (5) a 15.2-mile-long, 138-kV transmission line connecting to the existing Boise Bench Substation of Idaho Power Company; (6) 18 new dock segments at Spring Shores Marina; (7) 280 new dock segments placed at Lucky Peak Lake; (8) modification of beach at Robie Creek and the boating zone at Chimmey Rock; (9) an enlargement of the existing Barclay Bay boat launch ramp, widened from 40-feet to 50-feet and lengthened from 70-feet to 320 feet; and (10) a paved parking lot with 28 pull-through car-trailer spaces. The estimated cost of the project is $78,977,195, in 1983 dollars.

k. Purpose of Project: The production of hydropower at Arrowrock Dam will be a byproduct of the present multipurpose Boise River System reservoir operations. Project power would be sold to either Seattle City Light, Idaho Power Company or Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 8349-000.

c. Date Filed: June 5, 1984.

d. Applicant: Colorado Hydro Partners, 84-1.

e. Name of Project: Homestake Tunnel Hydro Project.

f. Location: On the Homestake Reservoir in Lake, Pitkin, and Eagle Counties, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Bradley H. Ermel, P.O. Box 1926, Colorado Springs, Colorado 80901.

i. Comment Date: September 23, 1985.

j. Description of Project: The existing dam is owned jointly by the cities of Colorado Springs and Aurora, Colorado. The proposed project would be located within the San Isabel National Forest and would consist of: (1) An existing 267-foot-high and 2,700-foot-long, earthen filled dam; (2) an existing reservoir with a surface area of 334 acres and a storage capacity of 44,360 acre-feet at power pool elevation of 10,260 feet m.s.l.; (3) two proposed penstocks, which would be 30 feet long and 36 inches in diameter; (4) a proposed powerhouse containing two generating units rated at 700 kW each; (5) a proposed tailrace; (6) a proposed 115-kV, 3,500-foot-long transmission line; and (7) appurtenant facilities. The estimated average annual energy generation is 7,972 MWh.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

11 a. Type of Application: Conduit Exemption.

b. Project No.: 8700-001.

c. Date Filed: April 4, 1985.

d. Applicant: Alan J. Amy.

e. Name of Project: Amy Ranch.

f. Location: At existing irrigation diversions on Deep Creek and Black Creek in Butte County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Ted S. Sorenson, Consulting Engineer, 550 Linden Drive, Idaho Falls, ID 83401.

i. Comment Date: September 3, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6,600-foot-long, 8-inch-diameter pipe from the existing irrigation diversion on Black Creek to confluence with a 17,000-foot-long, 20-inch-diameter pipe from the existing irrigation diversion on Deep Creek; (2) a powerhouse containing a single generating unit with a capacity of 600 kw and an average annual generation of 3.7 GWh. The water will discharge into the applicant's irrigation ditch.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

12 a. Type of Application: Minor License.

b. Project No.: 8790-000.

c. Date Filed: December 11, 1984.

d. Applicant: City of Aberdeen, Washington.

e. Name of Project: Wishkah Hydroelectric.

f. Location: On the City's water supply pipeline, which originates at Malinowski Dam on the Wishkah River in Grays Harbor County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Robert A. Salmon, Operation and Maintenance, City of Aberdeen, 200 E. Market, Aberdeen, WA 98520.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would utilize excess flows in the pipeline and would consist of: (1) A bifurcation at mile 15 of the pipeline; (2) a 28-inch-diameter, 70-foot-long penstock; (3) a 23-foot by 25-foot wood frame powerhouse containing a generating unit rated at 330 kW at a head of 283 feet and a capacity of 17 cfs; (4) a 30-inch-diameter, 200-foot-long tailrace pipe discharging into the Wishkah River; and (5) a 50-foot-long, 12.47-kV transmission line from the main transformer at the powerhouse to an existing transmission line. The project would have an average annual energy output of 1.93 GWh and would have a total capital cost of $449,000, based on construction in 1985.

k. Purpose of Project: Project energy would be sold to a utility in the Pacific Northwest.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

13 a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 8940–000.

c. Date Filed: February 7, 1985.

d. Applicant: Batchelder Mill Partnership.

e. Name of Project: Plainfield.

f. Location: Winooski River in Washington County, Vermont.

g. Filed Pursuant to: Energy Security Act of 1980 Section 408 (16 U.S.C. 2705 and 2708).

h. Contact Person: Mr. G. Thomas Patton, Vermont Hydroelectric, Inc., Chace Mill, 1 Mill Street, Burlington, VT 05401.

i. Comment Date: September 3, 1985.

j. Competing Application: Project No. 8512, Filed: 8/13/84. Notice expired: 2/15/85.

k. Description of Project: The proposed project would consist of: (1) An existing 14-foot-high, 75-foot-long granite block dam owned by the Town of Plainfield with a crest elevation of 739 feet m.s.l.; (2) an existing reservoir with negligible storage capacity and surface acreage; (3) a proposed powerhouse at the East side of the dam containing a generating unit with a rated capacity of 200-kW; and (4) a proposed 50-foot-long transmission line tying into the existing Green Mountain Power Corporation line. The Applicant estimates a 603,000 kWh average annual energy production.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

m. This notice also consists of the following standard paragraphs: A4, B, C, & D3a.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 8951–000.

c. Date Filed: February 13, 1985.

d. Applicant: Redstone Water and Sanitation District and High Country Hydro, Inc.

e. Name of Project: East Creek.

f. Location: On East Creek, a tributary to the Crystal River, near Redstone, in Pitkin County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person:

Mr. Phil H. Mackay, Redstone Water and Sanitation District, 1091 Redstone Boulevard, Carbondale, CO 81623, (303) 963–2898

Mr. Bruce D. Lewis, High Country Hydro, Inc., 0401 County Road 149B, Glenwood Springs, CO 81601, (303) 945–8676

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing below-grade grated diversion structure located at streambed across East Creek at elevation 7,740 feet msl; (2) an existing 12-inch-diameter, 900-foot-long pipeline; (3) a bifurcation leading to a 10-inch-diameter, 2,600-foot-long penstock; (4) a powerhouse containing a single turbine-generator unit with an installed capacity of 200 kW and producing an estimated average annual generation of 0.88 GWh; (5) a tailrace discharging water back to East Creek; and (6) a 20-foot-long tap transmission line interconnecting the project to an existing Holy Cross Electric Association 14.4–kV line.

Applicant intends to sell the power to either Colorado Ute Electric Association or Public Service Company of Colorado. The proposed project would partly occupy White River National Forest lands.

East Creek drains into the Crystal River. The adjacent section of the Crystal River has been designated for study for inclusion in the National Wild and Scenic River System.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under the permit would be $20,000.

15. a. Type of Application: Preliminary Permit.

b. Project No.: 8978–000.

c. Date Filed: February 27, 1985.

d. Applicant: Michael R. Stansbury.

e. Name of Project: Hoop Creek.

f. Location: On Hoop Creek, Engleman Creek, and Unnamed tributary to Hoop Creek, near Berthoud Falls, in Clear Creek County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Michael R. Stansbury, 3662 E. Geddes Place, Littleton, CO 80122, (303) 779–9409.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would consist of: (1) a 4-foot-high, 20-foot-long concrete diversion structure located across Hoop Creek at elevation 10,720 feet msl; (2) a 4-foot-high, 10-foot-long concrete diversion structure located across an unnamed tributary to Hoop Creek at elevation 10,560 feet msl; (3) a 4-foot-high, 20-foot-long concrete diversion structure located across Engleman Creek at elevation 10,440 feet msl; (4) a 16-inch-diameter, 3,200-foot-long penstock from Hoop Creek; (5) an 8-inch-diameter, 800-foot-long penstock from the Hoop Creek tributary; (6) an 18-inch-diameter, 1,600-foot-long penstock from the junction of items (4) and (5) above; (7) a 12-inch-diameter, 3,500-foot-long penstock from Engleman Creek; (8) a powerhouse containing a single turbine-generator unit with an installed capacity of 1.2 MW and producing an estimated average annual generation of 2.8 GWh; (9) a 100-foot-long tailrace discharging water to West Fork Clear Creek; and (10) a 200-foot-long, 25–kV primary transmission line interconnecting the project to an existing Public Service Company of Colorado (PSCC) line. Applicant intends to sell the project power to PSCC. The project would be located entirely on Arapaho National Forest lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development.

Applicant estimates that the cost of the studies under the permit would be $25,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

16 a. Type of Application: Conduit Exemption.

b. Project No.: 9041-000.

c. Date Filed: March 22, 1985.

d. Applicant: Levan Town Corporation.

e. Name of Project: Pigeon Creek Hydro Project.

f. Location: Pigeon Creek Canyon in Juab County, Utah.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Golden Magelson, Mayor Levan Town, Levan, Utah 84639.

i. Comment Date: September 3, 1985.

j. Description of Project: An existing irrigation system consists of: an intake structure from Pigeon Creek; a 3,975-foot-long pipeline to an upper desilting pond; then a 15,944-foot-long pipeline to a lower desilting pond, and an irrigation distribution system from the lower pond. The proposed project would consist of: (1) A new powerhouse to contain a turbine-generator unit rated at 243 kW and to be located at the end of the 15,944-foot-long pipeline; (2) a tailrace discharging into the lower desilting pond; and (3) appurtenant facilities. A 2.4-kV transmission line about 1¼ miles long would connect to an existing line. The Applicant estimates that the average annual energy output would be 1,001,000 kWh.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

17 a. Type of Application: Conduit Exemption.

b. Project No.: 9159-000.

c. Date Filed: May 2, 1985.

d. Applicant: UAH-CENCOGEN Group.

e. Name of Project: West Delaware Tunnel Outlet.

f. Location: West Delaware Tunnel Outlet in Sullivan County, New York.

g. Filed Pursuant to: Section 30 of the Federal Power Act, [16 U.S.C. 825(a)].

h. Contact Person: Mr. David Goodman, UAH-CENCOGEN Group, 80 Eighth Avenue, Suite 711, New York, NY 10011.

i. Comment Date: September 3, 1985.

j. Competing Application: Project No. 8821.

Date Filed: December 24, 1984.

Notice Expired: May 6, 1985.

k. Description of Project: The proposed project would utilize the existing City of New York's West Delaware Tunnel and would consist of the following: (1) A new power station connected to the outlet works of the existing tunnel containing a generating unit with a rated capacity of 7,500-kW at elevation 846 feet msl; (2) a new 0.5-mile-long transmission line tying into the existing Central Hudson Gas and Electric Corporation System; and (3) appurtenant facilities. The Applicant estimates a 19,989,332 kWh average annual energy production.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D3b.

18 a. Type of Application: Preliminary Permit.

b. Project No.: P-9287-000.

c. Date Filed: June 13, 1985.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Stearns Reservoir.

f. Location: On the Sudbury River in Middlesex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John R. Anderson, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, MA 01803.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would consist of: (1) A 22-foot-high and 650-foot-wide existing earth dam including spillway at elevation 150 feet USGS datum; (2) a 100-acre reservoir with an existing storage capacity of 300 acre-feet at a normal maximum elevation of 161 feet USGS datum; (3) an existing powerhouse 65 feet long and 40 feet wide containing one turbine/generator with a rated capacity of 60 kW with flows discharging back into the Sudbury River; (4) a proposed 480-volt transmission line 100 feet long; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 260,000 kWh operating under a net hydraulic head of 12 feet. Project power would be sold to the Boston Edison Company. The dam is owned by the Metropolitan District Commission.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,000.

19 a. Type of Application: Preliminary Permit.

b. Project No.: P-9288-000.

c. Date Filed: June 11, 1985.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Saxonville Dam.

f. Location: On the Sudbury River in Middlesex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John R. Anderson, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, MA 01803.

i. Comment Date: September 23, 1985.

j. Description of Project: The proposed project would consist of: (1) A 29-foot-high and 450-foot-wide existing concrete gravity dam including spillway at elevation 115 feet USGS Datum; (2) a 30-acre reservoir with an existing storage capacity of 150 acre-feet at a normal maximum elevation of 135 feet USGS datum; (3) a proposed powerhouse 20 feet long and 15 feet wide containing one proposed turbine/generator with a rated capacity of 150 kW with flows discharging back into the Sudbury River; (4) a proposed 480-vote transmission line 200 feet long; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 650,000 kWh operating under a net hydraulic head of 20 feet. Project power would be sold to the Boston Edison Company. The dam is owned by Mr. John H. Finley.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the

work to be performed under the preliminary permit would be $1,100.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any

comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested, however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 25, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18218 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

El Paso Natural Gas Co., Union Oil Company of California; Proposed Settlement

[Docket Nos. CP74-314-016, CI84-141-003]

Issued: July 25, 1985.

Take notice that on July 11, 1985, El Paso Natural Gas Company (El Paso) and Union Oil Company of California (Union) filed a proposed settlement which, if approved, would resolve all matters in dispute in the above-referenced dockets between El Paso, its customers, interested state commissions, the Commission's staff, and Union.

The proposed settlement amends Union's December 13, 1983, application in Docket No. CI84-141-000 for a certificate of public convenience and necessity authorizing the sale of gas to El Paso from certain properties located in the San Juan Basin of New Mexico and presently subject to three Gas Lease Sale Agreements designated as GLA-76, GLA-348 and GLA-349. The settlement provides for the transfer of the lease rights under the subject GLA's from El Paso to Union to be effective when Union's certificate becomes final and no longer subject to judicial review or November 1, 1985, whichever is later, and for the payment of $5,000,000 by El Paso to Union for the termination of Union's special overriding royalty interests in GLA's 76, 348 and 349.

Submitted as part of the settlement is a new contract for the sale of gas from the GLA properties by Union to El Paso. The contract provides for the sale of gas to El Paso at applicable maximum lawful prices. The base price is equal to the replacement contract price under section 104 of the Natural Gas Policy Act of 1978 (NGPA). The price for gas which qualifies for the NGPA section 107(c)(5) price is limited to a maximum price equal to the NGPA section 102 price. El Paso has the right to reduce the price of any gas sold pursuant to the terms of the new contract under certain specified circumstances.

Any person desiring to do so may file comments concerning settlement with the the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, within 14 days following publication of this notice in the Federal Register. Any reply comments shall be filed within seven (7) days thereafter. All comments will be considered by the Commission but will not serve to make the commenters parties to the proceedings. Any person wishing to become a party must file a petition to intervene in accordance with Rule 214 of the Commission's rules of practice and procedure.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18220 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6181-002]

H.M.M., Inc.; Surrender of Preliminary Permit

July 26, 1985

Take notice that H.M.M., Inc., Permittee for the H.M.M. Hydropower Project No. 6181, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 6181 was issued August 12, 1982, and would have expired August 31, 1985. The project would have been located on Rush Creek in Washington County, Idaho.

The Permittee filed the request on July 9, 1985, and the preliminary permit for Project No. 6181 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18219 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-81-001 et al.]

Northwest Central Pipeline Corp. et al.; Filing of Pipeline Refund Reports and Refund Plans

July 25, 1985.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 1, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APENDIX

Filing date	Company	Docket No.	Type filing
June 14, 1985	Northwest Central Pipeline Corp	RP85-81-001	Report.[1]
June 17, 1985	Texas Eastern Transmission Corp	RP85-85-001	Do.[1]
June 28, 1985	Southern Natural Gas Co	RP85-153-002	Do.[1]
July 8, 1985	Lawrenceburg Gas Transmission Corp	RP78-37-012	Do.
July 10, 1985	Algonquin Gas Transmission Co	RP80-72-014	Do.
Do	Locust Ridge Gas Gathering Co	RP84-16-004	Do.
Dec. 21, 1984	Panhandle Eastern Pipeline Co	TA84-1-28-008	Do.

[1] Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic docket number and future related filings receive new sub-docket numbers.

[FR Doc. 85-18221 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

Panhandle Eastern Pipe Line Co. et al; Notice of Amended Complaint

[Docket No. CI85-270-000]

Issued: July 25, 1985.

Panhandle Eastern Pipe Line Co. v. TXO Production Corp. and Essex Exploration, Inc. and its successors and assigns, and Graham Exploration, Ltd., Notice of Amended Complaint.

Take notice that on June 21, 1985, Panhandle Eastern Pipe Line Company submitted an amendment to its complaint previously filed in the above-referenced docket on March 1, 1985. Panhandle's original complaint was filed against TXO Production Corp. (TXO) and Essex Exploration, Inc. (Essex) alleging that actions taken by TXO and Essex with respect to gas dedicated to Panhandle in interstate commerce resulted in the diversion of that gas to purchasers other than Panhandle.

Panhandle states that on June 15, 1983, the Oklahoma Corporation Commission approved the substitution of Graham Exploration, Ltd. (Graham) for Essex as operator of the Hampsten No. 1 Well, one of the wells through which gas was allegedly diverted. The purpose of Panhandle's amended complaint is to add Graham as a respondent.

Any person wishing to respond to Panhandle's amended complaint should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure not later than 30 days following publication of this notice in the **Federal Register.** Any person wishing to become a party to proceeding must file a motion to intervene. Copies of Panhandle's amended complaint are on file with the Commission and available for public inspection. Graham shall also file its answer to the amended complaint not later than 30 days following publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18222 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-593-000, et al.]

University Cogeneration, Inc., et al.; Small Power Production and Cogeneration Facilities Qualifying Status, Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register,** in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. University Cogeneration, Inc.

[Docket No. QF85-593-000]

July 22, 1985.

On July 8, 1985, University Cogeneration, Inc. (Applicant) of 3430 Camino Del Rio North, Suite 200, San Diego, California 92108 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in the Midway-Sunset Oil Field, approximately 3½ miles south of Taft, Kern County, California. The facility will contain a combustion turbine generator, and a supplementary fired heat recovery boiler (HRB). The steam from the HRB will be used in the tertiary oil recovery operation. The electric power production capacity of the facility will be 38,700 kW. The primary energy source for the facility will be natural gas. The facility is expected to start up on November 1, 1986.

2. Western Energy Engineers, Inc. (Klondike I(b))

[Docket No. QF85-609-000]

July 25, 1985.

On July 15, 1985, Paul R. Gerst, Managing Director, Western Energy Engineers, Inc. (Applicant) of Box 474, Newport Beach, California 92662, submitted for filing an application for certification of a facility known as Klondike I(b) as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle Klondike I(b) cogeneration facility is located at Foussat and Industry Streets in Oceanside, California. The facility will contain a combustion turbine-generator, a two pressure level heat recovery boiler (HRB) and an extraction steam turbine-generator. The extracted steam together with low pressure steam from the HRB will be supplied to the absorption refrigeration equipment and heating needs at the athletic facility. The net electric power production of the facility will be 27,605 kW. The primary energy source will be natural gas. The primary energy source will be natural gas. The facility is scheduled to start commercial operation in winter of 1986.

Standard Paragraphs

E. 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. 20420, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commisson 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 inpection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18276 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-491-000 et al.]

Midwestern Gas Transmission Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Midwestern Gas Transmission Company

[Docket No. CP85-491-000]

July 25, 1985.

Take notice that on May 7, 1985, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-491-000 a request as supplemented July 10, 1985, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Hadson Gas Systems Inc. (Hadson) acting on behalf of Reynolds Metals Company (Reynolds) under the certificate issued in Docket No. CP82-414-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Midwestern proposes to transport up to 2.38 billion Btu equivalent of natural gas per day for Hadson. It is stated that the gas would be used as boiler fuel in Reynolds' plant located in McCook, Illinois. It is further stated that Midwestern would receive the gas from ANR Pipeline Company (ANR) for the account of Reynolds at an existing interconnection between the facilities of Midwestern and ANR in Will County, Illinois, or from Tennnessee Gas Pipeline Company, a Division of Tenneco Inc. at an existing point of interconnection located near Portland, Tennessee, and would redeliver the gas to Northern Illinois Gas Company (NIGAS) at an existing interconnection between Midwestern and NIGAS near Joliet, Illinois, for ultimate delivery to Reynolds' plant in McCook, Illinois.

It is indicated that Midwestern would charge the applicable transportation rate set forth in its Rate Schedule IT-1, plus the GRI Surcharge of 1.25 cents per Mcf.

Midwestern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Reynolds. The flexible authority requested would apply only to points related to sources of gas supply, not to delivery points in the market area. Midwestern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application, and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: September 9, 1985, in accordance with Standard Paragraph G at the end of this notice.

Texas Eastern Transmission Corporation

[Docket Nos. CP85-423-000 and CP85-423-001]

July 25, 1985.

Take notice that on April 10, 1985, Texas Eastern Transmission Corporation (TETCO), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP85-423-000 a request, as amended July 1, 1985, in Docket No. CP85-423-001, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for an end-user under the certificate issued in Docket No. CP82-535-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request, as amended, on file with the Commission and open to public inspection.

It is stated that Everflow Energy, Inc., acting as agent for Scott Paper Company (Scott), has purchased quantities of natural gas from Production Marketing Specialists, Inc. (PMS), in Mississippi and from Avery Gas Resources in Louisiana. TETCO proposes to transport up to 14,500 dt equivalent per day of fuel oil displacement gas on behalf of Scott, an eligible end-user. It is stated that TETCO would receive the gas, for the account of Scott, from United Gas Pipe Line Company (United) at an existing interconnection between the facilities of United and TETCO in Attala County, Mississippi, and from PMS at existing points of interconnection between facilities owned by Louisiana Land and Exploration Company and facilities owned by TETCO in Pontotoc County, Mississippi. It is further stated that TETCO would then transport and deliver equivalent quantities, less applicable shrinkage, for the account of Scott, to an existing point of interconnection with the facilities of Philadelphia Electric Company in Delaware County, Pennsylvania, for further transportation by the local distribution company to Scott's Chester, Pennsylvania, plant. It is explained that the gas so transported would displace No. 6 fuel oil and would be utilized as boiler fuel in boiler Nos. 8 and 9 and for drying paper on paper machine Nos. 17, 18 and 19 at Scott's Chester, Pennsylvania, manufacturing facilities.

TETCO states that it would charge Scott in accordance to its currently effective Rate Schedule TS-2, a transportation rate of 33.84 cents per million Btu for quantities of natural gas transported for Scott and would reduce volumes received for transportation by its currently effective TS-2 shrinkage rate of 3 percent. It is also stated that TETCO would also charge Scott a Gas Research Institute surcharge of 1.21 cents per million Btu transported.

It is explained that the transportation service commenced on February 21, 1985, and would remain in full force and effect until October 31, 1985, or until terminated by either party upon thirty days prior written notice.

Comment date: September 9, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Producer-Suppliers of Northern Natural Gas Company, Division of InterNorth, Inc. and Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-710-000]

July 23, 1985.

Take notice that on July 16, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-710-000 an application pursuant to Section 7 of the Natural Gas Act on behalf of certain producers currently selling gas to Applicant pursuant to certificates of public convenience and necessity for blanket authority to abandon certain sales of Outer Continental Shelf (OCS) reserves to Applicant and to provide a self-implementing transportation service to the producer-supplier for the released gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authority on behalf of its eligible producer-suppliers for the automatic abandonment of certain sales of OCS reserves to Applicant. Applicant also requests authority to provide the producer-suppliers with a self-implementing transportation service for the volumes of gas released and abandoned under such blanket authority.

It is stated that gas reserves currently dedicated to Applicant provide daily and annual deliverability far in excess of the present requirements of Applicant's customers. It is claimed that over the past several years this excess supply situation has generated substantial take-or-pay exposure for Applicant and that such exposure is expected to continue into 1986 and 1987. Applicant avers that during this same period gas costs increased under the

pricing provisions of the Natural Gas Policy Act of 1978 (NGPA) while costs for alternative fuels declined. It is stated that the combination of nationwide excess of natural gas, consumer conservation and the abundance of alternative energy supplies has served to further erode Applicant's declining market sales.

Applicant asserts that in response to the oversupply situation and to meet the competitive challenges in the market place, it has been able to stabilize its wholesale natural gas rates to its customers through the use of innovative marketing programs, reduction of its overall cost of service and renegotiation of its gas purchase contracts with its producer suppliers. Applicant also states it has passed several price decreases through to its customers totaling nearly $190 million. It is contended that even with these price reductions Applicant's wholesale rates exceed market clearing levels in some market segments and its dedicated gas supplies far exceed near-term market requirements.

It is claimed that as a result of its efforts to manage its wholesale supply Applicant has increasingly curtailed its purchase of gas produced from sources located in the OCS of the Gulf of Mexico and that much of this offshore gas qualifies as NGPA Section 102(d) gas.

Applicant states that to a lesser extent it purchases NGPA Sections 104 and 109 reserves from offshore sources. Applicant states that reserves are currently dedicated to Applicant and sold to Applicant under certificates of public convenience and necessity issued by the Commission to the respective producer-suppliers and such section 102(d) gas, in accordance with the provisions of the NGPA, would remain subject to the jurisdiction of the Commission. It is asserted that the current maximum lawful price for this NGPA Section 102(d) gas is far in excess of the market clearing price for natural gas and also exceeds the average price of other currently dedicated and connected supply sources that are also curtailed due to the oversupply situation. Applicant avers that its offshore supplies that qualify for the Section 104 or 109 maximum lawful price also exceed the cost of incremental production of other readily available contracted for but curtailed supply. It is stated that in addition to the above-described conditions and factors, the deregulation of certain categories of gas, the increasingly competitive market conditions resulting from a general industry supply surplus and changes in regulation which increase the consumer options on gas supply have served to change materially the environment under which the certificates were first granted to the producers for the sale of this gas. Applicant claims that in response to this changed environment it has initiated a massive effort to renegotiate the purchase contracts for its deregulated and higher cost gas supplies, including the specific contracts covered by this application. It is stated that as a part of those renegotiations Applicant and its producers are negotiating contracts which are far more flexible for both parties. As an example Applicant cites one provision resulting from the reneogtiations which allows either party the election to terminate the contract if both parties cannot agree periodically on terms and conditions for continuing the contract. It is claimed that another likely provision would enable the producers to sell gas, which is currently in excess of Applicant's system requirements, to new purchasers while continuing to sell base volumes to Applicant.

It is stated that as an integral part of the overall effort to renegotiate market responsive contract terms it is Applicant's intent to provide automatic abandonment authority to any of its producer-suppliers who mutually agree with Applicant to terminate sales of OCS gas to Applicant and to seek alternative markets. It is explained that the blanket abandonment authority sought by Applicant on behalf of its producer-suppliers would allow such producer-suppliers, upon execution of a release agreement, to abondon sales to Applicant on a partial, temporary or permanent basis as the parties mutually agree. It is stated that the requested authority would provide the producer-suppliers with the ability to market immediately gas released by Applicant to other interested purchasers.

In combination with this blanket abandonment authority Applicant also requests authority to provide the producer-suppliers with a self-implementing transportation service in order to transport the released gas to the nearest onshore delivery point. Applicant proposes to provide such service pursuant to a new rate schedule, Offshore Producer Transport (OPT-1), to any producer who has executed with Applicant a release agreement for a gas purchase contract in the offshore Texas or Louisiana production area and who executes a transportation agreement with Applicant to transport the released volume of gas.

It is claimed with transportation services pursuant to Rate Schedule OPT-1 would be provided on a best-efforts interruptible basis utilizing Applicant's facilities and/or capacity contracted for by Applicant in third-party pipelines. It is claimed that third-party facilities would be used subject to the owner's consent. It is stated that Applicant would receive the released volumes at the same receipt point designated in the former gas purchase contract and would transport the gas to an onshore point where the released gas would be redelivered for the account of the producer-supplier. It is stated that the point of redelivery would be set forth in the transportation agreement between Applicant and the producer-supplier. It is asserted that the proposed services under Rate Schedule OPT-1 are designed to meet the immediate needs of Applicant's producer-suppliers for their released gas.

Applicant claims that when the Commission terminates the proceeding at Docket No. RM85-1-000 and effectuates new interstate transportation regulations, it would evaluate Rate Schedule OPT-1 and modify such rate schedule where appropriate.

Applicant states it would charge Rate Schedule OPT-1 shippers one of two rates. It is stated that the volumes of released gas presently connected to the Matagorda Offshore Pipeline System (MOPS) would be charged Applicant's MOPS area transportation rate of 16.10 cents per Mcf and that all released gas other than that connected to MOPS that is transported by Applicant pursuant to Rate Schedule OPT-1 would be charged a composite rate of 27.58 per Mcf based on Applicant's Gulf Coast area cost of service. In addition, Applicant proposes to collect a Gas Research Institute charge of 1.25 cents per Mcf under Rate Schedule OPT-1. It is claimed that the term of transportation service under Rate Schedule OPT-1 would be that term set forth in the transportation agreement between Applicant and the producer-supplier.

It is stated that this proposal would assist Applicant in its ongoing efforts to achieve market responsive gas purchase contracts by providing qualified OCS producer-suppliers with the regulatory authorizations to terminate automatically any sales to Applicant of OCS NGPA Sections 102(d), 104, and 109 gas and to seek alternative markets. It is claimed this proposal would result in high-cost gas supplies' being released from Applicant on a timely basis, thus relieving Applicant and its customers of the burden of these high-cost supplies.

Comment date: August 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Florida Gas Transmission Corporation

[Docket No. CP85-630-000]

July 23, 1985.

Take notice that on June 21, 1985, Florida Gas Transmission Corporation (FGT), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP85-630-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add two new delivery points to an existing resale customer, Central Florida Gas Corporation (CFG), in Polk County, Florida, under the certificate issued in Docket No. CP82-553-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to construct and place into operation a new delivery point on its 18-inch pipeline in Polk County to be used for industrial purposes, it is stated.

FGT has estimated deliveries at this new point to be 226,124 therms annually, and cost of said facilities related to the delivery point at $113,600.

FGT has also stated that based upon the current flow characteristics of its system, the above proposed delivery point could in certain circumstances cause curtailment to FGT's existing customers, but would not affect its ability to delivery gas to its existing customers. FGT has noted that a CFG letter evidencing agreement to curtail deliveries to CFG's customer(s) served through the new delivery point, if advised by FGT that curtailment was necessary to protect existing customers on FGT's Sarasota/Avon Park lateral.

FGT's second new delivery point would be located on its existing 8-inch Sarasota lateral, also in Polk County with an estimated cost of $142,400, it is stated. Maximum delivery quantities of 6-12 million therms annually are estimated to be provided through the delivery point for residential use, it is asserted. FGT has also indicated that construction of this point would cause no adverse impact on existing customers.

FGT has also stated that gas entitlements would not be increased in order to add the additional delivery points. Further, FGT indicates that the cost of adding the delivery points would be 100 percent reimbursed by CFG.

Comment date: September 6, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18277 Filed 7-31-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed Week of June 21 Through June 28, 1985

During the Week of June 21 through June 28, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 23, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 21 through June 28, 1985]

Date	Name and location of applicant	Case No.	Type of submission
June 25, 1985	Exxon Company, U.S.A., et al., Washington, D.C.	HER-0106	Request for modification/rescission. If granted: The January 31, 1983, Decision and Order issued to the 341 Tract Unit of Citronelle (Case No. DEE-7746) would be modified by terminating the disbursement of funds to the 341 Tract Unit from the special escrow account.
June 25, 1985	Lee Graham, Monrovia, California	HFA-0299	Appeal of an information request denial. If granted: The June 7, 1985 Freedom of Information Request Denial issued by the Office of Military Application would be rescinded and Lee Graham would receive access to DOE information regarding unidentified flying objects.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of June 21 through June 28, 1985]

Date	Name and location of applicant	Case No.	Type of submission
June 28, 1985	Goldsberry Operating Company, Washington, D.C.	HRD-0287	Motion for discovery. If granted: Discovery would be granted to Goldsberry Operating Company in connection with its Statement of Objections submitted in response to a Proposed Remedial Order issued to it (Case No. HRO-0287).
June 28, 1985	Ford Products Corporation, Valley Cottage, New York	HEE-0158, HEL-0158	Exception from the Energy Conservation Program for Consumer Products. If granted: Ford Products Corporation would receive an exception and a temporary exception from the provisions of the Energy Conservation Program for Consumer Products, 10 C.F.R. Subchapter D, Part 430, which would permit the firm to modify the energy efficiency test procedures applicable to water heaters.

REFUND APPLICATION RECEIVED

[Week of June 21 through June 11, 1985]

Date	Name of refund proceeding/ name of refund applicant	Case No.
6/24/85	Aminoil/G&K Gas Corp	RF133-11
6/17/85	Amoco/Kentucky	RQ21-207
6/20/85	Amoco/Maryland	RQ21-205
6/24/85	Aminoil/Benchmark Carpet Mills, Inc.	RF139-13
6/24/85	McCarty/Champaign Landmark	RF143-10
6/24/85	Aminoil/Bootheel LP GAS Co	RF139-12
6/17/85	Amoco/Iowa	RQ21-208
6/25/85	Bayou State/Ida/Pacer Petroleum	RF117-13
6/25/85	Bayou State/Ida/National Lubricants	RF117-12
6/24/85	McCarty/Watkins Oil Co	RF143-11
6/26/85	Aminoil/Lane Foundry	RF139-14
6/26/85	Aminoil/Miller Bros	RF139-15
6/27/85	Wallace-Carib Oil Co., Inc	RF69-3
6/27/85	APCO/Ralph B. Green	RF83-135
6/27/85	APCO/B.J. Brooks Oil Co	RF83-136k
6/27/85	LARCO/Rite Wasy Oil & Gas Co	RF112-161
6/27/85	LARCO/C&D Oil Co	RF112-162
6/27/85	C.C. Dillon/U-Gas, Inc	RF148-5
6/28/85	Kiesel/Missouri	RF126-15
6/28/85	Warren Holding/Billard Motor Sales	RF169-2
6/27/85	Arkla Chemical/Ball Oil Co	RF153-15
6/28/85	McCarty/Paulding Landmark	RF143-12
03/7/85	Hendel's/Old Saybrook Car Wash	RF79-20
6/17/85	Belridge/Iowa	RQ8-210
6/17/85	Nordstrom/Iowa	RQ22-211
6/25/85	Gulf/Ralph Pritts & Sons	RF40-3037
6/24/85	Palo Pinto/Montana	RQ5-201
6/24/85	Belridge/Montana	RQ8-202
6/24/85	Amoco/Montana	RQ21-203

[FR Doc. 85-18320 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has adopted the appropriate procedures to be followed in refunding $5,179,933.84 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving the six firms named below. The business operations of these firms included sales of natural gas liquids and petroleum products.

DATE AND ADDRESS: Applications for Refund must be filed within 90 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case numbers HEF-0179, *et al.*

FOR FURTHER INFORMATION CONTACT: Virginia A. Lipton, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to consent orders entered into by the DOE and the six firms set out in Appendix below.

The Decision and Order sets forth the procedures and standards that the DOE has formulated to distribute the contents of escrow accounts funded by these firms pursuant to the consent orders. The DOE has decided that Applications for Refund should now be accepted from firms and individuals that purchased covered products from any of the six named firms during the relevant consent order period set forth in the Appendix. The Decision and Order provides that in order to receive a portion of the settlement funds provided by five of the six consent order firms, a claimant must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for covered products charged by the relevant consent order firm. This evidence should include specific documentation concerning the date, price and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extent of any injury alleged to have been suffered. However, the Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms which file refund claims in amounts of $5,000 or less from any single consent order fund. According to the Decision and Order, the amount of the refund will generally be a pro rata share of the fund made available by the consent order firm. The Decision further points out that the consent order entered into by one firm, Tiger Oil Company, settled a DOE allegation that the firm failed to supply four of its customers with the amount of motor gasoline to which they were entitled under DOE regulations. The Tiger settlement fund with respect to this allegation totaled $4,000. Four retail motor gasoline outlets were identified in DOE audit files as not having received appropriate allocations of motor gasoline from Tiger. Accordingly, the DOE decided that each of these firms should receive a refund of $1,000 plus interest.

Applications for refund must be filed within 90 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. Refund applicants should file two copies of their submission. All applications received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: July 24, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

July 24, 1985.

Names of Cases: Thompson Oil Company, *et al.*

Date of Filing: October 31, 1983.

Case Numbers: HEF-0179, *et al.*

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds, in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the ERA filed a Petition for the Implementation of Special Refund Proceedings in connection with consent orders entered into with the six firms set forth in the exhibits to the Appendix to this Decision and Order. An audit of the records of those firms revealed possible pricing violations with respect to their sales of natural gas liquids (NGLs), natural gas liquid products (NGLPs), and refined petroleum products during the periods indicated in the exhibits.[1] In order to settle all claims and disputes with the DOE regarding their sales of these products during their respective audit periods, the firms entered into consent orders. The exhibits to the Appendix indicate the amount of money provided to the DOE by each firm. The total amount of funds made available by those firms that is subject to distribution in this proceeding is $5,179,933.84.

I. Jurisdiction and Authority To Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured as a result of alleged regulatory violations resolved by a DOE consent order or remedial order or where the DOE is unable to readily ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

On May 21, 1985, the Office of Hearings and Appeals issued a Proposed Decision and Order in which we tentatively concluded that the implementation of Subpart V proceedings was appropriate with respect to the six consent order firms named in the exhibits to the Appendix to this Decision. *Thompson Oil Co.*, no. HEF-0179 (May 21, 1985) (proposed decision). We pointed out that a Subpart V proceeding is an appropriate mechanism for distributing the available funds, because there is a significant degree of difficulty in identifying and locating the persons who were injured by the alleged overcharges. Further, as a result of decontrol of petroleum products, price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past. *See* Exec. Order No. 12287, 46 FR 9909 (January 30, 1981). We have received no objections to our proposal to establish special refund procedures with respect to the funds provided by the six consent order firms, and find that it is appropriate to institute such procedures in this instance. Accordingly, the ERA Petition will be granted.

II. Proposed Refund Procedures

In the May 21 Proposed Order, we stated that insofar as possible, the $5,180,000 in consent order funds should be distributed to direct and indirect customers of the consent order firms named in the exhibits. As shown in the exhibits to the Appendix, the operations of the six consent order firms involved in this proceeding included refining, reselling and retailing of petroleum products, NGLs and NGLPs. We stated that it was therefore likely that customers of these firms, and thus the potential refund applicants in this proceeding, would themselves be engaged in a variety of business operations. For example, potential refund applicants might be resellers, retailers, end-users engaged in businesses unrelated to the petroleum industry, or ultimate consumers that purchased petroleum products for personal use. In view of the wide variety of potential refund claimants from which we expect to receive applications in this proceeding, we stated that different showings would be required, depending on an individual applicant's business operations, the type of product purchased and the use of the product.

A. Calculation of Allocable Shares

In the May 21 Proposed Order, we considered the proper method for allocating among refund applicants the consent order funds provided by each firm. With respect to applications based on claims of alleged overcharges, we pointed out that it might be difficult for claimants to measure precisely the extent of an alleged overcharge. We therefore tentatively decided to generally follow a volumetric approach to determine the allocable share to which an applicant will be entitled. *Office of Special Counsel*, 9 DOE ¶ 82,545 (1982). We stated that such an approach would permit a claimant to be eligible to receive a pro rata share of the individual consent order fund made available by the relevant consent order firm listed in the Appendix. However, we also recognized that the impact of a firm's pricing practices on an individual purchaser could have been greater, and stated that any purchaser would therefore be allowed to file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233-34 (1984); *Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984). In the absence of a showing by a claimant of a disproportionate impact, we proposed that the refund pool made available by each consent order firm, other than Tiger Oil Company (Tiger), be allocated as follows. We indicated that we would multiply the number of gallons of product purchased by a qualified applicant by the volumetric factor. The volumetric factor is calculated by dividing the total amount of the fund provided by the relevant consent order firm by the total sales in gallons of all products covered by the consent order. Successful claimants would also receive a pro rata share of any interest accrued on the consent order funds made available by the relevant consent order firm. We found that this volumetric approach would enable us to arrive at an appropriate allocable share for most individual refund applicants. The volumetric amount for each consent order firm, except Tiger, is indicated in the Appendix.

With respect to Tiger, we noted that the consent order pertained to alleged violations concerning the firm's allocation of motor gasoline to four of its base period customers. *See* Appendix, Exhibit 2. That is, the consent order settled DOE claims that Tiger failed to supply these four customers with the amount of allocated product to which they were entitled under DOE regulations. The fund provided by Tiger in connection with these alleged violations is $4,000.[2] According to the Tiger audit files we examined, these four customers appear to be independently-owned or operated motor gasoline retail outlets. In view of the relatively small

[1] NGLPs include propane, butane, and natural gasoline.

[2] The consent order also settled a separate alleged allocation violation, pursuant to which Tiger made a direct refund of $4,200 to the lessee of a fifth retail gasoline outlet.

amount of consent order funds made available in connection with this alleged violation, and since those customers that allegedly did not receive an appropriate allocation of motor gasoline have been identified in ERA audit papers, we proposed that the $4,000 in Tiger consent order funds, plus accured interest, be divided equally among the four named retail outlets. However, if one of these firms could show a likelihood that it experienced a disproportionate impact resulting from the alleged allocation violation, we stated that we would adjust the disbursement of the funds accordingly. Of course, in order to receive a refund, each of these firms will be required to file an Application for Refund with the Office of Hearings and Appeals.[3]

In the Proposed Order we also stated that in accordance with our normal procedures, we would continue to evaluate refund applications based on allocation violations filed with respect to funds made available by the other consent order firms named in the Appendix by referring to standards such as those set forth in *OKC Corp./Town & County Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

B. Proof of Injury

We also tentatively determined in the May 21 Proposed Order that in order to be eligible to receive all of a portion of its allocable share, an applicant claiming alleged overchanges must establish that it was injured as a result of its purchases from the consent order firm. While there are a variety of ways in which a showing of injury may be made, we proposed that applicants that are resellers or retailers show not only that they had banks of unrecovered costs, but also provide evidence that they did not pass through to their own customers the additional costs associated with the alleged overcharges. Such applicants might establish that they absorbed the alleged overchanges by showing, for example, that due to market conditions they could not pass through the additional costs. *Office of Enforcement*, 10 DOE ¶85,056 (1983); *Office of Enforcement*, 10 DOE ¶ 85,029 (1982); *Office of Enforcement*, 9 DOE ¶82,508 (1981).

We further proposed that a detailed showing of injury not be required of applicants that are ultimate consumers. However, with respect to consumer claimants, we stated that the opportunity to make this less-detailed showing would be limited to those applicants that purchased product for their own personal use and to those whose business operations were not subject to DOE regulation. It is evident that applicants that purchased product for their own use would have had no opportunity to pass through additional costs associated with alleged overcharges. With respect to applicants that were consumers of covered product in connection with a business which was not subject to DOE regulation, we have a business which was not subject to DOE regulation, we have indicated on several occasions that it would be beyond the scope of a Subpart V proceeding to analyze the impact of increased costs of petroleum products on the final prices of these types of businesses. *E.g., Texas Oil & Gas Corp.*, 12 DOE ¶85,069 (1984). Therefore, we proposed that these types of consumer applicants need only demonstrate that they purchased a specific quantity of product that was sold by one or more of the named consent order firms during the relevant time period.

On the other hand, we pointed out that refund applicants whose business operations were subject to the DOE regulatory program and which purchased petroleum products consumed as fuel or as raw material will not be considered as consumers for purposes of the showing of injury. Since we are better able to analyze the impact of increased costs of petroleum products on their operations, we indicated that these applicants would be expected to demonstrate injury.

Further, we pointed out that a separate, detailed showing of injury might be complicated and burdensome for reseller firms that purchased relatively small amounts of covered product, and that are therefore claiming smaller refunds. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. Further, with respect to smaller refund claims, we stated that the costs incident to applications setting forth a detailed demonstration of injury may outweigh the benefits which might be obtained by receiving this additional, detailed data. For example, the high cost of retrieving detailed data demonstrating injury might totally deter firms from filing smaller refund claims. Moreover, the small claims procedure permits the Office of Hearings and Appeals to use its own resources more efficiently. *Peoples Energy Corp.*, 12 DOE ¶85,129 (1984). Therefore, we proposed that any applicant claiming a refund of $5,000 or less from any single consent order firm identified in the exhibits to the Appendix need not make a separate, detailed showing of injury in order to be eligible to receive a refund. We stated that such an applicant would only be required to submit proof of the amount of product purchased during the consent order period.

We sent a copy of our Proposed Order to numerous potential refund claimants. Many of these potential claimants were listed in ERA audit files as purchasers of the consent order firms. We informed these purchasers that they could submit comments on the proposed refund mechanism. We further published a notice in the Federal Register seeking comments regarding the proposed refund mechanism. 50 FR 24307 (June 10, 1985). We provided a 30 day period in which comments could be submitted. That period has now elapsed, and we are now ready to consider final refund procedures with respect to the six consent order funds described in the Appendix.

III. Application for Refund Procedures

We received no comments regarding the overall first-stage procedures tentatively adopted in our May 21 Proposed Order.[4] We have reviwed the proposed procedures and find that they are well-suited to their propose of enabling us to identify injured persons and disburse appropriate refunds to them. Accordingly, the proposed procedures will be adopted as final procedures with respect to the six consent order firms named in the Appendix to this determination.

Applications for Refund will now be accepted from parties that purchased

[3] The copy of our Proposed Order sent to one Tiger customer, Reesman's Dairy, was returned as undeliverable. Since we have been unable to locate the firm, we cannot provide it wiht a copy of our present Order.

[4] As part of its comments regarding potential second-stage proceedings, the State of New Mexico points out that the State's highway department has been identified as a direct purchaser from Navajo Refinery Company. Case No. HEF-0217, Exhibit 4. The State requests that the highway department be considered eligible to receive a refund in the first stage of our Navajo refund proceeding. We have generally adopted the approach that a state that made purchases of product sold by a consent order firm is eligible to participate in the first stage of a refund proceeding, along with other purhases. *E.g., Standard Oil Co. (Indiana)/State of Michigan Attorney General*, 11 DOE ¶85,039 (1983). Therefore, upon submitting appropriate data as outlined in the present determination, including verification of the types of products purchased and the number of gallons purchased by the State's highway department, the State's refund application will be considered in the first stage of the Navajo refund proceeding, along with applications of other purchasers of Navajo product.

petroleum products sold to them either directly or indirectly by any named consent order firm during the relevant consent order period. Applications must be filed within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR § 205.283. An application must be in writing, signed by the applicant, and specify the same and case number of the consent order firm to which it pertains.

All applicatations for refund must be filed in duplicate. A copy of each applicataion will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. Any applicant that believes that its application contents confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application must indicate whether the applicant or any person acting on its instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application must also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR § 205.283(c); 18 U.S.C. § 1001. In addition, the applicant should furnish us with the name, title and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR § 205.284 and the procedures set forth in this Decision and Order.

Claimants applying for refunds from more than one consent order fund involved in this proceeding shall submit a separate application for each fund from which they are requesting a refund. The following subjects should be covered in each application:

A. Each applicant should provide data establishing the volumes of product that it purchased which were sold by a named consent order firm and the dates of those purchases. The applicant should indicate the types of business records currently in existence from which the figures were derived. If the applicant was a purchaser of NGLs or NGLPs, it should also indicatae the gas plant from which the product originated. However, if this latter data is unavailable, the applicant shall explain why it is unable to retrieve this information. If the product was not purchased directly from a consent order firm, the applicant should state the manner in which it determined that the product originated from a consent order firm.

B. Each applicant should specify the type of business it operated, including how it used the products)—e.g., whether it was a reseller, a refiner using the products in its own operations, or an ultimate consumer.

C. If the applicant is a reseller or refiner that wishes to claim a refund in excess of $5,000 from a single consent order fund, it must also provide the following information:

(i) The applicant shall state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation until the product was decontrolled, and if so, furnish OHA with quarterly bank calculations. If a claimant is unable to develop bank data, it may submit other persuasive evidence that it was unable to pass through the alleged overcharges. An applicant whose refund claim is based on NGL or NGLP purchases shall submit evidence of the quarterly prices it paid during the applicable periods for the products for which it is claiming a refund and locations of such purchases.

(ii) The applicant shall provide sufficient corporate information to identify its parent corporation, the corporation selling or processing the product, and the corporation actually purchasing the product, and describe their corporate relationship.

(iii) The applicant shall state whether it or any of its affiliates failed any other applications for refund in which it has referred to its banks to demonstrate injury.

D. The applicant should report whether it is or has been involved as a party in any DOE or private Section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

We will also establish a minimum amount of $15 for first stage refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds of less than $15 are sought outweighs the modest benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). Successful applicants will also receive a pro rata portion of any interest accrued on the relevant consent order fund.

IV. Second Stage Refund Procedures

As a final matter, in the Proposed Order we stated that we would consider at a future date the appropriate disposition of any funds remaining after refunds to all successful purchasers have been effected. Several states filed comments regarding the Proposed Order and have suggested methods for distributing any funds remaining after refunds to identifiable purchasers have been completed.[*] These comments generally advocate that state governments, rather than the United States Treasury, are the appropriate recipients of these funds. In several refund proceedings, we have adopted just such an approach. *E.g., Belridge Oil Co.*, 11 DOE ¶ 85,197 (1983); *Palo Pinto Oil & Gas*, 11 DOE ¶ 85,034 (1983). However, it is the DOE's position currently that legislative guidance should be sought from the Congress on the question of ultimate disposition of second-stage consent order funds, provided the impact of the alleged overcharges was national rather than local or regional in scope. In any case, it would be premature at this time to reach a determination regarding disbursement of second stage refund monies, since we cannot foresee the size of the pool available for refund after all meritorious refund claims of purchasers have been satisfied. Consequently, we will not adopt the states' suggestion at this time.

It is therefore ordered that: (1) Applications for refunds from the funds remitted to the Department of Energy by the consent order firms listed in the Appendix to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: July 24, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[*] The states that filed comments regarding the Thumpson Proposed Order are: Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, West Virginia, New Mexico, Texas and California.

Decision and Order, Thompson Oil Company, Inc., et al.

Appendix

Case Names

Firm and Case No.

Thompson Oil Company, Inc.—HEF-0179
Tiger Oil Company—HEF-0180
United Oil Company—HEF-0185
Navajo Refining Company—HEF-0217
Petrolane-Lomita Gasoline Company
Petrolane Incorporated—HEF-0269
Plateau, Inc.—HEF-0272

Index to Exhibits

Exhibit and Firm

1—Thompson Oil Company, Inc.
2—Tiger Oil Company
3—United Oil Company
4—Navajo Refining Company
5—Petrolane-Lomita Gasoline Company
Petrolane Incorporated
6—Plateau, Inc.

Exhibit 1

Name of Consent Order Firm: Thompson Oil Company, Inc., Purcellville, VA 22132
Type of Operation: Reseller/retailer of motor gasoline
Consent Order Case Numbers:
ERA: N00H00189
OHA: HEF-0179
Consent Order Period: May 1, 1979–April 30, 1980
Consent Order Fund: $47,908.26
Alleged Overcharges:
Motor Gasoline: $171,446.89
Gallons Sold:
Motor Gasoline: Annual Sales Estimate—6,400,000
Per Gallon Refund Amount: $.007486
Identified Purchasers: On March 7, 1983, the Economic Regulatory Administration of the Department of Energy tentatively determined that the amounts of alleged overcharges that may have been experienced by some individual Thompson purchasers were as follows:

Purchaser name and address	Alleged overcharge amount
Dick Ballenger (Cabin Store), Warrenton, VA 22185	$2,996.61
Ray Edwards Enter., Warrenton, VA 22185	333.15
J.R. Croson's Shell, Warrenton, VA 22185	2,596.62
A-1 Country Store, Warrenton VA 22185	582.47
Stokley's Store, Purcellville, VA 22132	565.94
Pickel's Store, Purcellville, VA 22132	538.67
Leesburg Shell King & Fairfax St., Leesburg, VA 22075	3,784.54
Water's Grocery, Ranson, WV 25438	85.33
Jackson's Grocery, Summit Point, WV 25446	1,079.13
Bridge's Shell Purcellville, VA 22132	4,195.37
White Shell, Warrenton, VA 22185	8,158.79
Circle Service Station, Ranson, WV 25438	6,570.76
Company-Owned Stations	16,440.54
Total Escrow	47,908.26

Exhibit 2

Name of Consent Order Firm: Tiger Oil Company, Yakima, WA 98901
Type of Operation: Wholesale purchaser-reseller of refined petroleum products
Consent Order Case Numbers:
ERA: 000H00428
OHA: HEF-0180
Consent Order Period: March 1, 1979–December 31, 1979
Consent Order Fund*: $4,000
Type of Alleged Violation: Misallocation of motor gasoline
Identified Purchasers:
1. Hy's Service, 1219 West Lincoln, Yakima, WA 98902
2. Wenas Feed & Supply, Rt. 3, Box 3290, Selah, WA 98942
3. Reesman's Dairy, 11 S. "B" Street, Toppenish, WA 98948
4. Collin's Service, 519 S. 1st, Selah, WA 98942

Comments: The consent order also settled a separate alleged allocation violation, pursuant to which Tiger made a direct refund of $4,200 to the lessee of a Tiger motor gasoline retail outlet. Consequently, of the $8,200 remitted by the firm, $4,000 is available for disbursement in this proceeding.

Exhibit 3

Name of Consent Order Firm: United Oil Company, Hillside, NJ 07205
Type of Operation: Reseller/retailer of refined petroleum products
Consent Order Case Numbers:
Bankruptcy No.: B-78-01868
OHA: HEF-0186
Consent Order Period: November 1, 1973–March 31, 1974
Consent Order Fund: $28,025.58*
Alleged Overcharges: $182,817
Product Covered by Consent Order Fund: No. 2 Oil
Gallons Sold:
Consent Order Period Estimate: 1,044,680
Annual Sales Estimate: 2,507,232
Per Gallon Refund Amount: $.026827
Identified Purchasers:
1. A. Tarricone, Inc., 1337 Saw Mill River Road, Yonkers, NY 10710
2. Rockaway Fuel Oil Company, 729 East 140th Street, Bronx, NY 10454

Comments: *United Oil Company agreed to make direct refunds of $22,974.42 to 28 end-users of No. 4 oil. The firm further agreed to pay $28,025.58 in connection with its sales of No. 2 oil. It is this amount that is subject to the present refund proceeding.

Exhibit 4

Name of Consent Order Firm: Navajo Refining Company, Dallas, TX 75201
Type of Operation: Refiner of petroleum products
Consent Order Case Numbers:
ERA: 672S00136
OHA: HEF-0217
Consent Order Period: September 1, 1973–January 27, 1981
Consent Order Fund: $600,000
Alleged Overcharges: $965,218
Gallons Sold: 3,083,140,989
Per Gallon Refund Amount: $.000195
Identified Purchasers:
1. Ray Bell Oil Co.
2. Bolton Oil Co.
3. Mr. Gas, Inc.
4. T.E. Reed & Sons
5. Wood Oil & Dist. Co.
6. Malco Products, Inc.
7. Conoco, Inc., P.O. Box 2197, Houston, TX 77001
8. Brewer Oil Co.
9. Foster Oil Co.
10. Navajo Stations
11. Whitfield Tank Lines
12. Pride Refining, Inc., P.O. Box 3237, Abilene, TX 79604
13. Sav-Mor Oil Company
14. Bonus Oil Co.
15. McKee Oil Company
16. New Mexico Highway Dept.
17. Hutchens Oil Co.
18. U.S. Petroleum/Douglas Oil
19. Hecla Mining Co.
20. Circle K Corp.
21. E-Z Serve, Inc., 100 Louisiana, Suite 3140, Houston, TX 77002 Attn: Robert D. Jones, Esq.
22. Arizona Petroleum
23. Continental Car Wash
24. F.H. Shepherd
25. Mars Oil Co.
26. Texas Independent
27. Star Service & Petroleum
28. Kelly Oil Co., Inc.
29. Truckstops Corp. of America, P.O. Box 11749, Nashville, TN 37211
30. Southwest Service Stations
31. El Paso Natural Gas Co.
32. Hillger Oil Company
33. Pioneer Oil Company
34. Ernest Raymond
35. Ritter Oil Company
36. Shepherd Oil Company
37. Yearwood Distributing
38. Piggybank Stations, Inc.
39. Carnes Oil Company
40. Caribou Four Corners, Inc., P.O. Box 457, Afton, WY 83110
41. Glover Distributing Co.
42. Seven Eleven Stores
43. Famariss Oil & Rfg. Co.
44. Roberts Oil Co., Inc., P.O. Box 11397, Albuquerque, NM 87192
45. Zia Oil Company
46. Tesoro Oil Company, 8700 Tesoro Drive, San Antonio, TX 78286
47. E.B. Law & Sons
48. Horn Oil Co.
49. U.S.A. Petroleum Corp.
50. Dockery & Collins
51. Westland Corp.
52. J.W. Jones Construction
53. Atex
54. King
55. MCR, Inc.
56. Ray's Major
57. Tenneco Oil Company, P.O. Box 2511, Houston, TX 77001
58. Autotronics
59. Wallace Oil Company
60. Steere Tank Lines
61. The Permian Corporation, P.O. Box 1086, Houston, TX 77001
62. Jack Walstad
63. Rancho Oil Company
64. Carberry Distributing
65. Texas Energy Company
66. Sav-O-Mat Inc.
67. Vickers Petroleum Corp., P.O. Box 2240, Wichita, KS 67201
68. Hornet Oil Company

69. Giant Industries, Inc.
70. Salt River Project Agricultural Improvement and Power District
71. Phelps Dodge Corporation

Exhibit 5

Name of Consent Order Firm: Petrolane-Lomita Gasoline Company, Petrolane Incorporated, Long Beach, CA 90801
Type of Operation: Gas plant owner and operator processor of natural gas liquids and reseller of NGLs and NGLPs
Consent Order Case Numbers:
ERA: 940V00195
OHA: 930T00281; HEF-0269
Consent Order Period: August 19, 1973–January 27, 1981
Consent Order Fund: $3,000,000
Names and Locations of Plants:
1. Signal Hill Plant, Signal Hill, CA
2. Harbor Plant, Long Beach, CA
Alleged Overcharges: $3,596,083.71
Products Sold: NGLs, propane and butane, natural gasoline (NGLPs)
Gallons Sold:
Consent Order Period Estimate: 6,526,041,697
Annual Sales Estimate: 875,000,000
Per Gallon Refund Amount: $.000460
Identified Purchasers:
1. Texaco, Inc., 2000 Westchester Avenue, White Plains NY 10650
2. Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221
3. Chevron USA, Inc., P.O. Box 8643, San Francisco, CA 94120
4. City of Long Beach, City Hall, 333 West Ocean Blvd., Long Beach, CA 90802
5. C.F. Consolidated Freightways, P.O. Box 3301, Portland, OR 97208
6. McIntosh Propane, Box 3, McIntosh, SD 57641, Attn: Joe A. Mollman

Exhibit 6

Name of Consent Order Firm: Plateau, Inc., Albuquerque, NM 87125
Type of Operation: Refiner of petroleum products
Consent Order Case Numbers:
ERA: 733S02013
OHA: HEF-0272
Consent Order Period: December 1, 1973–January 28, 1981
Consent Order Fund: $1,500,000
Gallons Sold:
Consent Order Period Estimate: 1,752,741,396
Annual Sales Estimate: 244,853,280
Per Gallon Refund Amount: $.000856
Identified Purchasers:
1. Chevron USA, Inc., 575 Market Street, San Francisco, CA 94120, Attn: Mr. G.F. Franciscovich, Manager, Marketing Planning and Services
2. Energy Cooperative, Inc., c/o Ginsburg, Feldman, Weil & Bress, 1700 Pennsylvania Avenue, NW., Washington, D.C.

[FR Doc. 85-18323 Filed 7-31-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL-2873-6]

Science Advisory Board Radiation Advisory Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Engineering Subcommittee of the Science Advisory Board's (SAB) Radiation Advisory Committee will meet August 20-21, 1985 at the U.S. Environmental Protection Agency, Region IV, in the Regional Administrator's Conference Room, Fourth Floor, 345 Courtland Street, N.E., Atlanta, Georgia 30365. The meeting will begin at 9:00 a.m. on August 20 and will adjourn no later than 5:00 p.m. on August 21.

The Subcommittee is meeting to discuss individual comments on Chapters 3, 4, and 5 of the March 13, 1985 draft Background Information Document for Proposed Low-Level Radiation Waste Standards (40 CFR 193) and to discuss the issues for review raised by the Office of Radiation Programs. Chapters 3, 4, and 5 deal with quantities, sources, characteristics and disposal; disposal methods; and hydrogeologic/climatic settings. The Subcommittee will write its report at this meeting.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend or obtain information should contact Mrs. Kathleen Conway, Executive Secretary, Radiation Advisory Committee, Science Advisory Board, by the close of business on August 16, 1985. The telephone number is (202) 382-2552.

Dated: July 26, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-18265 Filed 7-31-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100027; FRL-2873-8]

Transfer of Data to Research Triangle Institute and K.S. Crump and Company, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Research Triangle Institute (RTI) and its subcontractor K.S. Crump and Company, Inc., under Contract No. 68-01-6826. These contractors shall perform services for the Office of Research and Development (ORD) of EPA. Some of the information that will be made available to the contractors has been claimed to be confidential business information (CBI). Information will be made available to the contractors consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractors to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: RTI and K.S. Crump and Company, Inc., will be given access to these documents no sooner than August 6, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under this contract which supports the risk assessment and statistical analysis for toxicological and carcinogenic data in the Office of Research and Development, RTI and K.S. Crump and Company, Inc., may retrieve chemical data, including CBI, submitted to EPA under FIFRA.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial or financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such information as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with RTI and K.S. Crump and Company, Inc.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with RTI and K.S. Crump and Company, Inc., specifically prohibits disclosure of confidential business information to any third party in any form without written

authorization from EPA, and personnel of these contractors will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: July 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18263 Filed 7-31-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Criminal Referral Reporting.

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, D.C. 20429.

Comments:

Comments on this reporting requirement should be submitted within 15 days of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389-4351.

SUMMARY: The FDIC is requesting OMB approval of forms to be used by an insured nonmember bank to report whenever an apparent criminal violation of the United States Code involving or affecting the bank's assets or affairs has been committed or attempted. The report is to be made to the appropriate field office of the Federal Bureau of Investigation or to the appropriate office of the United States Attorney, as well as to the appropriate office of the State prosecuting attorney if a State law violation may be involved, and to the regional director of the FDIC region in which the bank is located. The purpose of the reporting requirement is to reduce losses to banks resulting from criminal violations. The forms to be used for reporting result from the work and recommendations of an interagency group comprised of representatives of the Federal financial institutions regulatory agencies, the U.S. Department of Justice, Criminal Division, and the Federal Bureau of Investigation. The "short form," to be used for crimes involving amounts of under $10,000 when no bank insider is involved, is expected to take 15 minutes for a bank to complete. The "long form," to be used for reporting crimes involving amounts of $10,000 or greater and in all cases involving a bank insider is expected to take two hours for a bank to complete.

Dated: July 19, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-18224 Filed 7-31-85; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight fowarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Unitrans Consolidated, Inc.: 10600 W. Higgins Road, Rosement, IL 60018. Officers: Felex Wong, Director; Mike Giardina, George Wellander, Executive Director

Precondoc, Inc. dba Pecan International Forwarders: 147-02 Farmers Blvd., Jamaica, NY 11434. Officer: Norman Cruz, President

Endicott International, Inc.: 3252 East Loop North, Houston, TX 77029. Officers: Peter Schaefers, President, Sal Bonavita, Executive Vice President, Peter Rosada, Executive Vice President

By the Federal Maritme Commission.

Dated: July 29, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-18212 Filed 7-31-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 1149
Name: Farrell Transportation Corporation
Address: 1131 Public Ledger Bldg., Philadelphia, PA 19106
Date Revoked: July 10, 1985
Reason: Failed to maintain a valid surety bond
License Number: 1964-R
Name: Universal Sea/Air Express, Inc.
Address: 5534 Armour Drive, Suite A, Houston, TX 77020
Date Revoked: July 17, 1985
Reason: Failed to maintain a valid surety bond
License Number: 1134-R
Name: Donald A. Hosford dba The Herbert C. Hosford Company
Address: 5663 Swanville Road, Erie, PA 16505
Date Revoked: July 17, 1985
Reason: Failed to maintain a valid surety bond
License Number: 2577
Name: K. S. Anderson & Co., Inc.
Address: 3522 Carnes Avenue, Memphis, TX 38111
Date Revoked: July 22, 1985
Reason: Voluntarily requested revocation

Robert C. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-18213 Filed 7-31-85; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal

Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–000150–079
Title: Trans-Pacific Freight Conference of Japan
Parties:
American President Lines, Ltd.
Barber Blue Sea Line
Hapag-Lloyd AG
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The proposed amendment would modify the scope of the agreement by deleting Korea and all referernces to Korea throughout the text of the agreement. The parties have requested a waiver of the format requirements of the Commission's regulations and a shortened review period.

Agreement No: 224–002740–001
Title: Hilo Terminal Agreement
Parties:
Matson Navigation Company, Inc.
Hilo Transportation and Terminal Co., Inc.
Synopsis: Agreement No 224–002740–001 amends the basic agreement by adding the Port of Kawaihae to the definition of "such ports"; changes references to "Hilo Transportation & Terminal Co., Inc." to "HT&T Co., Inc." and corrects Matson Navigation Company, Inc.'s San Francisco, California, address.

Agreement No.: 224–002740A–001
Title: Hilo Equipment Lease
Parties:
Matson Navigation Company, Inc.
Hilo Transportation and Terminal Co., Inc.
Synopsis: The agreement amends the basic agreement by adding the Port of Kawaihae, Hawaii, to the definition of "port"; changes references to "Hilo Transportation & Terminal Co., Inc." to "HT&T Co., Inc."; notes the redesignation of FMC Agreement No. T–2740 to FMC Agreement No. 224–002740 and corrects Matson Navigation Company, Inc.'s San Francisco, California, address.

Agreement No.: 224–002740B–001
Title: Hilo Equipment Lease
Parties:
Matson Navigation Company, Inc.
Hilo Transportation and Terminal Co., Inc.
Synopsis: The agreement amends the basic agreement by adding the Port of Kawaihae, Hawaii, to the definition of "port"; changes references to "Hilo Transportation & Terminal Co., Inc." to "HT&T Co., Inc."; notes the redesignation of FMC Agreement No. T–2740 to FMC Agreement No. 224–002740 and corrects Matson Navigation Company, Inc.'s San Francisco, California, address.

Agreement No.: 202–003103–080
Title: Japan-Atlantic & Gulf Freight Conference
Parties:
Barber Blue Sea line
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The proposed amendment would modify the scope of the agreement by deleting Korea and all references to Korea throughout the text of the agreement. The parties have requested a waiver of the format requirements of the Commission's regulations and a shortened review period.

Agreement No.: 217–010792
Title: TFL/Lykes Space Charter, Agreement
Parties:
Trans Freight Lines, Inc. (TFL)
Lykes Bros. Steamship Co., Inc. (Lykes)
Synopsis: The proposed agreement would permit TFL to charter vessel space to Lykes, provide equipment and control, stevedoring and other related services in the trade between United States Gulf, Coasts Ports (Key West-Brownsville range) and ports in Northern Europe (Le Havre-Hamburg range) and the United Kingdom. It would permit Lykes to advertise TFL's vessels utilized in the trade, but it would not authorize TFL to cross charter from Lykes nor authorize dicussion or agreement between the parties on vessel schedules.

Agreement No.: 224–010793
Title: Houston Terminal Agreement
Parties:
Port of Houston Authority of Harris County, Texas (Authority)
James J. Flanagan Shipping Corporation (Flanagan)
Synopsis: The agreement provides that the Authority designates Flanagan to perform freight handling operations in a designated portion of the Port of Houston's Barbours Cut Terminal Container Freight Station. Flanagan agrees to perform such services in approximately 22,000 sguare feet of the south end of the facility and agrees to provide the service of loading and unloading of cargo into and from land carriers and all services incidental thereto. The agreement shall become effective as of the date determined by the Commission and shall continue on a month-to-month basis.

By Order of the Federal Maritime Commission.

Dated: July 29, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–18289 Filed 7–31–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Ruston Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than August 10, 1985.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South akard Street, Dallas, Texas 75222:

1. *Ruston Bancshares, Inc.*, Ruston, Louisiana: to acquire 10 percent of the voting shares of D'Arbonne Bancshares, Inc., Farmerville, Louisiana, thereby indirectly acquiring 90 percent of the voting shares of D'Arbonne bank and Trust Company, Farmerville, Louisiana.

Board of governors of the Federal Reserve System, July 30, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18076 Filed 7-31-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Commercial/Industrial Activities Review; Schedule

AGENCY: Centers for Disease Control, PHS, HHS.

ACTION: Notice of review schedule.

SUMMARY: This notice sets forth the schedule of studies to be made of commercial/industrial activities by the Centers for Disease Control (CDC). These studies are in accordance with Office of Management and Budget (OMB) Circular No. A-76.

FOR FURTHER INFORMATION CONTACT: Ross Cox, Management Review Activity, Office of Program Support, Centers for Disease Control, Building 1, Room 2029, Atlanta, Geogia 303333, telephone (404) 329-3102 or FTS: 236-3102.

SUPPLEMENTARY INFORMATION: In accordance with OMB Circular No. A-76, the following scheduled studies are being made of CDC commercial/industrial activities:

CDC Mail and Messenger Section, 8 full-time equivalent employees. Study was begun in June 1985.

CDC Library, 13 full-time equivalent employees. Study was begun in June 1985.

Dated: July 24, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-18235, Filed 7-31-85; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreement for a Project To Support an Interim Blood Lead Screening Program for Children Around Bunker Hill Lead and Zinc Smelter in Idaho; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1985 for a cooperative agreement to support the Idaho Department of Health and Welfare to conduct an interim blood lead screening program for children living within 2½ miles from the Bunker Hill lead and zinc smelter in Northern Idaho.

The Idaho Department of Health and Welfare and CDC have documented an unacceptable level of lead absorption among children who live near the Bunker Hill lead and zinc smelter in northern Idaho. Soils surrounding the smelter are heavily contaminated with lead and other heavy metals.

In August 1983, the Idaho Department of Health and Welfare, in cooperation with CDC and the Environmental Protection Agency (EPA), conducted a comprehensive study of childhood blood lead absorption in children. Preliminary results of this study have indicated that childhood blood lead levels are still elevated, even though the smelter has been closed for over 3 years. Soil and house dust containing high levels of lead were identified as the primary sources of the elevated blood lead levels.

The EPA has estimated that it may 2 or 3 years before any extensive, remedial measures are implemented under the Superfund program. In the interim, children who live in the most heavily contaminated areas will continue to be exposed to unacceptably high lead levels.

Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly known as the Superfund Act), the State of Idaho has the responsibility to perform studies on the health of its residents when exposed to toxic substances around EPA-designated toxic waste sites. Accordingly, Idaho has requested assistance to conduct the above described interim public health intervention program. This is not a request for applications, and other applications will not be accepted.

The proposed project is of 3 years duration. It is estimated that $137,600 will be available during Fiscal Year 1985 to support this project. Continuation awards will depend upon the availability of funds.

This project is not subject to review under Executive Order 12372.

Technical information may be requested from Wendy E. Kaye, Ph.D., Special Studies Branch, Chronic Diseases Division, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 452-4191 or FTS 236-4191.

Business information may be obtained from Luther E. DeWeese, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 321, Atlanta, Georgia 30305, telephone (404) 262-6575 or FTS 236-6575.

Dated: July 24, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-18234 Filed 7-31-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 75N-0139]

Oral Proteolytic Enzymes; Withdrawal of Approval of New Drug Applications; Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that, with respect to the drug products Papase, Chymoral, Ananase, and Avazyme, the Commissioner's decision withdrawing approval of certain oral proteolytic enzyme products has been stayed pending a decision on appeal.

ADDRESS: The Commissioner's decision, including the final order, and all other documents related to the decision may be seen in the dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice Jr., Division of Regulations Policy (HFC-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 11, 1985 (50 FR 24581), FDA announced the availability of the decision by the Commissioner of Food and Drugs to withdraw approval of the new drug applications (NDA's) for five drug products containing oral proteolytic enzymes, effective July 1, 1985. The NDA's are for Orenzyme,

Chymoral, Papase, Ananase, and Avazyme.

In the **Federal Register** of July 3, 1985 (50 FR 27492), FDA announced that Warner-Lambert Co. (NDA 12-293, Papase), Armour Pharmaceutical Co. (NDA 12-178, Chymoral), William H. Rorer, Inc. (NDA 12-527, Ananase), and Wallace Laboratories, Division of Carter-Wallace, Inc. (NDA 12-626, Avazyme), had petitioned for a stay of the effective date of the Commissioner's decision pending judicial review of the decision. The Commissioner denied those petitions for a stay but granted a temporary, discretionary stay so that the firms could seek a judicial stay pending appeal.

Warner-Lambert, Armour, Rorer, and Wallace appealed the Commissioner's decision. Each firm also sought a judicial stay and expedited briefing and consideration. At the suggestion of the Court of Appeals, the Commissioner reconsidered the firms' petitions for an administrative stay, as supplemented by the substance of their petitions for a judicial stay. The Commissioner concluded that all four firms still had not met the criteria for a mandatory stay in 21 CFR 10.35(e), but decided, in the exercise of his discretion, to grant a stay until the Court of Appeals rules on the merits of each firm's appeal. With respect to each drug product, if the court upholds the Commissioner's decision to withdraw approval, the administrative stay will terminate automatically 10 days after the issuance of the mandate of the court.

The parties' submissions and the agency's orders are on public display in the Dockets Management Branch (address above). FDA is providing notice of the Commissioner's decision to grant a stay in accordance with § 10.35(f) of the regulations.

Dated: July 26, 1985.

John R. Wessel,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-18180 Filed 7-29-85; 10:24 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0095; DESI 11935]

Brompheniramine Maleate in Combination with Phenylephrine Hydrochloride and Phenylpropanolamine Hydrochloride; Withdrawal of Approval of Pertinent Parts of the New Drug Applications

Correction

In FR Doc. 85-17165 beginning on page 29484 in the issue of Friday, July 19, 1985, make the following correction. On page 29484, in the third column, in the fifth line from the bottom of the page, "reformulation" should read "reformulated".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Application Announcement, Funding Preferences and Grant Orientation Conferences for the Health Careers Opportunity Program

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1986 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry and allied health and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by the section includes: recruitment, preliminary education, retention in health professions schools, counseling and advice on financial aid.

Applicants should be advised that this application announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

At least 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, no more than five percent of the funds appropriated in any fiscal year can be awarded to projects having information dissemination as their primary purpose.

To receive support, applicants must meet the requirements of the program regulations which are located at Title 42 of the Code of Federal Regulations, Part 57, Subpart S.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Office (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857.

The application deadline date is November 1, 1985. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier of U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Funding Preferences

The following funding preferences will govern the distribution of grant awards to approved HCOP grant applicants for Fiscal Year 1986. These preferences were published in a **Federal Register** notice dated September 12, 1983 (48 FR 40958).

An applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have Educational Assistance Agreement(s) (EAA) with no more than five undergraduate institutions that separately or collectively satisfy the definition of a feeder institution and who are requesting HCOP support only for:

a. The feeder institution(s) or equivalent to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the health professions school or the feeder institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their institution(s) with counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing the students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which, as a group: (1) Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; (2) has 20 or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference Number 1 decreasing, respectively, to funding preference Number 5.

The five preferences do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for the preferences are encouraged to submit applications.

The applicant *must indicate on the upper right-hand corner of page one of the application the funding preference* in which the applicant wishes consideration. However, the final determination of the category of funding preference will be based on a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. A feeder institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities. Consideration will be given to assure that funded projects represent a reasonable proportion of the health professions specified in the ligislation. However, full consideration will also be given to ensure that final funding decisions include appropriate support of proposals and students representative of the targeted populations served by HCOP.

Definitions

As used in this notice:

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools. This agreement must provide for financial or other support (excluding direct student aid) for this purpose and support may include funds from the grant awarded under this program, also joint use of facilities, staff, and faculties. An EAA must:

a. Contain the names of the participating institutions;

b. Identify the prime grantee, subcontractors, and other participating institutions;

c. State the HCOP purposes addressed by each participating institution;

d. Identify the specific activities to be performed by the grantee, including a description of program activities and administrative responsibilities;

e. Identify the specific activities to be performed by all collaborating institutions, including a description of program activities;

f. Contain a detailed description of proposed expenditures for each participating institution;

g. Contain a description of how facilities, faculty, and staff will be shared, including times, places, and dates;

h. State the duration of the EAA;

i. Contain the terms for amending the EAA; and

j. Be signed by the President, Chancellor, Dean, or equivalent official from all participating institutions and health or educational entities.

"Feeder Institution" means an institution of higher education meeting the requirements of section 435 of the Higher Education Act, as amended, Pub. L. 89–239 (20 U.S.C. 1085(b)), which:

a. Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

b. Had 10 or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, or graduate programs in health administration, as defined in section 701(4) of the Public Health Service Act.

"Individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1986:

Size of parents' family:[1]	*Income level*[2]
1	7,000
2	9,000
3	10,800
4	13,800
5	16,200
6 or more	18,300

[1] Includes only dependents listed on Federal income tax forms.
[2] Adjusted gross income for calendar year 1984, rounded to $100.

"Training Center for Allied Health Professions" means a junior college, or college, or university, as defined in section 795 of the Public Health Service Act, which:

(a) Provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
- Clinical Psychologist

Master's Degree:
- Speech Pathologist/Audiologist

Bachelor's Degree:
- Dental Hygienist
- Dietitian (Coordinated undergraduate program)
- Community Health Educator
- Health Services Administrator
- Medical Records Administrator
- Medical Technologist
- Occupational Therapist
- Physical Therapist
- Primary Care Physician Assistant
- Sanitarian (Environmental Health)

Associate Degree:
- Clinical Dietetic Technician
- Cytotechnologist
- Dental Assistant
- Dental Hygienist
- Dental Laboratory Technician
- Medical Assistant
- Medical Laboratory Technician
- Medical Records Technician
- Occupational Therapy Assistant
- Ophthalmic Medical Assistant
- Optometric Technician
- Physical Therapy Assistant
- Radiologic Technologist
- Respiratory Therapist
- Sanitarian Technician

(b) Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

(c) Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program also will be provided through three program technical assistance conferences. The conferences, scheduled during September 1985, are for the benefit of potential applicants and current grantees.

Each of the three conferences will be two days in length and at the following locations:

September 5–6, 1985—Sheraton-Hartford Hotel, 315 Trumbull Street, Hartford, Connecticut

September 9–10, 1985—Radisson Plaza, Vine Center, Broadway and Vine, Lexington, Kentucky

September 12–13, 1985—Hyatt Regency, 122 North Second Street, Phoenix, Arizona

Agenda items will include: Status of the legislation; application requirements; and grants management information. There will be small work groups to critique specific points in development of applications including evaluation considerations which arise in the review process. Significant focus of the conferences will be directed toward: program activities of current grantees; the relative merit of strategies employed to facilitate entry of disadvantaged students into health professions schools; and both current and projected academic issues affecting disadvantaged students in health professions schools.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Mr. William J. Holland, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8–20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4493.

Dated: July 26, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85–18202 Filed 7–31–85; 8:45 am]

BILLING CODE 4160–16–M

Application Announcement for Grants for Preventive Medicine Residency Training Programs

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1986 Grants for Preventive Medicine Residency Training Programs are now being accepted under the authority of section 793 of the Public Health Service Act, as amended.

Section 793 authorizes the award of grants to accredited schools of medicine, osteopathy and public health to meet the costs of projects to: (1) Plan and develop new approved residency training programs and to maintain or improve existing approved residency training programs in preventive medicine; and (2) to provide financial assistance to residency trainees enrolled in such programs.

In the funding of approved applications preference will be given to projects which will:

1. Conduct residency training in areas of general preventive medicine or public health; and/or

2. Train at least three residents in the academic year and three residents in the field year and provide evidence that the projected number can be realized from a current or projected applicant pool.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–33), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Rm. 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone: (301) 443–6880.

If additional programmatic information is needed, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Parklawn Building, Rm. 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6817.

Applicants should be advised that this application announcement is a contingency action being taken to ensure that funds should become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year.

The application deadline date is September 11, 1985. Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline and received in time for submission to the independent review group. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.117 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: July 26, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85–18201 Filed 7–31–85; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Coal Lease Application ES 34711]

Coal Lease Applications; Bell County, KY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing and availability of environment assessment.

SUMMARY: The Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, hereby gives notice that a public hearing will be held on August 29, 1985, at 7:00 p.m. in the Burt Combs Forestry Building, Highway 25 East, Pineville, Kentucky 40977. Application has been made to the United States under the emergency coal leasing regulation, 43 CFR 3425.1–4, and under the coal future interest regulation, 43 CFR 3471.4, that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment prepared and on the following items:

1. The method of mining to be employed to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed leasehold may have on the area including but not limited to impacts on the environment; and

3. Methods of determining the fair market value of the coals to be offered.

Written request to testify orally at the August 29, 1985 public hearing should be received at the Eastern States Office, Bureau of Land Management, address set out above, prior to the close of business at 4:00 p.m., on August 28, 1985. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearings, but speakers will be limited to a maximum of 10 minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the Eastern States Office at the above address, prior to close of business on August 28, 1985.

Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value, including, but not limited to: The quantity and quality of the coal resources, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 43 CFR 3422.1. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

Application ES 34711, 1090 acres

(Davisburg Tract)

The coal resource to be offered is to be mined underground from the following coal seam: Mason (Mingo), Buckeye Springs (Jackrock), Poplar Lick, Lower Hignite, and the Lower Splint (Red Springs No. 9) coal beds which are located in the Kentucky Ridge State Forest (KY–LU–1, Tract 1101a), Bell County, Kentucky.

The Environmental Assessment will be available for review in the Bureau of Land Management, Jackson District Office, Post Office Box 11348, Delta Station, Jackson, Mississippi 39213, or in the Eastern States Office, Bureau of Land Management, at the above address. Single copies are available for distribution upon request from the Eastern States Office, Alexandria, Virginia.

A copy of the Environmental Assessment, the case file and the comments by the public on fair market value, except those stated in the Freedom of Information Act, will be available for public inspection at the Eastern States Office, Bureau of Land Management, at the address set out above.

We have found the quality range of the coal beds within the Davisburg Tract is as follows:

Lower Splint (Red Springs No. 9):	
1. Moisture (%)	2.3–7.0
2. Ash (%)	3.3–9.7
3. Sulfur (%)	0.5–1.3
4. Btu/lb	12,300–14,400
5. Approx. tons in place	119,940
Lower Hignite:	
1. Moisture (%)	2.1–7.0
2. Ash (%)	4.4–13.8
3. Sulfur (%)	0.7–1.6
4. Btu/lb	12,600–14,200
5. Approx. tons in place	881,800
Poplar Lick:	
1. Moisture (%)	3.1–8.4
2. Ash (%)	2.6–9.7
3. Sulfur (%)	0.6–1.3
4. Btu/lb	12,100–14,600
5. Approx. tons in place	2,413,300
Buckeye Springs (Jackrock):	
1. Moisture (%)	1.7–7.6
2. Ash (%)	1.6–12.7
3. Sulfur (%)	0.6–2.9
4. Btu/lb	12,200–14,600
5. Approx. tons in place	92,940
Mason (Mingo):	
1. Moisture (%)	3.2–7.6
2. Ash (%)	1.6–12.7
3. Sulfur (%)	0.6–2.9
4. Btu/lb	12,800–14,800
5. Approx. tons in place	1,691,790

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Coalgate, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 274–0149.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 85–17870 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–GJ–M

Competitive Coal Lease Offering by Sealed Bid Tuscaloosa County, AL

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive coal lease offering by sealed bid.

SUMMARY: Notice is hereby given that as a result of an application filed by Nickel Plate Mining Company (ES 35042) for coal resources in the Brookwood Seam (Tuscaloosa County, Alabama), these coal resources will be offered for competitive leasing by sealed bid in accordance with the provisions of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181), as amended. The applicant has satisfactorily demonstrated under the coal emergency leasing regulation 43 CFR 3425.1–4 that if the coal deposits are not leased, they will be bypassed in the reasonably foreseeable future.

The application has been listed as a single parcel described below:

Parcel One

Application ES 35042 (Modified Jock Creek Tract)
T. 18 S., R. 9 W., Sections 26 and 35,
T. 19 S., R. 9 W., Section 1,
Tuscaloosa County, Alabama.
Containing approximately 890 acres.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid for the tract equals or exceeds the fair market value (FMV) of the tract as determined by the authorized officer after the sale. The Department has established a minimum bid of $100,000 per acre. The minimum bid is not to be considered as representing the amount for which the tract may actually be leased, since FMV will be determined in a separate postsale analysis. If identical high sealed bids are received the tying high bidders will be asked to submit follow-up sealed bids until a high bid is received. All tie-breaking bids must be submitted within 5 minutes following the authorized officer's announcement at the sale that identical high bids have been received.

DATE: The sale will be held at 10:00 a.m., Thursday, August 22, 1985, in the Eastern States Office Public Room, 350

South Pickett Street, Alexandria, Virginia 22304. All bids must be submitted to the Bureau of Land Management, Eastern States Office, at the above address. The bids should be sent by certified mail, return receipt; or be hand-delivered on or before 4:00 p.m., August 21, 1985. Any bids received after 4:00 p.m., Wednesday, August 21, 1985, will not be considered.

SUPPLEMENTARY INFORMATION: The coal resources being offered are to be surface mined from the Brookwood Seam, Bed I and Bed II, in Tuscaloosa County, Alabama. The complete legal description is available at the Eastern States Office at 350 South Pickett Street, Alexandria, Virginia 22304.

The approximate analysis of the tract is as follows:

Jock Creek Tract

Bed I	Bed II
1. Moisture (%) 2.8–5.6	2.8–5.0
2. Ash (%) 11.8–23.0	4.1–8.1
3. Sulfur (%) 1.2–1.5	0.9–1.3
4. Btu/lb. 10,657–13,000	14,000–14,500
5. Approx. tons in place 800,000	325,000

Other detailed chemical analyses are available upon request from the Bureau of Land Management, Eastern States Office, Branch of Fluid and Solid Minerals, 350 Pickett Street, Alexandria, Virginia 22304.

Rental and Royalty

Any lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 12½ percent of the value of the coal produced by surface mining methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

Notice of Availability

Bidding instructions and bidder qualifications are included in the Detailed Statement of the Lease Sale. Copies of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Eastern States Office and the Jackson District Office. Case file documents are available for public inspection at the Eastern States Office.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Coalgate, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 274–0149.

Pieter J. VanZanden,

Acting State Director.

[FR Doc. 85–17869 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-GJ-M

[OR-34095]

Conveyance of Public Lands; Order Providing for Opening of Lands; Oregon

Correction

In FR Doc. 85–12927, appearing on page 23078, in the issue of Thursday, May 30, 1985, make the following correction:

In the second column, under the heading **Willamette Meridian**, in T. 7 S., R. 4 E., add the following information after the description of sec. 27:

Sec. 35, lots 1 to 4, inclusive, N½ and N½S½;

BILLING CODE 1505-01-M

[A-20349-A]

Arizona; Conveyance of Public Land; Reconveyed Land Opened to Entry

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described lands were transferred out of Federal ownership in exchange for privately-owned land. The lands transferred into private ownership are described as follows:

T. 21 N., R. 21 W., GSR Mer., Arizona.
Sec. 28, N½NW¼SW¼NW¼.

Comprising 5.00 acres in Mohave County.

Lands acquired by the United States are described as follows:

T. 21 N., R. 21 W., GSR Meridian, Arizona.
A parcel of land lying within the NE¼ sec. 28 described as follows:

Commencing at the Northeast corner of said section 28; thence South 89°50'39" West 520.00 feet to the point of beginning; thence continuing South 89°50'39" West along the North line of said Section 28 a distance of 466.69 feet; thence South 0°09'21" East 466.69 feet; thence North 89°50'39" East 466.69 feet; thence North 0°09'21" West 466.69 feet to the point of beginning;

Containing 5.00 acres, more or less, in Mohave County.

The exchange was based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange is classified under the Recreation and public Purposes Act. The Bullhead City Fire Department has filed Application A–19287 and the land will continue to be segregated from settlement, sale, location, or entries under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from the mineral leasing laws.

At 9 a.m. on August 30, 1985, the recoveyed land described above will be open to applications and offers under the mineral leasing laws, subject to existing State-issues leases and permits for the terms of said leases and permits. All applications and offers received prior to 9 a.m. on August 30, 1985 will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2–3, if neccesary. Those applications and offers received thereafter shall be considered in the order of filing.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–18188 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-32-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease M 58989(ND) Acquired, Mountrail County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination, March 1, 1985.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16–2/3% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Sec. 31 (d) and (e) of the Mineral Land Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: July 23, 1985.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 85–18190 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-85-M

[U-064]

Utah; Availability; Grand Resource Management Plan

July 23, 1985.

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of Availability, Grand Resource Management Plan.

SUMMARY: The Resource Management Plan (RMP) for the Grand Resource Area, Moab District, Bureau of Land Management, has been approved and is available to the public upon request.

FOR FURTHER INFORMATION CONTACT: Colin P. Christensen, Area Manager, Grand Resource Area, Bureau of Land Management, P.O. Box M, Moab, Utah 84532.

SUPPLEMENTARY INFORMATION: The Grand RMP was adopted on June 24, 1985. The document includes the Record of Decision for the Proposed Resource Management Plan and Final Environmental Impact Statement, Grand Resource Area; the Resource Management Plan; and the Rangeland Program Summary. The RMP provides guidance for management of about 1.8 million acres of public land in Grand and San Juan Counties, east-central Utah.

The RMP serves to designate the 1,375-acre Negro Bill Canyon Outstanding Natural Area, to be managed under 43 CFR 8352.

Copies of the RMP have been mailed to the RMP mailing list. Copies are available upon request from the Area Manager, Grand Resource Area.

S. Darlene Harris,

Acting District Manager.

[FR Doc. 85-18189 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-DQ-M

[W-89312]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a)(b)(1), a petition for reinstatement of oil and gas lease W-89312 for lands in Campbell County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16-⅔ percent, respectively.

The lessees have paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this Federal Register notice.

The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-89312 effective November 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85-18187 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-22-M

[M 66135]

Montana; Invitation; Coal Exploration License Application

Members of the public are hereby invited to participate with Western Energy Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rosebud County, Montana:

T. 1 N., R. 40 E., P.M.M.,
Sec. 12: NW¼.
160.0 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 36800, Billings, Montana 59107; and Western Energy Company, 16 East Granite, Butte, Montana 59701. Such written notice must refer to serial number M 66135 and be received no later than 30 calendar days after publication of this Notice in the Federal Register or 10 calendar days after the last publication of the Notice in the Forsyth Independent, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at this address.

Dated: July 23, 1985.

Dean Stepanek,

Director.

[FR Doc. 85-18229 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-DN-M

Montana; Scratchgravel Hills Area Recreation Management Restrictions

AGENCY: Bureau of Land Management, Butte District, Interior.

ACTION: Scratchgravel Hills Area recreation management restrictions.

SUMMARY: Under the Authority of 43 CFR 8364.1 and as a result of the approval of the Scratchgravel Hills Cooperative Agreement on July 11, 1985, the following restrictions for the use of the Scratchgravel Hills, Helena, Montana, are hereby announced.

The following restrictions will become effective August 15, 1985:

1. The use, possession afield, or discharge of all firearms is prohibited year-round in the Scratchgravel Hills, except during such big game seasons as may be established by the Montana Department of Fish, Wildlife and Parks.

2. The possession and use of fireworks is prohibited year-round.

These regulations apply to public lands in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 33, 34, 35, and 36, Township 11 North, Range 4 West, PMM, and Sections 3, 4, and 5, Township 10 North, Range 4 West, PMM.

The purpose of these restrictions is to minimize hazards to visitors and surrounding residences, and to minimize the possibility of wildfire. The public lands within the designated area will remain open to other resource and recreation uses unless otherwise restricted.

Pursuant to 43 CFR 8360.0-7 any persons who knowingly violates or fails to comply with any regulations prescribed under Subpart 8364.1 shall be subject to a fine of not more than $1000 or imprisoned not more than 12 months or both.

FOR FURTHER INFORMATION CONTACT: Area Manager, Headwaters Resource Area, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Dated: July 24, 1985.

Jack A. McIntosh,

District Manager, Butte District.

[FR Doc. 85-18228, Filed 7-31-85; 8:45 am]

BILLING CODE 4310-DN-M

New Mexico; El Paso Electric 345 kV, Springerville to Deming, Transmission Line Project

AGENCY: Bureau of Land Management (BLM), Department of Interior.

ACTION: Notice of availability of the final management framework plan amendment/environmental impact statement (MFPA/EIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a final MFPA/EIS for the proposed El Paso Electric 345 kV, Springerville to Deming, Transmission Line Project.

FOR FURTHER INFORMATION CONTACT: Marvin James, Bureau of Land Management, Las Cruces District Office, P.O. Box 1420, Las Cruces, New Mexico 88001, (505) 525-8228 or FTS 471-8312.

SUPPLEMENTARY INFORMATION: The BLM has prepared the final MFPA/EIS on the El Paso Electric 345 kV, Springerville to Deming, Transmission Line Project to be located in southwestern New Mexico. El Paso proposes to build and operate a 213.5-mile long, single circuit, 345 kV transmission line from a point on the Tucson Electric Power Company's existing 345 kV transmission line near Red Hill, New Mexico to El Paso's Luna substation, 1.5 miles north of Deming, New Mexico. Major components of the project would include the transmission line and additional substation equipment at the existing Luna substation. The final MFPA/EIS, which will be available July 31, 1985 is a supplement to the draft MFPA/EIS, which was published January 30, 1985. Reviewed together, the draft and final MFPA/EIS incorporate the analyses of the affected environment and environmental consequences resulting from El Paso's proposed power line project. The BLM Proposed Plan is a combination of the modified Very Large Array Alternative and the San Agustin Alternative.

A limited number of copies of the final MFPA/EIS have been printed and single copies can be obtained from the District Manager, Las Cruces District Office (505–525–8228); State Director, New Mexico State Office (505–988–6565).

Copies of the final MFPA/EIS can be inspected at the following locations:

Government Offices

Bureau of Land Management, Public Affairs, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240
Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501
U.S. Forest Service, Gila National Forest, 2610 North Silver, Silver City, NM 88061
Bureau of Land Management, Las Cruces District Office, P.O. Box 1420, Las Cruces, NM 88001
Bureau of Land Management, Socorro Resource Area, 198 Neel Street, Socorro, NM 87801
Bureau of Land Management, Division of EIS Services, 555 Zang Street, First Floor East, Denver, CO 80228

Public Libraries

Silver City Public Library, 515 W. College, Silver City, NM 88061
Branigan Memorial Library, 200 East Picacho Avenue, Las Cruces, NM 88001
Socorro Public Library, 401 Park, Socorro, NM 87801
Deming Public Library, 301 S. Tin Avenue, Deming, NM 88030

Dated: July 25, 1985.

Charles W. Luscher,

State Director.

[FR Doc. 85–18200 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-FB-M

Roseburg District Advisory Council; Meeting

Notice is hereby given in accordance with section 309 of the Federal Land Policy and Management Act (as amended), the Roseburg District Advisory Council will meet August 23, 1985. The meeting will convene at 9:30 a.m. in the conference room at the Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon.

The agenda for the meeting will include:

1. Opening remarks and general topics.
2. Update on noxious weed EIS and worst case analysis on use of forest chemicals.
3. Funding and program outlook for FY 86.
4. Timber sale plan update. Status of "buy out" under the Timber Contract Modification Act.
5. Other district programs.
6. Public comment period—begins about 11:00 a.m.

Interested persons may make oral statements before the Council or file written statements for the Council's consideration.

Summary minutes of the Council meeting will be maintained in the District Office and available for public inspection during regular business hours within 30 days following the meeting.

Dated: July 17, 1985.

Ben C. Hobbs,

Associate District Manager.

[FR Doc. 85–18198 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-33-M

Wyoming: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of Plats of Survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., July 19, 1985.

Sixth Principal Meridian

T. 26 N., R. 82 W.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, and the subdivision of sections 7 and 18, T. 26 N., R. 82 W., Sixth Principal Meridian, Wyoming, Group No. 434, was accepted July 15, 1985.

T. 26 N., R. 83 W.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of sections 28, 32, and 33, T. 26 N., R. 83 W., Sixth Principal Meridian, Wyoming, Group No. 434, was accepted July 15, 1985.

T. 51 N., R. 72 W.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines, T. 51 N., R. 72 W., Sixth Principal Meridian, Wyoming, Group No. 459, was accepted July 15, 1985.

T. 47 N., R. 93 W.

The plat representing the dependent resurvey of a portion of Tract 52, and the metes and bounds survey of Lots 57 and 58, Tract 63 D, T. 47 N., R. 93 W., Sixth Principal Meridian, Wyoming, Group No. 465, was accepted July 15, 1985.

These surveys were executed to meet certain administrative needs of this Bureau.

Sixth Principal Meridian

T. 57 N., R. 66 W.

The supplemental plat showing a subdivision of original lot 5, sec. 30, T. 57 N., R. 66 W., Sixth Principal Meridian, Wyoming, was accepted July 15, 1985.

This plat was prepared to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: July 22, 1985.

Richard L. Oakes,

Chief Cadastral Surveyor for Wyoming.

[FR Doc. 85–18199 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-22-M

[Alaska AA–48424–M]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48424–M has been received covering the following lands:

Copper River Meridian, Alaska

T. 12 N., R. 9W.,

Sec. 30, E½SW¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from Decemeber 1, 1984, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48424–M as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective (SC–10), subject to the terms and conditions cited above.

Dated: July 18, 1985.

Robert E. Sorenson,

Chief, Branch of Mineral, Adjudication.

[FR Doc. 85–18226 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–JA–M

Geothermal Resource Area; Geysers-Calistoga, CA; Deletion of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Deletion of lands from the Geysers-Calistoga Known Geothermal Resources Area.

SUMMARY: Pursuant to the authority in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, and Secretarial Orders 3071 and 3087, the following described lands are hereby deleted from the Geysers-Calistoga Known Geothermal Resource Area, effective August 1, 1985:

(5) California

GEYSERS-CALISTOGA KNOWN GEOTHERMAL RESOURCE AREA

Mount Diablo Meridian, California

T. 10 N., R. 5W.,
Sec. 19, Lots 1, 2, 3, 4, NE¼, E½W½;
Sec. 20, E½, NW¼;
Sec. 21;
Sec. 28, N½.
T. 9 N., R. 6 W.,
Sec. 1–29;
Secs. 32–36.
T. 10 N., R. 6 W.,
Sec. 1;
Secs. 11–14;
Secs. 19–36.
T. 9 N., R. 7 W.,
Secs. 1–6;
Secs. 9–15;
Secs. 23, 24.
T. 10 N., R. 7 W.,
Sec. 8;
Secs. 16–36.
T. 9 N., R. 8 W.,
Sec. 1
T. 10 N., R. 8 W.,
Secs. 13–17;
Secs. 21–27;
Secs. 34–36.

Mallacomes or Moristul Grant 60
Malacomes or Moristul y Plan de Agua Caliente Grant 61

Carne Humana Land Grant 79 southeast of a line beginning at the northeast corner of the NW¼SW¼ of Section 9, T. 8 N., R. 6 W., and running in a northeasterly direction to the southwest corner of lot 2, in Section 3, T. 8 N., R. 6 W. The deleted lands described contain 90,368.84 acres, more or less.

The subject lands will be made available to the first qualified applicant under regulations appearing in 43 CFR Part 3210 beginning with the first calendar month following the date of this notice.

This action separates the Geysers-Calistoga KGRA into two separate KGRAs. The remaining lands to the north are now The Geysers KGRA. The remaining lands to the south, surrounding Calistoga, are now the Calistoga KGRA. The Calistoga KGRA lands are described as follows:

Mount Diablo Meridian, California

T. 9 N., R. 6 W.,
Secs. 30, 31.
T. 9 N., R. 7 W.,
Secs. 23, 24.

Carne Humana Land Grant 79 northwest of a line beginning at the northeast corner of the NW¼SW¼ of Section 9, T. 8 N., R. 6 W., and running in a northwesterly direction to the southwest corner of lot 2, Sec. 3, T. 8 N., R. 6 W.

Containing 9,034.24 acres, more or less.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, California State Office, Division of Mineral Resources, 2800 Cottage Way, Sacramento, California 95825, (916) 484–4515.

Dated: July 26, 1985.

Timothy P. Julius,

Acting District Manager, Ukiah.

[FR Doc. 85–18227 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–40–M

Preliminary Notices of Realty Actions; Land Exchanges, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Preliminary Notices of Realty Action—Land Exchanges, Serial Nos. CA–16934 and CA–17640.

SUMMARY: This document supercedes and cancels in its entirety the Notice of Realty Action published in the **Federal Register** on July 8, 1985 in Volume 50, No. 130, page 27853 for sale of lands in San Diego County. This publication also deletes from public sale certain lands identified in **Federal Register** of June 5, 1985, Volume 50, No. 108, pages 23770–23771; those parcels of land identified as SD–45, CA 17258; SD–46, CA 17259; SD–37, CA 17250; SD–57, CA 17250, and SD–61, CA 17274, are deleted from sale and identified for exchange. The first exchange, Serial No. CA 16934, is between Mr. Roque de La Fuente of 3250 corporation and the California Desert District's (CDD) Southern California Metropolitan Project. This exchange would consolidate a Federal land and wildlife management area located about 8 miles due east of Chula Vista, California and includes the public lands described below:

San Bernardino Meridian

T. 11S., R. 2W.,
Sec. 22: NE¼SE¼;
Sec. 23: NW¼SE¼
Sec. 25: Lots 1–16;
Sec. 26: W½NE¼, E½NW¼.
Amounting to 311.2 ac.±
San Diego County, California.

The second exchange, Serial No. CA 17640, is between the Santa Fe Pacific Realty Company and the CDD's Barstow Resource Area. This exchange would consolidate Federal land holdings in the Johnson Valley and Afton Canyon vicinity of the California Desert Conservation Area and includes the following public lands:

San Bernardino Meridian

T. 12S., R. 1W.,
Sec. 4: SW¼, NW¼SE¼.
Amounting to 200.00 ac±.
T. 13S., R. 1E.,
Sec. 1: NE¼SE¼, S½SE¼;
Sec. 12: NE¼.
T. 13S., R. 2E.,
Sec. 7: Lots 1 & 2.
Amounting to 360.69 ac.±.
T. 14S., R. 2E.,
Sec. 5: Lots 2–6, S½NW¼.
Amounting to 170.92 ac.±, San Diego county, California.

Purpose: The above described public lands will be classified for use as exchange bases to acquire private lands to consolidate Federal land holdings and improve resource management of the public lands. The exchange proposals will benefit the public by disposing of

scattered, isolated and unmanageable tracts of public lands located in the Southern California Metropolitan Project Area and acquiring private land adjoining manageable Federal property.

This action is taken to provide a response period of 45 days during which time public comments will be accepted. Interested parties may submit comments to the Bureau of Land Management at the address indicated below.

The publication of this notice segregates the public lands described above from settlement, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716). The segregative effect shall terminate either upon publication in the **Federal Register** of a termination of the segregation or two (2) years from the date of this publication, whichever comes first. This action is necessary to avoid the occurrence of nuisance mining claims and any associated surface occupancy that could encumber the public lands and jeopardize the proposed exchanges while negotiations are ongoing. Upon completion of final negotiations and preparation of an environmental assessment, a final Notice of Realty Action will be published. The notices will provide a final description of the public as well as private lands to be exchanged.

More information may be obtained by contacting, in writing the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

Dated: July 26, 1985.

H.W. Riecken,

Acting District Manager.

[FR Doc. 85-18261 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 16395]

Realty Action; Sale of Public Land-Modification(s); California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—withdrawal of sale parcel SD-40 from competitive sale listing; correction of the name of the powerline right-of-way holder under grant, R-3545; and notification of mining claim(s) located on sale parcel LA-13.

SUMMARY: This action withdraws the following land from the competitive sale listing published in Vol. 50, No. 106, page 23771 of the **Federal Register** on June 5, 1985:

County parcel number	Serial number	Legal description	Acres
SD-40	CA-17253	T. 13S., R. 1W., SBM, Sec. 20: W½SW¼S E¼.	±20.00

The above described land was identified as sale parcel SD-2 for *Direct Sale* to Mr. Ed Malone under Case No. CA 17185. This action corrects a reference to San Diego Gas and Electric Company as being the Holder of a right-of-way grant, R-3545, for an electric transmission line. The actual Holder of the aforementioned right-of-way is Southern California Edison Company.

This action also provides public notice and amends the mining claim(s) reservations on page 23774 of Vol. 50, No. 106 of the **Federal Register** to include two (2) additional mining claims located on sale parcel LA-13. Conveyance of the LA-13 parcel shall be subject to the same conditions/rights described in the aforementioned **Federal Register** publication.

For additional information and comment contact: The Bureau of Land Management, Southern California Metropolitan Project, 1695 Spruce Street, Riverside, California 92507, (714) 351-6379.

Dated: July 26, 1985.

H.W. Riecken,

Acting District Manager.

[FR Doc. 85-18262 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 17297-CA 17303]

Sale of Public Land; Los Angeles and San Diego Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, direct sale of public land in Los Angeles and San Diego Counties, California—change of sale date.

SUMMARY: This notice changes the sale date specified in the Bureau's Notice of Realty Action which was published in the **Federal Register** on July 2, 1985 in Vol. 50, No. 127, page 27366.

The aforementioned publication gave a sale date of September 4, 1985. This notice changes the sale date to September 24, 1985. All other portions of the July 2, 1985 Notice of Realty Action remain unchanged.

Background Information: This action was deemed necessary to ensure adequate public notice in the general vicinity of the direct sale parcels. Those parties purchasing the sale parcels must give legal notice of the direct sales through newspaper advertisements at least 60 days prior to the sale.

Dated: July 26, 1985.

H.W. Riecken,

Acting District Manager.

[FR Doc. 85-18260 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-40-M

[ES-035170, Group 88]

Michigan; Filing of Plat of Dependent Resurvey and Subdivision of Sections

July 26, 1985.

1. The plat of the dependent resurvey of a portion of the south boundary (Fifth Correction Line), Township 51 North, Range 32 West, a portion of the south and west boundaries, a portion of the subdivisional lines, and subdivision of sections, Township 50 North, Range 32 West, Michigan Meridian, Michigan, will be officially filed in Eastern States Office, Alexandria, Virginia at 7:30 a.m., on September 9, 1985.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., September 9, 1985.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Patricia A. Ludlow,

Acting Deputy State Director for Cadastral Survey.

[FR Doc. 85-18327 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-GJ-M

[A-18909]

Arizona; Conveyance of Public Land; Reconveyed Land Opened To Entry

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land. The land transferred to private ownership is described as:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.,

Sec. 31, Lot 6.

Comprising 19.94 acres in Mohave County.

Land acquired by the United States is described as:

Gila and Salt River Meridian, Arizona

T. 25 N., R. 17 W.,
Sec. 31, Lots 3 and 4, E½SW¼ and SE¼.
Comprising 320.15 acres in Mohave County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange will be open to entry under the general land laws, at 9 a.m. on August 30, 1985. The mineral estate is owned by the Santa Fe Railroad Company.

Dated: July 25, 1985.

John T. Mezes,

Chief, Branch of Land and Minerals Operations.

[FR Doc. 85-18309 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-32-M

Colorado, Parachute Shale Oil Project; Environmental Statements

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Record of Decision.

SUMMARY: The purpose of this notice is to announce the availability of the Record of Decision (ROD) for the Parachute Shale Oil Project. The decision is to implement the Agency's Preferred Alternative as designated in the Final EIS.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has decided to approve the Agency's Preferred Alternative as designated in the FEIS dated December 7, 1984. The ROD summarizes the EIS scoping process, alternatives considered, components of the preferred alternative, decision rationale, mitigation, and monitoring.

Availability: Single copies of the ROD may be obtained from: EIS Team Leader, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81506, (303) 243-6552, FTS 323-0011.

Dated: July 26, 1985.

Dick Freel,

Associate District Manager, Grand Junction District.

[FR Doc. 85-18304 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-JB-M

[M-63927]

Exchange of Public and Private Lands in Carter County, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action M-63927.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T.3S., R.59E.,
Sec. 19: Lot 2;
Sec. 20: NE¼SW¼, NW¼SE¼;
Sec. 27: W½SW¼;
Sec. 28: N½NE¼, W½NW¼;
Sec. 34: SW¼NW¼.
T.4S., R.59E.,
Sec. 2: S½SW¼;
Sec. 11: NW¼NW¼.
Aggregating 520.32 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T.3S., R.58E.,
Sec. 10: S½SW¼;
Sec. 15: N½NW¼.
T.3S., R.59E.,
Sec. 17: SW¼SW¼.
T.4S., R.59E.,
Sec. 1: S½.
Aggregating 520 acres.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Powder River Resource Area Office, Miles City Plaza, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The purpose of this exchange it to resolve an existing trespass and to provide management enhancement by blocking up boih public and private lands within George Blair's Belltower Ranch and grazing allotment.

The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with state and county officials. Carter County Commissioners were consulted on May 14, 1985, and concurred there is no need for a public meeting to be held. The public interest will be served by making the exchange. The publication of this notice segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of federal ownership.

2. The reservation to the United States of mineral interest in the lands being transferred out of federal ownership.

3. All valid existing rights (e.g. rights-or-way, easements, and leases of record).

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

Dated: July 24, 1985.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 85-18307 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-DN-M

[CA-15835]

California, Opening of Land Subject to Section 24 of the Federal Power Act

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075, as amended, 16 U.S.C. 818) and pursuant to the determination of the Federal Energy Regulatory Commission, in DA-1148 California, it is ordered as follows:

1. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the following described land in the Sierra National Forest, withdrawn in FERC Power Project No. 67 will not be injured or destroyed for the purposes of power development, and shall effective immediately, become available for consummation of pending Forest Service Exchange Application, CA-8603, under the General Exchange Act of March 20,

1922, 43 U.S.C. 465, as amended, 16 U.S.C. 485 subject to the provisions of section 24 of the Federal Power Act of June 10, 1920.

Mount Diablo Meridian

Sierra National Forest

T. 9 S., R. 25 E.,
Sec. 20, NE¼SE¼.

The area described aggregates approximately 40 acres in Fresno County.

The land has been open to application and offers under the mineral leasing laws. These lands remain segregated from the mining laws under Forest Service Exchange Application CA–8603.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: July 23, 1985.

Ed Hasley,

State Director.

[FR Doc. 85–18303 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–40–M

Filing of Plats of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Ofice, Portland, Oregon on the dates hereinafter stated:

Willamette Meridian

OR T. 34 S., R. 3 W.;
WA T. 39 N., R. 36 E.

The above two plats were officially filed June 11, 1985.

OR T. 4 N., R. 2 W.;
OR T. 28 S., R. 10 W.;
OR T. 37 S., R. 33 E.;
OR T. 30 S., R. 45 E.;
WA T. 27 N., R. 9 E.;
WA T. 12 N., R. 15 E.;
WA T. 36 N., R. 32 E.

The above-listed plats were officially filed July 5, 1985.

All of the above-listed plats represent dependent resurveys, subdivisions, and supplemental plats.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 26, 1985.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–18308 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–33–M

[N–7850]

Termination of Department of Energy Withdrawal Application; Nevada

July 18, 1985.

Notice of proposed withdrawal and reservation of 1,064 acres of public land was published as FR Doc 73–22248, page 28961, in the October 18, 1973 issue. The Department of Energy has canceled its application. Therefore, pursuant to regulation 43 CFR 2310.2–1(c), the segregative effect of this application terminated on March 28, 1985.

Alan J. Dunton,

Acting Deputy State Director, Operations.

[FR Doc. 85–18305 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–HC–M

[N–29840]

Proposed Continuation of Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy proposes that 1.11 acres of Public Land Order 2803, which established a 11.29-acre withdrawal for radio site facilities, be continued for an additional 20 years. The remaining 10.28 acres will be terminated. The land would remain closed to surface entry and mining. The land would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520 (702) 784–5481.

The Department of Energy proposes that the following described 1.11 acres of the existing land withdrawal made by Public Land Order 2803 of October 19, 1962, be continued for a period for 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Mount Diablo Meridian

A tract of land situated in unsurveyed Section 2, T. 2 N., R. 42 E., beginning at a point from which USGS Triangulation Station "Brock" bears S. 74°49'45" W., 450 feet, more particularly described as follows:

Thence South 700 feet;
Thence West 70 feet to the true point of beginning;
Thence North 360 feet;
Thence West 140 feet;
Thence South 360 feet;
Thence East 140 feet to the true point of beginning.

The area described contains approximately 1.11 acres in Esmeralda County.

The purpose of the withdrawal is to protect the communication facilities for the Nevada Test Site. The withdrawal segregates the land from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Alan J. Dunton,

Acting Deputy State Director, Operations.

[FR Doc. 85–18306 Filed 7–31–85; 8:45 am]

BILLING CODE 4310–HC–M

[OR 19474]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Navy proposes that a land withdrawal for the Boardman Bombing Range continue for an additional 25 years. The lands would remain closed to surface entry and mining but would be opened to mineral leasing subject to Navy concurrence.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Department of the Navy proposes that the existing land withdrawal made by

Executive Order No. 8651 of January 23, 1941, as amended by Executive Order No. 9526 of February 28, 1945, Public Land Order No. 417 of October 14, 1947, and Pub. L. 87–356, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located approximately 40 miles west of Pendleton and aggregate 37,400.31 acres within T. 4 N., R. 24 E., and Tps. 2, 3, and 4 N., R. 25 E., W.M., in Morrow County, Oregon.

The purpose of the withdrawal is to protect the Naval Weapons Systems Training Facility, Boardman, also known as the Boardman Bombing Range. The withdrawal segregates the lands from operation of the public land laws, including the mining laws and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal except to open the lands to applications and offers under the mineral leasing laws. The 37,400.31 acres referred to by this notice are public domain lands. The Department of the Navy also has jurisdication over approximately 10,000 acres of adjacent acquired lands which are not affected by this notice.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated July 26, 1965.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–18301 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-33-M

[OR-20253]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a land withdrawal for the Klamath Project continue for an additional 50 years. The lands would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of June 25, 1919, the continued for a period of 50 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located approximately 15 miles south of Klamath Falls and aggregate 7,329.14 acres within, T. 41 S., Rgs. 9 and 10 E., W.M., Klamath County, Oregon.

The purpose of the withdrawal is to protect the Klamath Reclamation Project. The withdrawal segregates the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: July 24, 1985.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–18302 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-33-M

Modified Notice of Realty Action; Sale of Public Lands; Socorro County, NM

The Notice of Realty Action published in the **Federal Register** on July 11, 1985, Vol. 50, No. 133, pages 28274 and 28275 is hereby modified to include the following information:

Exact acreages for all parcels will be available in the Socorro Resource Area Office at a later date. Prior to bid submission, bidders should call the Socorro Resource Area Office (505) 835–0412 for exact acreages which will determine final value amounts for minimum acceptable bids.

H. James Fox,

District Manager.

[FR Doc. 85–18326 Filed 7–31–85; 8:45 am]

BILLING CODE 4310-FB-M

[A–19395]

Realty Action; Exchange of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: A private exchange of public lands in Pinal County, Arizona, for private lands of equal fair market value within the Apache-Sitgreaves National Forest, Coconino County, Arizona.

SUMMARY: The following described public lands have been examined and determined to be suitable for exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (Stat. 2756; 43 U.S.C. 1716).

Gila and Salt River Meridian

Pinal County, Arizona

T. 8 S., R. 16 E.,

Sec. 25: S½N½SW¼, S½SW¼, SW¼NW¼SE¼, W½SW¼SE¼.

Containing 150 acres more or less.

Sec. 26: Lots 1 through 15, W½NE¼, W½SE¼NE¼, NE¼NW¼, SE¼, excluding patented Hackney lode M.S. No. 698, Raven lode M.S. No. 699, Mammoth lode M.S. No. 802, Raven lode M.S. No. 804, Mars lode M.S. No. 806, Remnant lode M.S. No. 807, Mohawk and Mohawk Wedge lodes M.S. No. 1157, Rooster Mine lode M.S. No. 2999, Washington and Golden Slipper lodes M.S. No. 3751, Erfletch lode M.S. 3971, Mammoth Extension and Avon Triangle lodes M.S. No. 3972, Remnant Extension lode M.S. No. 3973, Ford, Ford Fraction, Manana and Quien Sabe lodes M.S. No. 3974, New Year and Gulch lodes M.S. No.

4203 and Extension and Wach lodes M.S. No. 4430, containing 311.06 acres more or less.

Sec. 35: Lot 1, NE¼, NW¼NW¼, S½NW¼, S½, excluding patented Mohawk lode M.S. No. 1157, Golden Slipper and Washington lodes M.S. No. 3751, San Manuel 1 through San Manuel 9 lodes and San Manuel 15 through San Manuel 32 lodes and San Manuel 35 lode M.S. 4320, Bees Nest Side Fraction, Lio, Lio Extension, and Wach lodes M.S. No. 4430, containing 105.04 acres more or less.

Containing a total of 560.1 acres more or less.

In exchange for the above lands, the Bureau of Land Management will acquire the following described private lands from the Magma Copper Company, San Manuel, Arizona.

Gila and Salt River Meridian

Coconino County, Arizona

T. 14 N., R. 13 E.,

Sec. 31: Lots 9 and 10, containing 60.6 acres more or less.

Sec. 33: NW¼NE¼, NE¼NW¼, S½NW¼ containing 160 acres, more or less.

Containing a total of 220.60 acres, more or less.

SUPPLEMENTAL INFORMATION: The purpose of this exchange is to facilitate the resource management program of the Apache-Sitgreaves National Forest and to dispose of public lands determined to have no mineral value which are difficult to manage by the Bureau of Land Management. These lands are near enclaves within private and State of Arizona land ownerships.

This proposal is consistent with Bureau planning whereby the highest and best use of the land is recognized. The acreages exchanged shall be adjusted to be equal in fair market value.

The exchange as it affects the public lands will be subject to:

1. A reservation to the United States of a right-of-way for ditches and canals under the Act of August 30, 1890.

2. Valid existing rights including, but not limited to, any right-of-way, easement, permit or lease of record.

The exchange as it affects the private lands offered by the Magma Copper Company within the Apache-Sitgreaves National Forest will be subject to:

Gila and Salt River Meridian

T. 14 N., R. 13 E.,

Sec. 31: Lots 9 and 10 LESS and EXCEPTING therefrom all timber over 12 inches d.b.h. at the time of cutting until May 20, 1997.

Sec. 33: NW¼NE¼, NE¼NW¼, S½NW¼, LESS and EXCEPTING therefrom all timber over 12 inches d.b.h. at the time of cutting until May 20, 1984.

A reservation for all the oil, gas, and other minerals in, on, or under, or which may be produced from such land and the right of entry to prospect for, mine and remove, all oil, gas and other minerals in said land. All the above reservations are duly recorded in Coconino County, Arizona.

Publication of this notice in the **Federal Register** shall segregate the subject Federal lands from all other forms of appropriation under the public land laws, excepting exchange, but including the mining laws, for a period of two years following the date of this notice. Segregation will terminate upon issuance of patent.

DATE: For a period of 45 days from the publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, 425 E. 4th Street, Safford, Arizona 85546. Any adverse comments will be evaluated by the Arizona State Director, who may vacate or modify this realty action and issue a final determination. In the absence of such revisions this realty action will become the final determination of the Bureau.

FOR FURTHER INFORMATION CONTACT: Keith Cook, Gila Resource Area Manager, Safford District Office, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546. Phone: (602) 428-4040.

Dated: July 24, 1985.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 85-18313 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Dennis Bromley, et al.; Receipt of Application for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-695450

Applicant: Dennis Bromley, Anchorage, AK

The applicant requests a permit to import a personal sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the captive herd of C.J. Retief, Harrismith, South Africa, for the purpose of enhancement of propagation.

PRT-693295

Applicant: John Nicolella, New York, NY

The applicant requests a permit to import a personal sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the captive herd of Francis Bowker, Grahamstown, South Africa, for the purpose of enhancement of propagation.

PRT-696620

Applicant: Norma Epley, Arroyo Grande, CA

The applicant requests a permit to import a personal sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the captive herd of F. Bowker, Jr., Grahamstown, South Africa, for the purpose of enhancement of propagation.

PRT-696357

Applicant: Wild Canid Survival & Research Center, Eureka, MO.

The applicant requests a permit to export a captive-born grey wolf (*Canis lupus pallipes*) to the Cologne Zoological Park, West Germany, for the purpose of enhancement of propagation.

PRT-696801

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import a pair of Mhorr gazelles (*Gazella dama mhorr*) from the Munich Zoo, Federal Republic of Germany, for the purpose of enhancement of propagation.

PRT-696802

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import two male and one female Cuvier's gazelles (*Gazella cuvieri*) from the Munich Zoo, Federal Republic of Germany, for the purpose of enhancement of propagation.

PRT-696757

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import one captive-born brown hyena (*Hyaena brunnea*) from the Assiniboine Park Zoo, Winnipeg, Canada, for the purpose of enhancement of propagation.

PRT-696755

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import one female snow leopard (*panthera uncia*) from the Zurich Zoo, Switzerland, for the purpose of enhancement of propagation.

PRT-696759

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import a pair of black-footed cats (*Felis nigripes*) from the Wuppertal Zoo, Federal Republic of Germany, for the purpose of enhancement of propagation.

PRT-695998

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to export a make Sumatran Orangutan (*Pongo pygmaeus abelli*) and five male and four female black lemurs (*Lemur maceo*) to the Tierpark Berlin, German Democratic Republic, for the purpose of enhancement of propagation.

PRT-695995

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to export a captive-born male drill (*mandrillus leucophoeus*) from the Hanover Zoo, Federal Republic of Germany, for the purpose of enhancement of propagation.

PRT-696527
Applicant: Kim Enterprises, Albuquerque, NM.

The applicant requests a permit to purchase in interstate commerce an adult pair and 12 eggs of masked bobwhite quail (*Colinus virginianus ridgwayi*) from Tal Bartlett, Riverdale, GA, for enhancement of propagation.

PRT-696585
Applicant: Peter Brazaitis, Brooklyn, NY.

The applicant requests a permit to import tissue samples from wild and captive specimens of the following species for the purpose of scientific research: Yacare (*Caiman crocodilus yacare*), broad-snouted caiman (*C. latirostris*) and Black caiman (*Melanosuchus niger*).

PRT-696929
Applicant: Idaho Department of Fish & Game, Boise, ID.

The applicant requests a permit to import 36 wild woodland caribou (*Rangifer tarandus caribou*) from Canada into Idaho over a 3-year period for the purpose of supplementing U.S. populations and enhancing the propagation and survival of the species.

PRT-695994
Applicant: San Diego Zoo, San Diego, CA.

The applicant requests a permit to export 2 female Bornean orangutans (*Pongo pygmaeus pygmaeus*) to the Chengdu Zoo, People's Republic of China, for the purpose of enhancement of propagation.

PRT-696367
Applicant: Fish & Wildlife Service/National Sea Turtle Coordinator, Albuquerque, NM.

The applicant requests a permit to take, import and export scientific specimens (including but not limited to preserved hatchlings, reproductive tracts, naturally dead eggs and eggshells) of all endangered sea turtles native to the Western Hemisphere to and from various researchers in Canada, Mexico, the United Kingdom and other countries for the purpose of scientific research and enhancement of survival.

PRT-696343
Ronnie D. Smith, Norco, CA.

The applicant requests a permit to import two personal sport-hunted trophies of the bontebok (*Damaliscus d. dorcas*) culled from a captive herd on a ranch in South Africa for the purpose of enhancement of survival of the herd.

PRT-696360
Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import 10 captive-hatched broad-snouted caimans (*Caiman latirostris*) from Atagawa Tropical Garden, Japan, for the purpose of enhancement of propagation.

PRT-696354
Applicant: William A. Paulin, Lompoc, CA.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the captive herd of Frank Bowker, Grahamstown, South Africa, for the purpose of enhancement of survival of the herd.

PRT-696327
Applicant: Manuel Garcia, Hermosillo, Mexico.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the captive herd of Frank Bowker, Grahamstown, South Africa, for the purpose of enhancement of survival of the herd.

PRT-696341
Applicant: Gary Lingle, Grand Island, NE.

The applicant requests a permit to take (capture, measure, band) interior least terns (*Sterna antillarum athalassos*) in Nebraska for the purpose of scientific research.

PRT-674488
Applicant: James Fraser—VA Polytechnic Institute, Blackburg, VA.

The applicant requests a permit to take (band, mark, radio-tag/track, collect blood and feathers, and recapture) up to 30 bald eagles (*Haliaeetus leucocephalus*) per year in the Chesapeake Bay area for scientific research and enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm), Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: July 25, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-18206 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Seagull Energy E & P Inc., has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4069, Block 384, Galveston Area, offshore Texas. 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 Freeport, Texas.

DATE: The subject DOCD was deemed submitted on July 17, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m., to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: 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 Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

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: July 22, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-18186 filed 7-31-85; 8:45 am]

BILLING CODE 4310-MR-M

Receipt of Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil and Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 2537 and 2538, Blocks 265

and 266, respectively, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on July 19, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review

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: July 22, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-18185 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5694, Block 98, Main Pass Area, Offshore Louisiana and Mississippi. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 24, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: 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. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 26, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-18314 Filed 7-31-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-191]

Certain Stretch Wrapping Apparatus and Components Thereof; Issuance of Action and Order Provisionally Accepting Joint Motion for Modification of Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Issuance of Action and Order provisionally accepting joint motion for modification of consent order.

SUMMARY: The Commission has provisionally accepted the joint motion of complainant Lantech, Ltd., and respondents Muller Manufacturing, Ltd., and Muller Packaging Systems, Inc., for modification of the consent order issued in connection with final disposition of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: John Kingery, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523-1638.

SUPPLEMENTARY INFORMATION: Pursuant to the Commission's Action and Order and § 211.57 of the Commission's rules, copies of the Action and Order, the motion, and this notice shall be served upon each former party to the investigation. Comments on the motion must be filed with the Secretary to the Commission within 7 days of publication of this notice. No public hearing will be held on this matter.

Issued: July 29, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18266 Filed 7-31-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-143]

Certain Amorphous Metal Alloys and Amorphous Metal Articles; Exclusion Order Modification Proceedings

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission will conduct proceedings to determine whether the exclusion order issued in the above-captioned

investigation should be modified, limited, or vacated.

SUMMARY: As of the date of publication of this notice in the **Federal Register**, the Commission hereby institutes proceedings under 19 CFR § 211.57 to determine whether there are effective and feasible means of enforcing the general exclusion order issued in the subject investigation on October 15, 1984, without excluding products made by noninfringing processes, what those means are, and whether the exclusion order should be modified, limited, vacated, or left unchanged.

FOR FURTHER INFORMATION CONTACT: For further information about the Commission's decision to institute modification proceedings, contact P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350. For further information concerning the modification proceedings, contact Stephen L. Sulzer, Esq., Commission investigative attorney, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–0419.

SUPPLEMENTARY INFORMATION:

Background: Investigation No. 337–TA–143 was conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain amorphous metal alloys and articles, by reasons of the alleged infringement of three U.S. patents owned by complainant Allied Corp. (See 48 FR 15963, Apr. 13, 1983.) The investigation resulted in the issuance of a general exclusion order prohibiting amorphous metal articles manufactured abroad in accordance with the casting process disclosed in claims 1, 2, 3, 5, 8, or 12 of Allied's U.S. Letters Patent 4,221,257 from entering the United States. (See 49 FR 42803 (Oct. 24, 1984); USITC Publication 1664 (November 1984).)

Although the exclusion order is directed only to articles made by infringing process, respondents Hitachi Metals, Ltd. and Hitach Metals International, Ltd. have argued to the Commission that the order will be enforced by the U.S. Customs Service in a manner that will result in the exclusion of all amorphous metal articles, including those made by noninfringing processes. (See the public version of Motion No. 143–86 "C".)

The Commission also has received a letter from the United States Trade Representative (USTR) expressing concern about enforcement of the exclusion order. The letter communicates the U.S. Customs Service's recommendation that the order be amended to include a provision stating that potential importers of amorphous metal articles may petition the Commission to institute such proceedings as may be appropriate to determine whether the articles sought to be imported are exempt from the order, and thus may be allowed entry. (Letter dated Apr. 16, 1985, from former USTR William E. Brock to Chairwoman Paula Stern.)

Since Customs has expressed concern about enforcement of the exclusion order, and since the validity of the proposed means of enforcement is in dispute, the Commission has decided to institute proceedings pursuant to rule 211.57 to determine whether the exclusion order should be modified.

The modification proceedings shall initially be presided over by an administrative law judge (ALJ), who shall conduct adversary proceedings to the exent necessary to take evidence, make findings of fact and conclusions of law, and issue a recommended determination (RD) as to: (1) Whether there are effective and feasible means of enforcing the general exclusion order without excluding products made by noninfringing processes, and (2) what those means are. The RD also shall include recommendations as to the disposition of the exclusion order, i.e., whether the order should be modified to include the provision recommended by Customs, limited in scope, vacated, or left unchanged.

Notice of the RD will be published in the **Federal Register**. Interested members of the public and other Federal agencies will be permitted to file written comments on the RD within 10 days after publication of the notice.

After reviewing the RD, all information obtained in the modification proceedings, and pertinent information on the record of investigation No. 337–TA–143, the Commission will determine whether the exclusion order should be modified, limited, vacated, or left unchanged.

Public inspection. The exclusion order, USTR's letter, the public version of Hitachi's Motion No. 143–86"C," the Commission's Action and Order, and all other nonconfidential documents on the record of the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0471.

By order of the Commission.

Issued: July 26, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18267 Filed 7–31–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30685]

Amite, Wilkinson & Feliciana Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission is granting a petition filed by Amite, Wilkinson & Feliciana Railroad Co. (AWF) for exemptions from: (1) 49 U.S.C. 10901 for AWF to operate a recently abandoned 43.04-mile line; and (2) 49 U.S.C. 11301 for AWF to issue notes and common stock.

DATES: Thia action is effective on August 1, 1985. Petitions to reopen due on August 21, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30685 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Mark H. Sidman, 1575 Eye Street, NW., Suite 350, Washington, DC 20005

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. to obtain a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided: July 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred in the result.

James H. Bayne,

Secretary.

[FR Doc. 85–18294 Filed 7–31–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-18 (Sub-71X)]

Chesapeake and Ohio Railway Co.; Discontinuance of Service in Boone County, WV; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights*, to discontinue service on approximately 1.7 miles of rail line, a portion of C&O's Laurel Fork Subdivision, between milepost 9.0 and milepost 10.7 (end of line), in Boone County, WV.

Applicant has certified: (1) That no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee 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 August 31, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by August 12, 1985 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 21, 1985 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 Charles St., Baltimore, MD 21201
Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, 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: July 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-18293 Filed 7-31-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-93)][1]

Southern Pacific Transportation Co.; Abandonment; in St. Martin Parish, LA; Findings

The Commission has issued a certificate authorizing Southern Pacific Transportation Company to abandon its 13.04-mile rail line between St. Martinville (milepost 5.66), and Breaux Bridge (milepost 18.70) in St. Martin Parish, LA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 18292 Filed 7-31-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Order in Action Under the Clean Air Act; James River-KVP, Inc., Parchment, MI

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Order in *United States of America* v. *James River-KVP, Inc.*, Civil No. K84-54 CA4 was lodged with the United States District Court for the Western District of Michigan, on July 22, 1985.

The complaint, which was brought under Section 113 of the Clean Air Act, alleged that defendant at its facility in Parchment, Michigan was violating the requirements of the Michigan State Implementation Plan ("SIP") promulgated pursuant to the Clean Air Act. Under the proposed Consent Order, compliance with the Michigan SIP is to be achieved with respect to two paper coating lines and one graphic arts line at the Parchment, Michigan facility by specified dates, the latest of which is December 31, 1986. The proposed Order provides for stipulated penalties to be paid by defendant if it fails to meet any of the requirements of the Order. The proposed Order also provides for defendant to pay a civil penalty in the amount of $20,000, within two weeks after entry of the Order.

The Department of Justice will receive written comments relating to the proposed Consent Order for a period of thirty (30) days from the date of this publication. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *James River-KVP, Inc.*, D.J. Ref. 90-5-2-1-635.

The proposed Consent Order may be examined at the offices of the United States Attorney, 399 Federal Building, Grand Rapids, Michigan 49503; at the Region V Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Consent Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-18236 Filed 7-31-85; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Order Pursuant to Clean Air Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that on July 19, 1985, a proposed consent decree in *United States* v. *Fox Paper, Inc.* (S.D. Ohio) was lodged with the United States District Court for the Southern District of Ohio. Under the terms of the proposed consent decree, the defendant pays a civil penalty of $30,000 and must install pollution control equipment to comply with the Clean Air Act.

[1] This notice was inadvertently published at 50 FR 30020, July 23, 1985, in advance of the service of the Commission's decision. Allotted 10 day period should be calculated instead from this current publication.

The Department of Justice will receive comments for a period of thirty (30) days from the date of this publication relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and should refer to *United States* v. *Fox Paper, Inc.*, D.J. Ref. No. 90-5-2-1-704.

The proposed consent decree may be examined at the Office of the United States Attorney, 200 U.S. Post Office-Courthouse, Cincinnati, Ohio 45202, at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent decree, refer to the case, proposed consent decree and D.J. Reference number.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-18237 Filed 7-31-85; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-51]

National Commission on Space; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the National Commission on Space (NCS).

DATE AND TIME: August 21, 1985, 8:15 a.m. to 5:30 p.m.; August 22, 1985, 8:15 a.m. to 5 p.m.

ADDRESS: Jet Propulsion Laboratory, 4800 Oak Grove Drive, (Administration Building 180, Room 101), Pasadena, California 91109.

FOR FURTHER INFORMATION CONTACT: Mrs. Mechthild E. "Mitzi" Peterson, National Commission on Space, Suite 3212, 490 L'Enfant Plaza East, SW, Washington, DC 20024 (202/453-8685).

SUPPLEMENTARY INFORMATION: The National Commission on Space was established to study existing and proposed U.S. space activities; formulate an agenda for the U.S. civilian space program; and identify long-range goals, opportunities, and policy options for civilian space activity for the next 20 years. The Commission, chaired by Dr. Thomas O. Paine, consists of 15 voting members. The meeting will be open to the public up to the seating capacity of the room (approximately 80 persons including Commission members and other participants).

Type of meeting: Open.

Agenda

August 21, 1985

8:15 a.m.—Opening Remarks.
8:45 a.m.—Challenges of Space Program.
9:15 a.m.—Review of Space Science Board Recommendations.
10:30 a.m.—Planetary Exploration (Part 1).
1 p.m.—Planetary Exploration (Part 2).
2:45 p.m.—Earth Sciences.
5:30 p.m.—Adjourn.

August 22, 1985

8:15 a.m.—Announcements.
8:30 a.m.—Astrophysics.
10:30 a.m.—Space Science Technology Isssues.
1:30 p.m.—Commission Discussion.
5 p.m.—Adjourn.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

July 26, 1985.

[FR Doc. 85-17783 Filed 7-31-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video Section) to the National Council on the Arts will be held on August 20-21, 1985, from 9:00 a.m.—8:00 p.m. and on August 22, 1985, from 9:00 a.m.—6:00 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on August 22, 1985, from 2:00 p.m.—6:00 p.m., to discuss policy issues.

The remaining sessions of this meeting on August 20-21, 1985, from 9:00 a.m.—8:00 p.m. and on August 22, 1985, from 9:00 a.m.—2:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion on information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 26, 1985.

[FR Doc. 85-18231 Filed 7-31-85; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chamber/New Music Presenters Section) to the National Council on the Arts will be held on August 20-22, 1985, from 9:30 a.m.—6:00 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on August 22, 1985, from 2:00 p.m.—4:00 p.m., to discuss Policy, Guidelines & Five-Year Planning Document.

The remaining sessions of this meeting on August 20-21, 1985, from 9:00 a.m.—6:00 p.m., August 22, 1985, from 9:30 a.m.—2:00 p.m., and on August 22, 1985, from 4:15 p.m.—6:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee

Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 26, 1985.

[FR Doc. 85–18230 Filed 7–31–85; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–400 OL, 50–401 OL]

Carolina Power and Light Co. and North Carolina Eastern Municipal Power Agency (Shearon Harris Nuclear Power Plant, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of June 25, 1985, oral argument on the appeal of the joint intervenors, Conservation Council of North Carolina and Wells Eddleman, from the Licensing Board's February 20, 1985 Partial Initial Decision will be heard at *10:00 a.m. on Wednesday, August 28, 1985, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: July 29, 1985.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 18317 Filed 7–31–85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 26, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following security:

British Telecommunications (Public Limited Company)
American Depository Receipts (2nd Interim ADR's) (File No. 7–8522)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 16, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 18298 Filed 7–31–85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34–22271; File No. SR–NASD–85–16]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on May 6, 1985, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend Schedules D and G of the NASD By-Laws. Specifically, the proposal would add a new subsection to these Schedules that will require members to indicate whether a transaction involving a NASDAQ/NMS stock or a listed stock traded off-board is a buy, sell, or cross.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22159, June 19 1985) and by publication in the **Federal Register** (50 FR 26424, June 26, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

John Wheeler,

Secretary.

July 29, 1985.

[FR Doc. 85–18297 Filed 7–31–85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34–22274; File No. SR–CBOE–85–32]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to Retail Automatic Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 26, 1985 the Chicago Board Options Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Pursuant to a letter dated February 4, 1983 from the staff of the Securities and Exchange Commission ("Commission") which described categories of changes to the basic characteristics of small order routing and execution systems which should be filed as rule changes under section 19(b)(2) of the Securities Exchange Act of 1934 (the Act), the Exchange is filing the following description of its S & P 100 (OEX) retail automatic execution system (RAES) program. The program began as a pilot on February 1, 1985 and has continued since that date, pursuant to approval of SR–CBOE–84–30 and SR–CBOE–85–14. By the current proposed rule change, the Exchange will make RAES in OEX a permanent program.

RAES will route small public customer orders into a system. The system currently accepts only market orders; the Exchange reserves the right to expand the system to marketable limit orders. Firms presently on the Exchange's Order Support System ("OSS") will use the currently installed method of sending orders to OSS. If a firm is on OSS, it is automatically on RAES; firms can go on and off OSS at will. Firms not presently on OSS that wish to participate in the pilot will be given access to RAES from terminals at their booths.

When the system receives on order, the system automatically will attach a price to the order, which price will be determined from the displayed market quote at the time of the order's entry. A buy order will pay the offer, and a sell order will sell the bid. A participating market maker will be assigned as contrabroker.

A RAES market order to buy will be effected at the lowest offering price; if that offering price is equal to the book offer, the transaction will take place at the book offer price as an exception to the normal priority accorded to customer offers on the book. In no case, however, will the RAES order to buy result in a purchase transaction at a price higher than the book offer. Similarly, a RAES market order to sell will be effected at the highest bid price; if that bid price is equal to the book bid, the transaction will take place at the book bid price as an exception to the normal priority accorded to customer bids on the book. In no case, however, will the RAES order to sell result in a sell transaction at a lower price than the book bid.

Market makers may sign on and off the system at terminals located near the OEX crowd. At the end of the day all signed-on market makers automatically are removed from the system.

Participating market makers will be assigned by the system as contrabrokers on a rotating basis, with the first market maker selected at random from the list of signed-on market makers. Participating market makers are obligated to trade at the displayed market quote at the time of an order's entry into the system. Exchange rules shall not apply to the extent that they are inconsistent with the terms of the pilot, including but not limited to Rule 6.45 (Priority of Bids and Offers), Rule 6.43 (Manner of Bidding and Offering) and Rule 8.1 (Market-Maker Defined). Rules 24.4 and 24.5 (Position and Exercise Limits) will remain effective. RAES orders will count toward fulfillment of the in-person requirement of Rule 8.7.

Once a trade has been executed, all participants will be informed. A price report will be generated to the public. A fill report will be generated to the firm at the firm's point of entry into the system, that is, either a branch office or a booth. A trade acknowledgement ticket (TAT) will be generated at printers at such locations as the Exchange may select, including locations in the OEX trading crowd and will be delivered by hand to the market in the OEX crowd as quickly as possible. TATs for market makers not present in the OEX crowd will be alphabetized and set aside for pickup. A log of all transactions will be available throughout the day for review by participants. Audit reports will be sent to the Exchange's regulatory staff.

Eligible orders must be no greater than the number of contracts allowed by the Exchange. The current contract limit is 10 contracts. The Exchange may increase or decrease the contract limit. Eligible orders must be in such OEX series as designated by the Exchange to be on the system. Announcements concerning elibible series will be made daily by the Exchange in the same way strike prices currently are announced, that is, by means of memoranda and taped phone messages.

Each trading day that the system is available, an OEX post director or his representative will start the system, after quotes in the series involved have been updated following completion of the opening rotation. If there are no market makers signed on, the system will not be started. If the system is or becomes unavailable for whatever reason, eligible orders will be handled as they are handled currently.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to make permanent the OEX automatic execution system for small public customer market orders ("RAES").

The RAES pilot has been highly successful. Customer orders on RAES have been handled efficiently and fairly, with customers' brokers receiving execution reports on RAES orders sometimes within the same minute as the order is entered into the system. The system had been operational over 90 percent of the time that OEX has been open for trading. There have been virtually no complaints regarding RAES or its operation; nor have there been any complaints by customers with orders on the book that they have been disadvantaged by the minor modification to trading priority which the RAES pilot has presented. *See* Part 3 of SR-CBOE-84-30 and SR-CBOE-85-14, wherein the RAES relationship to the Exchange's book priority rule is discussed.

This proposed rule change would allow the Exchange to change the contract size limit of RAES orders and to include marketable as well as market orders. Otherwise, the description of the systems as proposed is consistent with the approved pilot descriptions. Initially, the permanent system would operate as currently established, with a ten contract limit and only market orders.

The Exchange believes that the rule change is consistent with the purposes and provisions of the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improved accuracy, reporting and handling of small public customer orders and timely and cost-efficient executions of small option orders. This will occur by the automated handling of small orders, as well as by permitting those handling orders manually to be able to concentrate on the larger orders.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act, is that it would protect the public interest by helping to better handle small public customer market orders in OEX.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

On April 11, 1985, the membership of the Exchange voted to endorse the removal from pilot status of RAES in OEX, and the expansion of RAES orders to include orders up to 10 contracts and to allow additional series on the system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 22, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 29, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18300 Filed 7-31-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-22275; File No. SR-CBOE-85-33]

Self-Regulatory Organizations; Inc.; Proposed Rule Change by Chicago Board Options Exchange, Relating to Retail Automatic Execution System Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 23, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange's retail automatic execution system (RAES) pilot program has been in operation in S&P 100 index options ("OEX") since February 1, 1985, by this rule change, the RAES pilot in OEX will be extended from August 3, 1985 until and including November 8, 1985.

The RAES pilot in OEX will continue as described in SR-CBOE-84-30, and as modified in SR-CBOE-85-14.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The RAES pilot has been highly successful. Customer orders on RAES have been handled efficiently and fairly, with customers' brokers receiving execution reports on RAES orders sometimes within the same minute as the order is entered into the system. The system has been operational over 90 percent of the time that OEX has been open for trading. There have been virtually no complaints regarding RAES or its operation; not have there been any complaints by customers with orders on the book that they have been disadvantaged by the minor modification to trading priority which the RAES pilot has presented. *See* Part 3 of SR-CBOE-84-30 and SR-CBOE-85-14, wherein the RAES relationship to the Exchange's book priority rule is discussed.

The Exchange believes that the unparalleled success of RAES justifies removing RAES in OEX from pilot status and making it a permanent program, which approval of SR-CBOE-85-32, a companion filing, would accomplish. However, because SR-CBOE-85-32 has not yet been approved, the Exchange on an interim basis seeks to continue RAES in OEX on a pilot basis. The pilot of RAES in OEX is currently authorized to continue until August 3, 1985, pursuant to Commission approval of SR-CBOE-85-14. This new proposed rule change would continue the pilot in RAES in OEX for an additional three months, to allow the Commission additional time to consider SR-CBOE-85-32.

The Exchange believes that the rule change is consistent with the purposes and provisions of the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improved accuracy, reporting and handling of small public customer orders and timely and cost-efficient executions of small option orders. This will occur by the automated handling of small orders, as well as by permitting those handling orders manually to be able to concentrate on the larger orders.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

On April 11, 1985, the membership of the Exchange voted to endorse the extension of RAES in OEX, and the expansion of RAES orders to include orders up to 10 contracts and to allow additional series on the system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number in the caption above and should be submitted by August 22, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 29, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18299 Filed 7-31-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2190 Amdt. No. 1]

Disaster Loan Areas; Michigan

The above declaration (50 FR 20866) is amended to extend the application filing period for economic injury loans to February 3, 1986. All other information remains the same. The economic injury declaration number is 630100. This time period is subject to change in accordance with requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-18295 Filed 7-31-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2189 Amd. No. 1]

Disaster Loan Areas; North Carolina

The above declaration (50 FR 23570) is amended to extend the application filing period for economic injury loans to February 23, 1986. All other information remains the same. The economic injury declaration number is 630000.

This time period is subject to change in accordance with requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-18296 Filed 7-31-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/869]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on 27 August 1985 at 10:00 A.M. in Room 1303 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of the meeting will be a general review of all agenda items for the fifteenth session of the International Maritime Organization (IMO) Subcommittee on Bulk Chemicals scheduled for 2-6 September 1985.

The agenda for this meeting includes the following items:

—Interpretations of MARPOL 73/78, Annex II
—Guidelines on the Provision of Adequate Reception facilities for MARPOL 73/78, Annex II
—Carriage of Mixtures of Substances Contained in Annex I and Annex II to MARPOL 73/78
—Venting Requirements in the International Bulk Chemical Code

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Frits Wybenga, U.S. Coast Guard Headquarters (G-MTH-1/12), 2100 Second Street, SW., Washington, D.C. 20593, telephone: (202) 426-1217.

Dated: July 19, 1985.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 85-18233 Filed 7-31-85; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 43307; Order 85-7-65]

Love Field Amendment Proceeding; Order Requesting Comments

Issued by the Department of Transportation on the 26th day of July, 1985.

This order asks for comments on the interpretation of the Love Field Amendment, enacted in 1979 (section 29, Pub. L. 96-192). This provision was enacted to limit airline service available at Love Field, Texas. Comments are due 15 days after service of this order.

The amendment states:

Section 29. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or-hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aricraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

The Civil Areonautics Board on two occasions interpreted the provision to mean that airlines could not offer service to or from Love Field from beyond these four contiguous States, or provide interline service in conection with any service to Love Field (Order 80-8-181, dated August 29, 1980; Order 80-3-9; dated March 3, 1980). The CAB further stated that airlines could, under the Amendment, provide service to Love Field as long as the service was not interline in nature and was within the geographic restrictions, even if the carrier offered interline service in other

markets than Love Field markets. In addition, it stated that the restrictions in the Amendment do not apply to service wholly within the State of Texas. These interpretations were used as a basis for placing a consistent condition in all airline certificates. The CAB based its interpretations on the wording of the provision and its legislative history. The interpretation was challenged in court, but not decided. The court case was dismissed as moot, since the challenged service was discontinued by the carrier. *City of Dallas et al.* v. *CAB*, D.C. Cir. Nos. 80–2063 *et al.* (Order of July 28, 1981). The order containing the interpretation was also vacated as moot. Order 81–11–142, dated November 24, 1981.

Recently, Continental Airlines announced in the press and in notices to local officials its intention to begin service between Love Field and Houston Intercontental airport on August 1, 1985. The Dallas parties wrote us to ask the Department to stop that service. Continental wrote in response and argued that the Department should adopt the CAB's interpretation. In turn, several Congressmen and local officials wrote to us to oppose this service. In addition, the Dallas-Ft. Worth parties asked for an informal enforcement investigation. We have also received letters from a local Dallas-Ft. Worth corporation and a former member of the Aviation Committee of the Dallas Chamber of Commerce in support of the service.

The opponents of Continental's service argued that the CAB's interpretation of the Love Field Amendment is wrong. In their view, under the Love Field Amendment, no airline that interlines with another airline (such as by use of through ticketing, baggage, and similar services) anywhere on its system, including between two points outside of Texas or the contiguous States, may serve Love Field. The opponents cited the Amendment's language and its legislative history to support their interpretation.

Persons on both sides of this issue filed pleadings arguing their positions in the *Southwest Airlines-Muse Air Acquisition Proceeding*, Docket 42987. In the Final Order in that case (Order 85–6–79, dated June 24, 1985), the Department declined, as unnecesary to its decision, to decide the issue there, and stated that the interpretation of the Love Field Amendment should be decided in another context where parties could fully develop their positions.

The issue is primarily a question of law, with only a few facts in need of further development. The Department asks for comment on this issue to help it in arriving at an interpretation of the Love Field Amendment. The issues are: (1) Whether the Amendment applies to intrastate service within Texas; (2) whether an airline that interlines on its system, but excluding its service at Love Field, can serve Love Field on a non-interline basis, limited by the geographic restrictions of the Amendment; and (3) whether any airline now serving Love Field does or may interline elsewhere on its system.

Comments should be sent to the Docket Section, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The Order will be published in the **Federal Register.**

Accordingly:

1. The Department institutes the Love Field Amendment Proceeding; and

2. Comments will be due and filed under 14 CFR Part 302 in 15 days after service of this Order.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–18241 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–62–M

Hispaniola Airways, C. por A.; Order to Show Cause; Scheduled Foreign Air Transportation of Persons, Property and Mail

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause: Order 85–7–64.

SUMMARY: The Department proposes to approve the following application:

Applicant: Hispaniola Airways, C. por A.
Application Date: August 26, 1981.
Docket: 39959.
Authority Sought: Scheduled foreign air transportation of persons, property and mail between Puerto Plata, Dominican Republic and Miami, Florida; New York, New York; and San Juan, Puerto Rico.

OBJECTIONS: All interested persons having objections to the Department's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than August 22, 1985, file a statement of such objections with the Department of Transportation (13 copies) and mail copies to the applicant, the Department of State, and the Ambassador of the Dominican Republic in Washington, D.C. A statement of objections must cite the docket number and must include a sumamry of testimony, statistical data, or other such supporting evidence.

If no objections are filed, an order will issue which will, subject to disapproval by the President, make final the Department's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:
Docket 39959
Docket Section, C–55
Department of Transportation
Washington, D.C. 20590
Applicant: Hispaniola Airways, C. por A. c/o Howard Feldman
Seamon, Wasko & Ozment
Suite 300
1211 Connecticut Ave., NW.
Washington, DC. 20036

To obtain a copy of the Order, write to the Documentary Services Division (C–55), at the above address.

FOR FURTHER INFORMATION CONTACT: Gordon H. Bingham, Licensing Division, P–45, Office of Aviation Operations, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590; (202) 755–3805.

Dated: July 26, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–18242 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 85–012]

Equipment, Construction, and Materials Approval List

AGENCY: Coast Guard, DOT.

ACTION: Approval Notice.

SUMMARY: This notice contains a listing of Coast Guard approvals issued between 1 February 1985 and 31 May 1985. These approvals are for safety equipment and materials required by regulation to be used on certain merchant vessels and recreational boats, and also in Outer Continental Shelf activities.

FOR FURTHER INFORMATION CONTACT: Ms. Valarie Williams, Office of Merchant Marine Safety (G–MVI–3/24), Room 1404, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, DC 20593, (202) 426–1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Certain regulations in Titles 33 and 46 of the Code of Federal Regulations require that various items of lifesaving, firefighting and other safety equipment and materials used on board merchant

vessels and recreational boats, and in Outer Continental Shelf activities be approved by the Commandant, U.S. Coast Guard. This document notifies interested persons that certain approvals have been issued or revised during the period from 1 February 1985 to 31 May 1985. These actions were taken under the procedures in 46 CFR 2.75–1 to 2.75–50.

The statutory authority governing carriage of this equipment is in sections 3306(a), 4102, and 4302(a)(2) of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)).

Most of the items in this list meet specification regulations in 46 CFR Parts 160 to 164. The approvals listed in this document are generally issued for a period of 5 years from the date of issue, unless sooner withdrawn, suspended or terminated.

Self-Contained Breathing Apparatus

Approval No. 160.011/51/0, Bio Pak 60 minute self-contained oxygen breathing apparatus manufactured by Rexnord Inc., 45 Great Valley Parkway, Malvern, PA 19355.

Approval No. 160.011/72/0, Ultralite Air Mask 30 minute, pressured demand, self-contained breathing apparatus manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Approval No. 160.011/73/0, Custom 4500 Air Mask 30 minute, pressure-demand, self-contained breathing apparatus, manufactued by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Approval No. 160.011/74/0, Custom 4500 Air Mask 60 minute, pressure-demand, self-contained breathing apparatus, manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Approval No. 160.011/75/0, Custom 4500 Dual Purpose Air Mask 60 minute, pressure-demand, self-contained breathing apparatus, manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Approval No. 160.011/76/0, Custom 4500 Dual Purpose Air Mask 30 minute, pressure-demand, self-contained breathing apparatus, manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Approval No. 160.011/77/0, Dual Purpose Ultralite Air Mask 30 minute, pressure-demand, self-contained breathing apparatus, manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murrysville, PA 15668.

Hatchet (Lifeboat and Liferaft)

Approval No. 160.013/5/0, Hatchet steel handle, Estwing Model E–3–24A, manufactured by Revere Supply Company, Inc., 603–607 West 29th Street, New York, NY 10001.

Approval No. 160.013/6/0, Hatchet steel handle, Vaughn Model A 1¼, manufactured by Revere Supply Company, Inc., 603–607 West 29th Street, New York, NY 10001.

Lifeboat Winch

Approval No. 160.015/109/0, Type 33–M lifeboat winch, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727.

Approval No. 160.015/137/1, Model W1403 survival capsule launching winch, manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Hand Combination Flare and Smoke Distress Signal

Approval No. 160.023/5/0, Mark 124 MOD–O combination hand flare and smoke visual distress signal, manufactured by Kilgore Corporation, Bradford Rd., Toone, TN 38381–0099.

Emergency Drinking Water

Approval No. 160.026/45/2, Emergency Drinking Water 4.225 ounce (125 ml) hermetically sealed foil laminate package. Manufactured by Revere Supply Co., Inc., 605 W. 29th St., New York, NY 10001.

Life Float

Approval No. 160.027/43/1, 7.5 ' x 4.67 ' (13.5 " x 12.5 " body section) rectangular life float, manufactured by The Plastic-Kraft Corp., Ozona Industrial Park, Ozona, FL 22560.

Lifeboat Davit

Approval No. 160.032/146/2, Type 20–20F mechanical davit, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.032/198/1, Type SS 2801 survival capsule launching system, manufactured by Whittaker Corporation 5159 Baltimore Drive, La Mesa, CA 92014.

Approval No. 160.032/213/2, Type MIR/26 gravity davit and launching cradle; manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.032/234/0, Type WP–26 gravity pivot davit; manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.032/235/0, Type PL 2802 fixed (outrigger) gravity davit; manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Mechanical Disengaging Apparatus (for lifeboats)

Approval No. 160.033/39/0, Rottmer Type S–1 releasing gear approved for a maximum working load of 21,300 pounds per set (10,650 pounds per hook). Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Hand-Propelling Gear for Lifeboat

Approval No. 160.034/18/0, Type M, Hand-propelled gear identified by dwg. list Type M. Manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727.

Lifeboat

Approval No. 160.035/286/4, 24.0 ' x 8.0 ' x 3.5 ' steel, oar-propelled lifeboat, 40-person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Approval No. 160.035/490/0, 25.74 ' x 9.0 ' x 3.71 ' fibrous glass reinforced plastic lifeboat, oar-propelled, 53-person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727.

Approval No. 160.035/491/1, 25.74 ' x 9.0 ' 3.71 ' fibrous glass reinforced plastic lifeboat, without radio cabin or searchlight, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Approval No. 160.035/495/0, Model CA 3400, 19.0 ' x 12.5 ' x 4.54 ' fibrous glass reinforced plastic manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041.

Approval No. 160.035/498/0, 23.97 ' x 8.0 ' x 3.48 ' fibrous glass reinforced plastic lifeboat, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Approval No. 160.035/499/0, 25.74 ' x 9.0 ' x 3.71 ' fibrous glass reinforced plastic lifeboat, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Jackknife (With Can Opener)

Approval No. 160.043/1/0, Type S702 jackknife (with can opener), manufactured by Camillus Cutlery Company, Camillus, New York 13031.

Unicellular Plastic Foam Buoyant Cushions

14 x 19 x 2¼, Type IV PFD, Model c–1, manufactured by The Coleman Co., Inc., P.O. Box 1762, 250 N. St. Francis, Wichita, KS 67201.

Inflatable Liferaft

Approval No. 160.051/50/3, Inflatable liferaft, 6-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/51/3, Inflatable liferaft, 15-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/52/3, Inflatable liferaft, 20-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/53/3, Inflatable liferaft, 25-person capacity with "Ocean Service Equipment", manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/60/4, 20-person, davit-launched inflatable liferaft, Type 20MC MK3, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/81/3, Inflatable liferaft, 25-person capacity with "Limited Service Equipment", manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/83/4, 25-person, davif-launched inflatable liferaft, Type 25MC MK 3A, with limited service equipment, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/88/3, Inflatable liferaft, 10-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/91/3, Inflatable liferaft, 8-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/92/3, Inflatable liferaft, 12-person capacity, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Approval No. 160.051/113/2, 25-person, davit-launched inflatable liferaft, Type MC MK 3A, with Ocean Service Equipment, manufactured by B.F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202.

Unicellular Plastic Foam Work Vest

Approval No. 160.053/A20/0, Adult, Type V PFD, Model WV–2, manufactured by Minto Research and Development, Inc., 2524 Favretto Ave., Redding, CA 96001.

Approval No. 160.053/66/0, Adult, Universal, Type V PFD, Model 300/301, manufactured by The Safeguard Corporation, P.O. Box 14037, Cincinnati, OH 45215.

Unicellular Plastic Foam Life Preserver

Approval No. 160.055/124/0, Adult Small/Medium, Type V PFD, Model 1002, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128

Approval No. 160.055/125/0, Adult Large/X-Large, Type V PFD, Model 1003, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128

Unicellular Polythylene Foam, Buoyant Vests

Approval No. 160.060/67/0, Infant Child Small (for persons less than 50 1bs.), Model ICS, manufactured by Ero Industries, Inc., 5940 West Touhy Avenue, Chicago, IL 60648.

Approval No. 160.060/68/0, Child Medium (for persons 50 to 90 1bs.), Model M2, manufactured by Ero Industries, Inc., 5940 West Touhy Avenue, Chicago, IL 60648.

Launching Device for Liferafts

Approval No. 160.063/3/2, Type FR–50(MK–1) fixed-arm launching device with Type R–50H–1(MK–1) winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.063/5/0, Type FR–50 (20/25) fixed-arm launching device with Type R–50H–1 (MK–1) winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.063/12/0, Type SRR 2100 slewing-arm launching device with Model 13–01 single-drum winch, manufactured by Davit Company B. V., P.O. Box 3506, Utrecht, Holland.

Marine Buoyant Device

Approval No. 160.064/367/1, Adult Small, Type III PFD, Model Nos. FJ–7055, FJ–7045, IFJ–55, IFJ–0052, or IFJ–551, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/368/1, Adult Medium, Type III PFD, Model FJ–7055, FJ–7045, IFJ–55, IFJ–0052, or IFJ–551, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/369/1, Adult Large, Type III PFD, Model FJ–7055, FJ–7045, IFJ–55, IFJ–0052, or IFJ–551, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/370/1, Adult X-Large, Type III PFD, Model FJ–7055, FJ–7045, IFJ–55, IFJ–0052, or IFJ–551, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/1370/1, Youth Universal (for persons 50 to 90 lbs.), Type III PFD, Models SSV–3122, –4122, –122, –168 and SPV–10, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/1371/1, Child Small (for persons 30 to 50 lbs.), Type III PFD, Models PW–205–N, PW–3205–N, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/1372/1, Child Small (for persons 30 to 50 lbs.), Type III PFD, Models PW–507–N, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.64/1373/1, Child Medium (for persons 50 to 90 lbs.), Type III PFD, Models PW–709–N, PW–3709–N, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56379.

Approval No. 160.064/1596/0, 15 x 15 x 2 3/4, Type IV PFD, Model 225, manufactured by Ero Industries, Inc., 5940 West Touhy Ave., Chicago, IL 60648.

Approval No. 160.064.1638/0, Youth (for person 50 to 90 lbs.), Type III PFD, Model No. SSV–262, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1639/0, Adult X-Small, Type III PFD, Model No. SSV–260, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1742/0, Adult X-Small, Type III PFD, Model No. SSV–01, manufactured by Stearns Manufacturing Company, 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1743/0, Adult Small, Type III PFD, Model No. SSV–101, manufactured by Stearns Manufacturing Company, 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1744/0, Adult Medium, Type III PFD, Model No. SSV–101, manufactured by Stearns Manufacturing Company, 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1745/0, Adult Large, Type III PFD, Model No. SSV–101, manufactured by Stearns Manufacturing Company, 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1746/0, Adult X-Large, Type III PFD, Model No. SSV–101, manufactured by Stearns Manufacturing Company, 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1773/1, Child (for persons 30 to 50 lbs.), Type III PFD, Models PW–57, SSV–120, and –3120, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/1788/0, 15 x 15 x 2 1/2, Type IV PFD, Model 226, manufactured by Ero Industries, Inc., 5940 West Touhy Ave., Chicago, IL 60648.

Approval No. 160.064/1791/0, 16 x 16 x 3½, Type IV PFD, Model BC–1, manufactured by Fabrionics, Inc., P.O. Box 94 Camargo, IL 61919.

Approval No. 160.064/1821/0, 13 x 18 x 2½, Type IV PFD, Model 227, Ero Industries, Inc., 5940 West Touhy Ave., Chicago, IL 60648.

Approval No. 160.064/1822/0, 13 x 18 x 2½, Type IV PFD, Model 228, Ero Industries, Inc., 5940 West Touhy Ave., Chicago, IL 60648.

Approval No. 160.064/1831/0, Adult Small/Medium, Type III PFD, Model 1002, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/1832/0, Adult Large/X-Large, Type III PFD, Model 1002, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/1873/0, Adult Small, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1874/0, Adult Medium, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1875/0, Adult Large, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1876/0, Adult X-Large, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1877/0, Adult XX-Large, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1878/0, Adult XXX-Large, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1879/0, Adult XXXX-Large, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1881/0, Adult Small, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1882/0, Adult Medium, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1883/0, Adult Large, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1884/0, Adult X-Large, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1885/0, Adult XX-Large, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1886/0, Adult XXX-Large, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1887/0, Adult XXXX-Large, Type III PFD, Model 201, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/1927/0, Adult X-Small, Type III PFD, Model 101, manufactured by Trimarine Canada Ltd., 628 Monmouth Road, P.O. Box 2545 Walkerville, Windsor, Ontario N8Y4T3.

Approval No. 160.064/2107/0, Adult Universal, Type III PFD, Model Nos. 909, 909B, 904, 42, 52, 92, 40, 50, and 90, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746–0009.

Approval No. 160.064/2236/0, Petite, Type III PFD, Models SSV–2134, –2138, –2144, –9134, –9138, –9144, –4152, –4153, or –2132, manufactured by Stearns Manufacturing Co., P.O Box 1498, St. Cloud, MN 56302

Approval No. 160.064/2237/0, Small, Type III PFD, Models SSV–2134, –2138, –2144, –9134, –9138, –9144, –4152, –4153, or –2132, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2238/0, Medium, Type III PFD, Models SSV–2134, –2138, –2144, –9134, –9138, –9144, –4152, –4153, or –2132, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2239/0, Large, Type III PFD, Models SSV–2134, –2138, –2144, –9134, –9138, –9144, –4152, –4153, or –2132, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2240/0, X–Large, Type III PFD, Models SSV–2134, –2138, –2144, –9134, –9138, –9144, –4152, –4153, or –2132, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2357/0, Small/Medium, Type III PFD, Models 604/614, manufactured by Safegard Corp., P.O. Box 14037, Cincinnati, OH 45215.

Approval No. 160.064/2358/0, Large/X–Large, Type III PFD, Models 608/618, manufactured by Safegard Corp., P.O. Box 14037, Cincinnati, OH 45215.

Approval No. 160.064/2361/0, Adult Universal, Type III PFD, Model 300/301, manufactured by Safegard Corp., P.O. Box 14037, Cincinnati, OH 45215.

Approval No. 160.064/2368/0, Small, Type III PFD, Models WJM–9137 or WJM–9147, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2369/0, Medium, Type III PFD, Models WJM–9137 or WJM–9147, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2370/0, Large, Type III PFD, Models WJM–9137 or WJM–9147, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2371/0, X–Large, Type III PFD, Models WJM–9137 or WJM–9147, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2379/0, Small/Medium, Type III PFD, Models 1108, 1109, 1141, 1106, manufactured by Wellington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Approval No. 160.064/2380/0, Large/X–Large, Type III PFD, Models 1108, 1109, 1141, 1106, manufactured by Wellington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Approval No. 160.064/2393/0, Small/Medium, Type III PFD, Model S/M, manufactured by Ero Industries, Inc., 5940 W. Touhy Avenue, Chicago, IL 60648.

Approval No. 160.064/2395/0, Small, Type III PFD, Models FJ–7075, or IFJ–75, manufactured by Stearns Manufacturing Co., 30th and Division Ave., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2396/0, Medium, Type III PFD, Models FJ–7075 or IFJ–75, manufactured by Stearns Manufacturing Co., 30th and Division Ave., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2397/0, Large, Type III PFD, Models FJ–7075, or IFJ–75, manufactured by Stearns Manufacturing

Co., 30th and Division Ave., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2398/0, X-Large, Type III PFD, Models FJ-7075, or IFJ-75, manufactured by Stearns Manufacturing Co., 30th and Division Ave., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2409/0, Small, Type III PFD, Models UV-40, and 1606, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/2410/0, Medium, Type III PFD, Models UV-50, and 1607, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/2411/0, Large, Type III PFD, Models UV-60, and 1608, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/2412/0, Large, Type III PFD, Models UV-70, and 1609, manufactured by Omega Corporation, 130 Condor Street, East Boston, MA 02128.

Approval No. 160.064/2429/0, XX-Large, Type III PFD, Models SSV-2134, -2138, -2144, -9134, -9138, -9144, -4152, -4153, or -2132, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2434/0, Small/Medium, Type III PFD, Model 1170, manufactured by Wellington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Approval No. 160.064/2435/0, Large/X-Large, Type III PFD, Model 1170, manufactured by Wellington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Approval No. 160.064/2436/0, XX-Large, Type III PFD, Model FJ-7075, or IFJ-75, manufactured by Stearns Manufacturing Co., 30th and Division Ave., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2437, XX-Large, Type III PFD, Model SSV-2127, -127, -2128, -2130, -2129, -129, -4141, -141, -2126, and WJM-9128, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2438/0, Small/Medium, Type III PFD, Model SSV-5340, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval No. 160.064/2439/0, Large/X-Large, Type III PFD, Model SSV-5340, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Automatic Disengaging Device for Liferafts

Approval No. 160.070/2/0, Type 5 RA 1133 automatic disengaging device (release hook) for davit-launched life rafts, manufactured by B.F. Goodrich, Engineered Products Group, Union, WV 24834.

Exposure Suit

Approval No. 160.071/29/0, Adult Jumbo (for persons weighing more than 330 pounds and/or more than 75 inches tall) Exposure Suit, Model 4124 or 8-124, manufactured by O'Neill Inc., 1071 41st. Ave., Santa Cruz, CA 95062.

Approval No. 160.071.024/0, Adult Exposure Suit, Model "Boss 16", manufactured by Beaufort Air-Sea Equipment Ltd., Beaufort Road Birkenhead, Merseyside, England L41-1HQ.

Hand Electric Flashlight

Approval No. 161.006/19/0, Model number GC-3CG waterproof flashlight Type I size (3-cell). Manufactured by G. T. Price Products, Inc., 2223 East 37th Street, Los Angeles CA 90058.

Personal Flotation Device Light

Approval No. 161.012/4/0, Model 378-C incandescent Personal Light, manufactured by The Guest Corporation, 17 Culbro Drive, West Hartford, CT 06110.

Approval No. 161.012/6/0, Model 378-B incandescent Personal Light, manufactured by The Guest Corporation, 17 Culbro Drive, West Hartford, CT 06110.

Approval No. 161.012/7/0, Model 450 "Jim-Buoy" PFD light, manufactured by Cal-June Incorporation, P.O. Box 9551, North Hollywood, CA 91609.

Approval No. 161.012/8/0, Fulton Model #101, manufactured by Fulton Industries, Inc., 135 East Linfoot Street, Wauseon, OH 43567.

Safety Valve (Power Boilers)

Approval No. 162.001/303/0, Safety Valves Series 300-600 Sizes, manufactured by Kunkle Value Company, P.O. Box 1740, Fort Wayne, IN 46801.

Flame Arrester (Tank Vessels)

Approval No. 162.016/6/6, Model 94305 flame arrester, manufactured by GPE Controls, 6511 Oakton Street, Morton Grove, IL 60053.

Approval No. 162.016/30/2, Oceco Type E21B flame arrester, manufactured by Pettibone Corporation, OCECO Division, 4700 West Division Street, Chicago, IL 60651.

Approval No. 162.016/39/1, Model 94306 flame arrester, manufactured by GPE Controls, 6511 Oakton Street, Morton Grove, IL 60053.

Pressure Vacuum Relief Value

Approval No. 162.017/99/1, OCECO Model V-130N pressure vacuum relief valve, manufactured by Pettibone Corporation, OCECO Division, 4700 West Division Street, Chicago, IL 60651.

Approval No. 162.017/113/6, Midland pressure vacuum relief valves, manufactured by Midland Manufacturing Corporation, 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Approval No. 162.017/115/2, Midland pressure vacuum relief valves, manufactured by Midland Manufacturing Corporation, 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Liquefied Compressed Gas Safety Relief Valve

Approval No. 162.018/65/0, Type 1705 safety relief valve for liquefied compressed gas service, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Approval No. 162.018/66/0, Type 1706 safety relief valve for liquefied compressed gas service, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Approval No. 162.018/67/0, Type 1006 safety relief valve for liquefied compressed gas service, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Approval No. 162.018/68/0, Type 3106 safety relief valve for liquefied compressed gas service, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, P.O. Box 226, Skokie, IL 60076.

Foam Type Fire Extinguishing System

Approval No. 162.033/2/1, National Aer-O-Foam Marine Fire Extinguishing Systems, manufactured by National Foam System, Inc., 150 Gordon Drive, Lionville, PA 19353.

Approval No. 162.033/13/0, National Aer-O-Foam Marine Fire Extinguishing Systems, manufactured by National Foam System, Inc., 150 Gordon Drive, Lionville, PA 19353.

Backfire Flame Arrester for Gasoline Engines

Approval No. 162.041/195/3, Facet Type A175-64, A175-68, A175-70, A175-71, manufactured by Woods Energy Products, Inc., A Facet Enterprise, 11430 E. 81st Street, N., Owasso, OK 74055.

Approval No. 162.041/196/2, Facet Type A175-63, A175-67, manufactured by Woods Energy Products, Inc., A Facet Enterprise, 11430 E. 81st Street, N., Owasso, OK 74055.

Approval No. 162.041/205/0, Kawasaki Model JE–C–7901, manufactured by Kawasaki Motors Corp., U.S.A., 2009 East Edinger Avenue, P.O. Box 25952, Santa Ana, CA 92799–5252.

Oily Water Separators

Approval No. 162.050/1001/0, Sarex Model 10 GPM/OWS 2.27 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1002/0, Sarex Model 10 GPM/VGS 2.27 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1003/0, Sarex Model 2 GPM/VGS 0.45 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1004/0, Sarex Model 100 GPM/VGS 22.7 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1005/0, Sarex Model 20 GPM/VGS 4.54 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1007/0, Sarex Model 60 GPM/OWS 13.62 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1008/0, Sarex Model 20 GPM/OWS 4.54 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1009/0, Sarex Model 1 GPM/VGS .227 m^3/hr, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/1153.0, The TEF 1S oil water separator is a 1M^3/hr separator consisting of a first stage coarse separation, manufactured by Howaltswerke-Deutsche Werft, Atkiengesellschaft Hamburg Und Keil, P.O. Box 11 1480, 2000 Hamburg 11, Germany.

Approval No. 162.050/1154/0, The TEF 10S oil water separator is a 10m1M^3/hr separator consisting of a first stage coarse separation, manufactured by Howaldtswerke Deutsche, Werft, Atkiengesellschaft Hamburg Und Keil, P.O. Box 11 1480, 2000 Hamburg 11, Germany.

Approval No. 162.050/1155/0, Model S1–25 consisting of a single tank with several "zones", manufactured by Sigma Treatment Systems, Inc., Merry Meadows, R.D. 1 Box 70, Chester Springs, PA 19425.

Approval No. 162.050/1156/0, GSF 0.25 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1157/0, GSF 0.5 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1158/0, GSF 1 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1159/0, GSF 1.5 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1160/0, GSF 2.5 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1161/0, GSF 5 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1162/0, GSF 7.5 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1163/0, GSF 10 model, manufactured by RWO Maschinen Fabrik, Gutenburg Strasse 6, D–2803 Weyhe Drey, Federal Republic of Germany.

Approval No. 162.050/1167/0, Heli-Sep Model 10,000 44.0GPM, manufactured by World Water Systems, Inc., 340 E. First Street, P.O. Box 3427, Tustin, CA 92681.

Approval No. 162.050/3001/0, Sarex Model BA–1, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Approval No. 162.050/3002/0, Sarex Model OCA–1, manufactured by Separation and Recovery Systems, 1733 Kaiser Ave., Irvine, CA 92714.

Pilot Ladder

Approval No. 163.003/17/0, Model DJM–2, manufactured by A. L. Don Company, Foot of Dock Street, Matawan, NJ 07747.

Interior Finish

Approval No. 164.012/41/0, No. 332 perforated glass fabric, manufactured by KWS Company, 111 North Mines Road, Livermore, CA 94550.

Approval No. 164.012/43/0, Style 3732 fiberglass cloth with AFF No. 60 finish, manufactured by WACO, P.O. Box 2679, 814 Research Drive, Newport News, VA 23602.

Approval No. 164.012/44/0, Style 32/49/9538 fiberglass cloth, manufactured by WACO, P.O. Box 2679, 814 Research Drive, Newport News, VA 23602.

Approval No. 164.012/82/0, "Perstorp Standard 0.9mm" plastic laminate, manufactured by Perstorp AB, S–28480, Perstorp, SWEDEN.

Retroreflective Material

Approval No. 164.018/1/0, type 1, "SCOTCHLITE", manufactured by Minnesota Mining & Mfg. Co. (3–M), Safety & Security Systems Division, 3M Center—209–S31, St. Paul, MN 55101.

J. W. Kime,

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

July 25, 1985.

[FR Doc. 85–18245 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Flight Service Station at West Lafayette, IN; Notice of Closing

Notice is hereby given that on or about July 28, 1985, the Flight Service Station at West Lafayette, Indiana, will be closed. Services to the general public of West Lafayette, Indiana Flight Plan Area, formerly provided by this office, will be provided by the Flight Service Station in Terre Haute, Indiana. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois, on July 23, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85–18280 Filed 7–31–85; 8:45 am]

BILLING CODE 4910–13–M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on Alternative Transit Improvements in the Cleveland, Ohio Region

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the City of Cleveland, Ohio, in cooperation with the Northeast Ohio Areawide Coordinating Ageny and the

Greater Cleveland Regional Transit Authority, are undertaking the preparation of an Environmental Impact Statement (EIS) for alternative transit improvements in the Dual Hub Corridor of the Cleveland region. The EIS is being prepared in conformance with 40 CFR Part 1500, Coucil on Environmental Quality (CEQ), "Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act (NEPA) of 1969" as amended; and CFR Part 622, "Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures".

FOR FURTHER INFORMATION CONTACT:
Mr. Harold L. Crane, UMTA Region 5, 300 South Wacker Drive, Suite 1703, Chicago, Illinois 60606, Telephone (312) 353-2820.

SUPPLEMENTARY INFORMATION:

Scoping Meetings

Two public scoping meetings will be held, one on August 19, 1985, at 4:00 p.m. in the Brotherhood of Locomotive Engineers Auditorium, 100 Saint Clair Avenue, Cleveland, Ohio (south side of Saint Clair Avenue between Ontario Street and East 2nd Street), and one on August 20, 1985, at 7:00 p.m. in the auditorium of the Cleveland Museum of Natural History, Wade Oval, Cleveland, Ohio (East of E. 105th Street, South of East Boulevard in the University Circle area), to help establish the purpose, scope, framework, and approach for the alternative analysis. At the scoping meetings, staff will present a description of the proposed scope of the study, using maps and other visual aids, as well as a plan for an active citizen involvement program, a projected work schedule, and an estimated budget. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing.

Corridor Description

The Dual Hub Corridor is a major travel corridor which is located principally within the east side of the City of Cleveland in Cuyahoga County. The corridor extends from the Cleveland central business district (CBD) through the Mid-Town and Doan Center districts to the University Circle district in northeast Cuyahoga County, and generally encompasses a densely urbanized area. The area boundaries are approximately the Cuyahoga River on the west, Lake Erie on the north, and the Inner Belt Freeway on the east and south, encompassing the central business district, and the area lying within a one-half-mile band centered on Euclid Avenue east from the CBD to Euclid Avenue's intersection with the existing Red Line rapid transit near Mayfield Road.

Alternatives

Transportation alternatives proposed for consideration in the corridor are the following:

1. A no-build option under which existing and already committed bus and rail services would continue to operate;
2. A low-cost transportation system management (TSM) approach that would improve bus and rail services in the corridor, including reserved and-or exclusive lanes for buses and parking restrictions along certain arterial streets, and station relocations/improvements as well as better transfer arrangements among existing bus and rail services; and
3. Rail transit options assembled from four at-grade and underground alignments in the central business districts, two at-grade and two aerial alternative alignments through the central portion of the corridor, and four alternative alignments in the University Circle area including underground and at-grade locations, and including cordination among bus and rail services.

Comments at the scoping meeting should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and ridership, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the long-term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures as required by current Federal (NEPA) and State environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comments at the scoping should focus on the completeness of the proposed sets of impacts and the valuation criteria. Other impacts or criteria judged relevant to local decision-making should be identified.

Scoping Report

A draft edition of a report that describes the scope of work to be undertaken during this detailed planning study will be used as the basis for discussion at the scoping meetings. The draft scoping report describes the need for, the purpose of, and action toward a public transit improvement in Cleveland's Dual Hub Corridor; identifies a preliminary set of promising alternatives to be examined; and sets forth the scope of content of the planning study. Following the conduct of the scoping meeting, a subsequent edition of the scoping report will be prepared; it will incorporate any modifications brought about as a result of the scoping meeting.

Copies of the draft edition of the scoping report will be available for examination by interested persons at public libraries located within the Dual Hub Corridor, and at the offices of the Cleveland City Planning Commission, the Northeast Ohio Areawide Coordinating Agency, and the Greater Cleveland Regional Transit Authority.

Issued on July 28, 1985.

Donald F. Gismondi,
Acting Regional Administrator Urban Mass Transportation Administration Region 5.

[FR Doc. 85-18204 Filed 7-31-85; 8:45 am]
BILLING CODE 4910-57-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 148
Thursday, August 1, 1985

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 DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 29, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconed by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request of financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: July 29, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-18373 Filed 7-30-85; 11:22 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

Federal Register No. 85-17724

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 1, 1985, 10:00 a.m.

CHANGE IN MEETING: The Open Meeting scheduled for this date has been cancelled.

* * * * *

DATE AND TIME: Wednesday, August 7, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel

* * * * *

DATE AND TIME: Thursday, August 8, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Draft AO 1985-19
  Gordon P. Katz, Thomas J. Vallely for Congress Committee
DRAFT AO 1985-21
  Lois Moore, on behalf of Consolidated Freightways, Inc.
DRAFT AO 1985-22
  The Honorable William Clay, United States House of Representatives
Sunshine Act Regulations and Procedures (11 C.F.R. Part 2 and 3)
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer 202-533-4065

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85-18393 Filed 7-30-85; 2:18 am]

BILLING CODE 6715-01-M

3

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 7-85]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thurs., Aug. 22, 1985 at 10:30 a.m.

SUBJECT MATTER: Consideration of Proposed Decisions and Final Decisions on objections issued under the Vietnam Claims Program (Pub. L. 96-606).

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111-20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C., on July 26, 1985.

Judith H. Lock,

Administrative Officer.

[FR Doc. 85-18415 Filed 7-30-85; 3:30 pm]

BILLING CODE 4410-01-M

4

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE:

9:00 a.m.-5:00 p.m. August 12, 1985
9:00 a.m.-5:00 p.m. August 13, 1985
9:00 a.m.-5:00 p.m. August 14, 1985

PLACE: Ballroom C, Vista International Hotel, 1400 M Street, NW., Washington, DC 20005.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: General Business including:

Approval of Minutes
Social Security Disability Program
Project Inspire '85
1986 Report to the President and Congress
NCH Staff Report

PLEASE NOTE: Any person requiring an interpreter or other special services, please contact NCH Staff no later than August 7, 1985.

CONTACT FOR MORE INFORMATION: Lex Frieden, Executive Director, NCH. (202) 453–3846.

Lex Frieden,

Executive Director, National Council on the Handicapped.

[FR Doc. 85–18388 Filed 7–30–85; 12:43 pm]

BILLING CODE 6820-BS-M

federal register

Thursday
August 1, 1985

Part II

Environmental Protection Agency

40 CFR Parts 261, 262, 263, 264, 265, 270, and 271

Hazardous Waste Management System; Proposed Rule and Request for Comment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 262, 263, 264, 265, 270, and 271

[SWH-FRL 2852-2]

Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: In the May 19, 1980, hazardous waste regulations issued under the Resource Conservation and Recovery Act of 1976 (RCRA), EPA conditionally exempted most generators of less than 1000 kilograms ("kg") of hazardous waste per month from full regulation under Subtitle C of RCRA. Congress subsequently passed, and the President signed into law on November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA). These amendments require the U.S. Environmental Protection Agency (EPA) to promulgate, no later than March 31, 1986, rules applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month ("100–1000 kg/mo generators").

The Agency is today proposing and requesting public comment on a regulatory scheme for generators of 100–1000 kg/mo that is based upon the regulatory requirements applicable to larger generators contained in 40 CFR Part 262. The intended effect of this scheme is to minimize the regulatory burden imposed on generators of 100–1000 kg/mo that manage their wastes off-site by reducing or eliminating a number of existing large quantity generator requirements for manifesting, recordkeeping and reporting. The proposal also extends the period of on-site storage allowed without the need for interim status or a permit for these generators to up to 180 days (or up to 270 days for quantities up to 6000 kg for generators that must ship their waste greater than 200 miles for treatment or disposal). Such storage would be subject to certain requirements under today's proposed rule.

Today's proposed rules would impose full Part 264 and 265 treatment, storage, and disposal standards on generators of 100–1000 kg/mo that treat, store, or dispose of their wastes on-site if not otherwise exempted. However, today's proposal would delay the effective date of these requirements to allow on-site facilities to come into compliance with the hazardous waste facility standards or shift their management practices away from on-site management.

DATES: Comments on this proposal must be received on or before September 30, 1985. Three public hearings are scheduled as follows: September 18, 1985—St. Louis, Missouri; September 20, 1985—Phoenix, Arizona; September 24, 1985—Washington, D.C.

The proposed Part 262 standards applicable to 100–1000 kg/mo generators would take effect six months after the date of publication in the **Federal Register** of the final rules.

The application of Part 264 and 265 standards to 100–1000 kg/mo generators treating, storing, or disposing of hazardous waste on-site using non-exempt management practices would take effect twelve months after the date of publication in the **Federal Register** of the final rules.

For off-site facilities managing wastes from 100–1000 kg/mo generators, the Part 264 or 265 standards would apply to the wastes from generators of 100–1000 kg/mo effective six months after the date of publication in the **Federal Register** of the final rules.

For off-site facilities managing wastes exclusively from generators of less than 1000 kg/mo, the requirement to obtain interim status as a hazardous waste facility for wastes from 100–1000 kg/mo generators would take effect 6 months from the date of publication in the **Federal Register** of the final rules.

Off-site facilities managing waste from both large generators and generators of 100–1000 kg/mo may need to modify their Part A permit applications (as well as Part B if already submitted) within six months from the date of publication in the **Federal Register** of the final rules to reflect these newly regulated wastes from 100–1000 kg/mo generators.

ADDRESSES: Comments on this proposal should be mailed to the Docket Clerk, Office of Solid Waste, WH–562, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or delivered to the RCRA Docket located in RM S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The RCRA Docket is available for viewing 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays. Communications should identify the regulatory docket "Small Quantity Generators". The public hearings will be held at the following locations:

1. September 18, 1985—St. Louis, Missouri, Marriott Pavilion Hotel, One Broadway, St. Louis, Missouri, (314) 421–1776
2. September 20, 1985—Phoenix, Arizona, Hotel Westcourt, 10220 North Metro Parkway East, Phoenix, Arizona 85021, (602) 997–5900
3. September 24, 1985—Washington D.C., Department of Health and Human Services*, North Auditorium, 330 Independence Avenue, SW., Washington, D.C. 20201

A block of rooms has been reserved at the hotels in St. Louis and Phoenix for the convenience of individuals requiring lodging. Please make reservations directly with the hotel and refer to the EPA hearing. The hearings will begin at 9:30 a.m. with registration at 9:00 a.m. and will run until 4:30 p.m. unless concluded earlier. Anyone wishing to make a statement at the hearing should notify, in writing, Ms. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Persons wishing to make oral presentations must restrict them to 15 minutes and are encouraged to have writen copies of their complete comments for inclusion in the official record.

FOR FURTHER INFORMATION CONTACT: Bernard J. Stoll, (202) 382–4761, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or the RCRA/Superfund Hotline, (800) 424–9346, (in Washington D.C., call 382–3000).

SUPPLEMENTARY INFORMATION:

Preamble Outline

* Attendees should use the "C" Street entrance.

Part I—Introduction and Background

I. Authority

These regulations are being proposed under authority of Sections 2002(a), 3001, 3002, 3004, 3005, 3006, 3010, 3015, 3017, 3019, 9001, and 9003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6921, 6922, 6924, 6925, 6926, 6930, 6935, 6939, 6991, and 6993.

II. Organization

Today's proposal is divided into three major parts. Part I of the preamble summarizes today's proposal and discusses much of the background information relevant to this proposed rulemaking, including the previous rulemakings affecting small quantity hazardous waste generators, as well as the recent legislative amendments to the Resource Conservation and Recovery Act (RCRA) and the approach taken by EPA in today's action. Part II of the preamble addresses the applicability and scope of today's proposal and describes in detail the specific requirements with which 100–1000 kg/mo generators would be required to comply. Finally, Part III of the preamble addresses the impacts of the proposed rule on the State authorization process, as well as on the regulated community, small businesses, and the economy in general.

III. Summary of Today's Proposal

Under the existing Subtitle C hazardous waste management system, generators of less than 1000 kg of non-acutely hazardous waste in a calendar month are exempt from most of the regulations in 40 CFR Parts 262, 263, 264, 265, and 266 if they meet the conditions specified in 40 CFR 261.5.[1] The Hazardous and Solid Waste Amendments of 1984 (HSWA) specifically require EPA to expand its regulation of generators of between 100 and 1000 kg of hazardous waste in a calendar month to ensure, among other things, that these waste quantities are managed at approved hazarous waste management facilities. At the same time, however, Congress gave EPA clear authority to vary the standards for these generators from those requirements applicable to larger generators, provided that the requirements for generators of between 100 and 1000 kg/mo are protective of human health and the environment. Congress expressed concern that full regulation of these generators, many of which are small businesses, might not be appropriate. Today's proposal represents the Agency's efforts to balance the need for regulation of this group of generators in a manner protective of human health and the environment with the impacts of such regulation on small firms.

In essence, EPA has concluded that some relief from the administrative and paperwork requirements embodied in the Part 262 Generator Standards is appropriate for generators of 100–1000 kg/mo of hazardous waste because of the lesser quantities of waste involved and the generally small business nature of many of these firms. However, EPA is also proposing sufficient controls to ensure protection of human health and the environment.

Under today's proposal, the "small quantity generator" provision contained in 40 CFR § 261.5 would apply only to those generators producing no more than 100 kg of non-acutely hazardous waste in a calendar month.[2]

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[1] EPA has listed certain wastes in § 261.33(e) as acutely hazardous wastes which are subject to a 1 kg/mo small quantity generator exclusion level. Acutely hazardous waste in quantities above 1 kg have been and will remain fully regulated under Parts 262–266.

[2] The reader should keep in mind that the provisions of today's proposal would *only* apply to hazardous waste generators producing between 100 kg and 1000 kg of non-acutely hazardous waste in a calendar month and to transporters and facilities handling wastes from these generators. Firms

Continued

Consequently, generators of between 100 and 1000 kg/mo of hazardous waste *would no longer be small quantity generators* for regulatory purposes. Instead, wastes from these 100–1000 kg/mo generators would be subject to the provisions of Part 262 as well as to the facility requirements of Parts 264 and 265 and the transporter requirements of Part 263.

Under the existing small quantity generator exclusion, 100–1000 kg/mo generators are only required to determine whether their waste is hazardous and ensure that the waste is managed at a facility that is *at least* approved by a State to manage municipal or industrial solid waste (*i.e.*, they do not currently have to manage their wastes at approved Subtitle C hazardous wastes facilities). In contrast, generators of more than 1000 kg of hazardous wastes in a calendar month (as well as generators of more than 1 kg of acutely hazardous waste in a calendar month) who ship their wastes off-site must comply with the following requirements:

- Determine whether their wastes are hazardous;
- Obtain an EPA identification number;
- Store hazardous wastes on-site for no more than 90 days in compliance with specific storage standards (unless they comply with the full regulations for hazardous wastes management facilities)
- Offer their wastes only to transporters and facilities with an EPA identification number;
- Comply with applicable Department of Transportation (DOT) and EPA requirements for shipping wastes off-site;
- Use a multi-part "round-trip" manifest to accompany the waste to its final destination;
- Maintain copies of manifests for three years;
- Report lost shipments to EPA; and
- Prepare and submit a biennial report of wastes generated during odd numbered calendar years.

Since under today's proposal, 100–1000 kg/mo generators would no longer be "small quantity generators" but subject instead to regulation under Part 262, the requirements listed above would apply to generators of 100–1000 kg/mo if no other Part 262 amendments were proposed. However, EPA is today proposing a series of amendments to Part 262 that would specifically exempt or modify certain of the Part 262 requirements for 100–1000 kg/mo generators. Under today's proposal, 100–1000 kg/mo generators would be required under Part 262 to:

- Determine whether their wastes are hazardous (already required under § 261.5);
- Obtain an EPA identification number;
- Store hazardous wastes on-site for no more than 180 or 270 days in compliance with specially modified storage standards (unless they comply with the full regulations for hazardous waste management facilities);
- Offer their wastes only to transporters and facilities with an EPA identification number;
- Comply with applicable Department of Transportation (DOT) requirements for shipping wates off-site;
- Use a single copy of the Uniform Hazardous Waste Manifest to accompany the waste from the generation site.

The proposed requirements for generators of 100–1000 kg/mo are less stringent than those applicable to larger quantity generators in two significant respects. First, under today's proposed rule, generators of 100–1000 kg/mo would not be requried to comply with the full manifest system currently required of larger hazardous wastes generators that ship waste off-site for treatment, storage, or disposal. They would, however, have to accompany such off-site shipments with a single copy of a completed manifest form. The purpose of this manifest requirement would be to serve as a "notification" to subsequent handlers of the waste (*i.e.*, transporters and facilities) that the material is a hazardous waste and to provide essential information to those handlers as well as emergency personnel. EPA is proposing to specifically exempt these generators from the existing manifest requirements pertaining to number and distribution of manifest copies as well as from the recordkeeping and reporting requirements associated with the full manifest system (*i.e.*, use and retention of manifest copies and exception and biennial reporting). Conforming amendments to Parts 263, 264, and 265 are also being proposed to exempt transporters and facilities that accept wastes from these generators from certain of the manifest requirements. In addition, EPA is proposing to exempt 100–1000 kg/mo generators from the requirement to complete the "single copy" manifest under certain circumstances where the waste is being reclaimed under contractual arrangements where either the generator, or a reclaimer retains ownership of the material throughout the generation, transportation and reclamation of the waste. Under such circumstances, EPA believes that the notice function of the manifest is unnecessary, provided that specific conditions are met.

A second significant difference for 100—1000 kg/mo generators will be the requirements affecting accumulation (*i.e.*, short-term storage) of hazardous waste on-site prior to shipping their waste to an off-site treatment, storage, or disposal facility. While § 262.34 of the existing RCRA hazardous waste regulatory program allows generators to store hazardous waste on-site in tanks or containers for up to 90 days without the need to obtain interim status or a RCRA permit (provided they comply with specific requirements), today's proposed rule would amend § 262.34 to allow 100–1000 kg/mo generators to accumulate (*i.e.*, store) waste on-site in tanks or containers for up to 180 days (or 270 days if they must ship their waste over 200 miles for treatment or disposal), without obtaining interim status or a permit, provided that these generators comply with specific requirements which have been reduced somewhat from those applicable to larger quantity generators. Unlike larger quantity generators, those producing between 100–1000 kg/mo would not be required to prepare a written contingency plan or have formalized personnel training programs. They would, however, be subject to a reduced set of specific requirements for contingency and emergency procedures, and for ensuring that their employees are fully cognizant of those procedures as well as proper hazardous waste handling methods. Generators of 100–1000 kg/mo that store wastes in tanks or containers would, however, be subject to the same requirements of existing Subparts I and J of Part 265 applicable to larger generators as well as to the preparedness and prevention standards contained in Subpart C of Part 265.

The most significant impact of today's proposed rule would be felt by those 100–1000 kg/mo generators who treat, store, or dispose of their hazardous waste in on-site facilities and who do not qualify for the 180-or 270-day exclusion. These activities would be subject to the full set of Part 264 and 265 facility standards currently applicable to

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generating 100 kg or less of hazardous waste in a calendar month would continue to be subject to the conditional exclusion under § 261.5 currently applicable to generators of less than 1000 kg in a calendar month. Similarly, firms generating in excess of 1000 kg of hazardous waste in a calendar month, or firms generating or accumulating acutely hazardous wastes exceeding the quantities set forth in § 261.5, would continue to be subject to the full set of hazardous wastes regulations contained in 40 CFR Parts 262, 263, 264, 265, 266, 270, and 271 to the extent those regulations apply.

other hazardous waste treatment, storage, and disposal facilities, including the need to obtain interim status and a RCRA permit. EPA sees no basis for reducing the technical standards for these generators since the potential hazards to human health and the environment appear to be equivalent to those from other fully regulated treatment, storage, and disposal facilities. However, because of the major impact which these facility requirements are likely to have on many of these firms, the Agency is proposing to delay the effective date of this portion of the regulations an additional six months (*i.e.*, 1 year from the date of publication in the **Federal Register** of the final rules) to allow these firms additional time to either arrange for off-site management or to up-grade their on-site practices for compliance with the full set of Parts 264 and 265 facility standards.

IV. Background

A. The 1978 Proposal

On December 8, 1978, EPA proposed a set of regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA) (43 FR 58946). Among other things, the proposal sought to define a "generator" for purposes of imposing standards for the handling and management of hazardous wastes. At that time, EPA proposed a conditional exemption from portions of the Subtitle C regulations for generators that generated less than 100 kg of hazardous waste in a calendar month. Under the 1978 proposal, a firm generating less than 100 kg of hazardous waste per month could be exempted from the complete set of hazardous waste regulations provided the generator conducted a waste determination and disposed of his waste at either a State-approved solid or industrial waste facility or if the waste was treated, stored, or disposed at an authorized Subtitle C facility.

The Agency's rationale for the 100 kg/mo exemption level was expressed as follows:

> The principal element of this issue is how to balance the need to protect human health and the environment from the adverse impact of the potential mismanagement of small quantities of hazardous waste with the need to hold the administrative and economic burden of management of these wastes under RCRA within reasonable and practical limits (43 *FR* 58970).

In its 1978 proposal, EPA identified and sought public comment on a number of alternative regulatory schemes for small quantity generators and explicitly stated that it intended to consider establishing a small quantity generator exclusion level of 100 kg/mo. Among the alternatives the Agency considered were: (1) A conditioned exemption at either the 100 kg/mo or 1000 kg/mo level; (2) a degree of hazard approach that would take into account the relative hazard of various waste types in establishing exemption levels; (3) an unconditioned exemption for quantities of hazardous waste under 100 kg/mo where a State assumes the regulatory responsibilities for these quantities under either its Subtitle C or Subtitle D programs; (4) applying lesser administrative requirements (*e.g.*, applying manifest requirements but not recordkeeping and reporting requirements and/or lesser technical treatment, storage, and disposal requirements on small quantities of hazardous waste), without exempting or conditionally exempting these wastes from Subtitle C management; and (5) phasing regulatory coverage of small quantity generator quantities (*e.g.*, an initial conditioned exemption of quantities at a high cutoff level, and the imposition of a lower exemption limit in two or three years).

B. The May 19, 1980 Regulations

In finalizing its proposed regulations in May of 1980, the Agency decided to impose a system that contained elements from several of the approaches considered in the 1978 proposal. The final rules established a higher initial conditional exemption level of 1000 kg/mo for most hazardous wastes but set a 1 kg/mo level for acutely hazardous wastes. However, the Agency also concluded that information on environmental impacts and a review of damage cases tended to support a 100 kg/mo exclusion level (See 45 *FR* 33104) and stated its intention to initiate rulemaking to phase in Subtitle C coverage, within two to five years, of small quantity generators generating quantities greater than 100 kg/mo.

The decision to conditionally exempt generators of less than 1000 kg/mo of hazardous waste from full Subtitle C coverage was based on a number of factors. While EPA considered different schemes for using hazard in establishing quantity limitations, the primary reason for establishing the exemption level at 1000 kg/mo was administrative, expressed as follows:

> The Agency has determined that the enormous number of small generators, if brought entirely within the Subtitle C regulatory system, would far outstrip the limited Agency resources necessary to achieve effective implementation. (45 *FR* 33103)

At that time, EPA argued that, based on available data, 97% of the hazardous waste generators produced less than 1000 kg of hazardous waste per month, yet accounted for less than one percent of the total waste generated. The Agency concluded that instead of sacrificing other elements of the regulatory program such as permitting and enforcement through dilution of resources, the overall environmental objectives of RCRA would be best served by choosing an exclusion level such that its limited resources could be used to implement the full regulatory program for those generators producing 99% of the hazardous waste.

C. The Hazardous and Solid Waste Amendments of 1984

On November 8, 1984, the President signed Pub. L. 98-616, titled The Hazardous and Solid Waste Amendments of 1984 (HSWA). These comprehensive amendments will have far-reaching ramifications for EPA's hazardous waste regulatory program and will impact a very large number of businesses in the United States. Further, Congress has established in these amendments ambitious schedules for the imposition of the requirements that EPA must promulgate.

With respect to regulation of small quantity generators, the HSWA added a new subsection (d) to section 3001 of RCRA designed to modify EPA's current regulatory exemption of wastes generated by small quantity generators from full Subtitle C regulation (40 CFR 261.5). Section 3001(d) directs EPA to develop a comprehensive set of standards which will apply to hazardous wastes produced by small quantity generators of between 100 and 1000 kg of hazardous waste in a calendar month ("generators of 100–1000 kg/mo"). EPA is required to publish final standards in the **Federal Register** no later than March 31, 1986. In addition, section 3001(d) imposes certain minimum requirements on these generators prior to that date and requires EPA to complete a number of studies before April 1987.

1. *Early Implementation Provisions.* In the May 19, 1980 regulations, EPA established special requirements for hazardous waste generated by small quantity generators. In those regulations, two classes of small quantity generator were established: (1) Those generating or accumulating acutely hazardous wastes below specific quantity cutoffs, and (2) those generating or accumulating less than 1000 kg/mo of non-acutely hazardous wastes.

On July 15, 1985, EPA published in the **Federal Register** a Final Rule which codified a number of legislatively

mandated provisions contained in the HSWA in the Code of Federal Regulations (CFR) (See 50 FR 28702–28755, July 15, 1985). Among those provisions is the requirement of section 3001(d)(3) that effective 270 days from the date of enactment,[3] all off-site shipments of hazardous waste from generators of greater than 100 kg but less than 1000 kg of hazardous waste during a calendar month must be accompanied by a copy of the Uniform Hazardous Waste Manifest, signed by the generator, and containing the following information.

- The name and address of the generator of the waste;
- The U.S. Department of Transportation (DOT) description of the waste, including the proper shipping name, hazard class and identification number (UN/NA);
- The number and type of containers;
- The quantity of waste being transported; and
- The name and address of the facility designated to receive the waste.

The information required by this provision (codified at 40 CFR 261.5(h)(3)) corresponds to Items 3, 9, 11, 12, 13, 14, and 16, of EPA form 8700–22 and accompanying instructions promulgated on March 20, 1984 (49 FR 10490). These information requirements conform to DOT shipping requirements designed to provide necessary information to handlers of hazardous materials (*e.g.*, transporters and emergency response personnel). The absence in the HSWA of specific requirements for multiple copies, recordkeeping, and identification and signature of the transporter along with a review of the legislative history have led the Agency to conclude that Congress intended the "single copy" Uniform Hazardous Waste Manifest to serve primarily as a notification to the transporter and recipient facility that the material is a hazardous waste, and not as a "roundtrip" waste tracking instrument. In fact, the legislative history for the small quantity generator provision provides that:

> There is an immediate need to provide notice to transporters, treaters, storers, and disposers of small quantities of hazardous waste of what they are handling or receiving. Such notice will enable the handlers of those wastes to properly manage them and be aware of the dangers they present. S. Rep. No. 284, 98th Cong., 1st Sess. 8 (1983) ("Senate Report")

While 100–1000 kg/mo generators are not required to complete the entire manifest under Federal law beginning August 5, 1985, many States operating their own hazardous waste programs may require additional information on the manifest or require use of that State's version of the Uniform Hazardous Waste Manifest.

This manifest requirement applies only to generators generating between 100 and 1000 kg of hazardous waste in a calendar month. Section 3001(d)(7) of the HSWA expressly provides that existing EPA regulations pertaining to acutely hazardous waste are not affected by the amendments.

The HSWA provisions, together with existing regulations, distinguish three classes of small quantity generators for regulatory purposes: (1) Those generating between 100 and 1000 kg of non-acutely hazardous waste per calendar month; (2) those generating up to 100 kg of non-acutely hazardous waste per calendar month; and (3) those generating acutely hazardous wastes in quantities currently set forth in § 261.5(e).[4] These classes of small quantity generators are distinguished in the July 1985 "Codification Rule".

Under the regulatory system imposed by 40 CFR § 261.5 implementing section 3001(d) of the HSWA, a small quantity generator in the first group (*i.e.*, producing between 100 and 1000 kg of non-acutely hazardous waste in a calendar month) is currently subject to the following requirements:

(1) He must determine if his waste is hazardous under 40 CFR 262.11 (§ 261.5(h)(1));

(2) He may conditionally accumulate hazardous waste on-site provided he does not exceed the quantity limitation contained in § 261.5(h)(2);

(3) After August 5, 1985, he must partially complete and sign a single copy of the Uniform Hazardous Waste Manifest to accompany any off-site shipment of hazardous waste (§ 261.5(h)(3));

(4) He must treat or dispose of his hazardous waste on-site, or ensure delivery to an off-site treatment, storage, or disposal facility. The on-site or off-site facility must be either: (i) Permitted by EPA pursuant to Section 3005 of RCRA or by a State having an authorized permit program under Part 271; (ii) in interim status under Parts 270 and 265; (iii) permitted, licensed, or registered by a State to manage municipal or industrial solid waste; or (iv) a facility which beneficially uses or reuses, or legitimately recycles or reclaims the waste; or treats the waste prior to reuse, recycling or reclamation (§ 261.5(h)(4)).

Small quantity generators of less than 100 kg of hazardous waste in a calendar month remain subject to the requirements described in the preceding paragraph, *with the exception* of the requirement to partially complete a single copy of the Uniform Hazardous Waste Manifest when shipping waste off-site. Generators of less than 100 kg are not required to comply with the partial manifest requirement. No additional requirements apply to this class of hazardous waste generator under the existing rules unless the quantity limitations contained in § 261.5(g) are exceeded.

Small quantity generators that produce acutely hazardous waste and do not exceed the quantity limitations for such waste are subject to the same requirements as are generators of less than 100 kg of other hazardous wastes. No additional requirements apply to this class of small quantity generator unless the quantity limitations contained in § 261.5(e) are exceeded, at which point the acutely hazardous waste becomes subject to the full generator requirements of 40 CFR Part 262.

2. *Minimum Rulemaking Requirements.* Section 3001(d)(1) of the HSWA requires EPA to promulgate, by March 31, 1986, standards under Sections 3002, 3003, and 3004, for hazardous wastes generated by a generator in a total quantity greater than 100 but less than 1000 kilograms in a calandar month. Standards developed under this section must be sufficient to protect human health and the environment but *"may vary from the standards applicable to hazardous waste generated by larger quantity generators"* [emphasis added] (Section 3001(d)(2)). EPA is further authorized to promulgate standards for generators of less than 100 kg/mo of hazardous waste if the Administrator determines it is necessary to do so to protect human health and the environment (Section 3001(d)(4)).

At a minimum, standards issued pursuant to section 3001(d)(1) must require that all treatment, storage, and disposal of hazardous wastes from generators of between 100 and 1000 kg of hazardous waste in a calendar month occur at a facility with interim status or a permit issued under Section 3005 of RCRA. The standards must also allow generators of between 100 and 1000 kg of hazardous waste during a calendar

[3] The HSWA of 1984 was signed into law on November 8, 1984. The initial manifest requirement for generators of between 100 and 1000 kg/mo of hazardous waste, therefore, goes into effect 270 days later on August 5, 1985.

[4] The accumulation provisions of § 261.5 (f)(2), (g)(2), and (h)(2) imposing full regulation on generators that exceed the quantity limitations of this section remain unchanged by the July 1985 "Codification Rule".

month to store waste on-site for up to 180 days without being required to obtain a RCRA permit. If a generator must ship or haul his waste greater than 200 miles, that generator may store up to 6000 kg of hazardous wastes for up to 270 days without a permit (section 3001(d)(6)).

In addition, the Agency is interpreting the statute to require that, at a minimum, EPA's regulations must provide for continuation of the August 1985 requirement that off-site shipments of hazardous waste from 100–1000 kg/mo generators be accompanied by a single copy of the Uniform Hazardous Waste Manifest containing at least the information specified in section 3001(d)(3). This interpretation is supported by a Congressional debate on the small quantity generator provision:

> Another element of the minimum regulatory content provided in [the amendment] for small quantity generators is the requirement that all hazardous waste from generators producing more than 100 kilograms in a month be accompanied by a manifest. This will provide notice of the hazardous nature of the waste to transporters and disposal facilities. 130 Cong. Rec. S. 9150 (daily ed. July 25, 1984).

The Agency believes that at a minimum Congress intended that the Agency's regulations incorporate the partial Uniform Hazardous Waste Manifest requirements in order to provide notice of the hazardous nature of the waste to transporters and facilities.

3. *March 31, 1986 Hammer Provisions.* In the event that EPA fails to promulgate standards for hazardous waste generators producing greater than 100 kg but less than 1000 kg in a calendar month by March 31, 1986, these generators will be subject to certain legislatively stipulated provisions.

First, a 100–1000 kg/mo hazardous waste generator must continue to comply with the manifest requirements of section 3001(d)(3) and begin providing the names of the waste transporters on the manifest form (section 3001(d)(8)(A)).

Second, except for on-site storage for up to 180 days (or up to 270 days for quantities up to 6000 kg if the generator must ship his waste greater than 200 miles), the treatment, storage, or disposal of hazardous waste generated by 100–1000 kg/mo generators must occur at a facility with interim status or a permit under Subtitle C of RCRA [5] (section 3001(d)(8)(B)).

Third, these generators must retain for three years a copy of the manifest signed by the designated facility receiving the waste (section 3001(d)(8)(D)).

Finally, these generators must file semi-annual exception reports by January 31, for waste shipments occurring in the last half of the preceding calendar year and by July 31, for any waste shipment occurring in the first half of the calendar year (section 3001(d)(8)(C)).

The HSWA specifically states that the requirements of this section should not be construed to be determinative of the requirements appropriate for small quantity generators in developing a regulatory program. Thus, with the exception of a minimum requirements discussed above, EPA has flexibility to design a regulatory program for 100–1000 kg/mo generators that is protective of the environment and public health as well as tailored to the special conditions of generators of smaller quantities of hazardous waste.

4. *Small Quantity Generator Studies.* The HSWA of 1984 requires EPA to conduct, and report to Congress on, a series of studies designed to characterize the small quantity generator population and explore the feasibility and utility of various approaches to regulating small quantity generators of hazardous waste. Specifically, these studies will: (1) Characterize small quantity generator wastes and management practices as well as the risks associated with them and the potential costs which small quantity generators may incur in modifying those practices; (2) evaluate the existing manifest system for hazardous wastes as it applies to small quantity generators and recommend changes, as appropriate; (3) explore the feasibility of easing the administrative burden on small quantity generators, increasing compliance, and simplifying enforcement efforts through a program of licensing hazardous waste transporters to assume the responsibilities of generators relating to preparation of manifests and the associated recordkeeping and reporting requirements; and (4) assess the problems associated with the accumulation, storage, and disposal of hazardous wastes from educational institutions.

EPA has already completed or initiated work on most of the mandated studies. Much of the basis for today's proposal is drawn from a major mail survey of small quantity generators conducted in 1983 and 1984 to characterize the small quantity generator population and its waste generation and management practices. The results of that survey are discussed in detail in a later section of this preamble. EPA has also developed preliminary information for the manifest and transporter studies and these, too, form the basis for portions of today's proposal. Finally, the Agency intends to initiate the study of hazardous waste from educational institutions by the end of 1985. While the Agency does not anticipate that conclusions drawn from these studies will necessitate further regulatory changes, EPA will consider the adoption of regulatory amendments based on these studies, if appropriate, in a future rulemaking.

V. EPA's Approach To Regulating 100–1000 kg/mo Hazardous Waste Generators

Section 3001(d)(1) of the HSWA requires the Agency to promulgate standards for generators producing 100–1000 kg/mo of hazardous wastes. At a minimum, such standards require that these generators' wastes be managed at facilities with RCRA permits or interim status except that such generators may store wastes on-site without a permit for up to 180 days (or 270 days if such generator must transport the waste over 200 miles). Section 3001(d)(6). In enacting section 3001(d) of the HSWA, Congress contemplated that 100–1000 kg/mo generators would be treated differently than would generators of larger quantities of waste. This intent is manifested in section 3001(d)(2) of the HSWA which specifically provides that the Agency may vary the standards for 100–1000 kg/mo generators from those standards applicable to larger quantity generators. The authority to vary such standards is, however, statutorily circumscribed by the need to protect human health and the environment. Section 3001(d)(2).

In developing standards for 100–1000 kg/mo generators, the Agency has honored the general Congressional intent underlying these amendments. EPA believes that the pertinent legislative history in conjunction with the requirements embodied in section 3001(d) reveals that Congress generally intended the Agency to analyze two themes when developing such standards: impacts on 100–1000 kg/mo generators and the protection of human health and the environment.

[5] Section 3005(e)(1)(A)(ii) allows facilities that were in existence on the date that they first became subject to the requirement to obtain a permit to obtain interim status. The effect of this provision on 100–1000 kg/mo generators that manage their hazardous waste on-site is discussed in Part II, Section IV. D. of this preamble.

A. Impacts on 100–1000 kg/mo Generators

The legislative history underlying the section 3001(d) amendments indicates that Congress intended the Agency to take into account impacts on 100–1000 kg/mo generators when developing standards for this class of generator. Congress specifically recognized that "many small quantity generators may be small businesses that may be adversely affected if the full set of Subtitle C regulations are required." H. Rep. No. 1133, 98th Cong., 2d Sess. 103 (1984) reprinted at 130 Cong. Rec. H 11732 (daily ed. Oct. 3, 1984) ("Conference Report"). Due to these perceived impacts, the Agency was instructed to determine whether requirements for 100–1000 kg/mo generators could be varied from requirements applicable to other generators. *Id.* In particular, Congress specified that the Agency should consider limiting the administrative burden for this class of generator. H.R. Rept. No. 198 (Part 1), 98th Cong., 1st Sess. 26 (1983) ("House Report"). In the context of minimizing the administrative burden on this class of generator, Congress specifically requested the Administrator to examine whether it was possible to simplify, reduce the frequency of, or eliminate the existing reporting and recordkeeping requirements. Conference Report at 103.

In developing standards for 100–1000 kg/mo generators, the Agency analyzed the impacts these generators would experience if full Subtitle C regulations were imposed. Under this analysis, the Agency considered whether 100–1000 kg/mo generators would experience impacts more severe than those realized by larger quantity generators which would, in turn, justify varying the standards for the 100–1000 kg/mo generators. The Agency relied upon two criteria in conducting this impact analysis: the types of businesses generating hazardous wastes and the business size of hazardous waste generators.

1. *Types of Businesses Generating Hazardous Wastes.* When EPA promulgated its intitial set of hazardous waste management standards in May 1980, limited information was available concerning the types of business activities generating hazardous waste. Data presented in the preamble to the May 19, 1980, regulations were drawn from existing estimates developed by states, industries, and others (45 FR 33102). As discussed earlier, the Agency has greatly increased its knowledge of hazardous waste generation and management since 1980, principally through the design and implementation of two major surveys.[6]

Results from these surveys tend to verify and reinforce the Agency position in the May 19, 1980 preamble that "the types of business activity generating small quantities of hazardous waste differ markedly from those generating large quantities of hazardous waste" (45 FR 33103). Generators of 100–1000 kg/mo of hazardous wastes are found in many industries, but tend to be concentrated in the non-manufacturing or service sector (85 percent according to survey estimates). Within this sector, nearly 70 percent of 100–1000 kg/mo generators are engaged in vehicle maintenance, with others dispersed across a variety of activities, including printing, photography, drycleaning, and pesticide application services. In comparison, large quantity generators of more than 1000 kg/mo are nearly all concentrated in the manufacturing sector and include such business activities as metal fabrication, electrical equipment production, chemical manufacturing, and other manufacturing related industries.

Generators concentrated in the service or non-manufacturing sectors are generally less sophisticated than chemical and manufacturing plants about regulatory requirements because they are less likely to have environmental program directors or environmental counsel to advise them regarding compliance with an extensive regulatory scheme. The imposition of full Subtitle C standards on these generators would probably result in a greater administrative burden than would be experienced by chemical and manufacturing generators. Given this distinction (non-manufacturing vs. manufacturing) between 100–1000 kg/mo generators and larger generators, the Agency believes that it is appropriate to adopt a modified regulatory program for these generators which relaxes the administrative burden for this class of generator.

2. *Business Size.* Based on the survey of small quantity generators, the Agency estimates that over 85 percent of 100–1000 kg/mo generators have fewer than 50 full-time employees. While similar information on large quantity generators is not in the Agency's possession, the fact that over 70% of large generators are engaged in chemical manufacturing and petroleum refining supports the conclusion that most generators of large amounts of hazardous waste are likely to be owned and operated by large corporations. In contrast, a substantial portion of the non-manufacturing 100–1000 kg/mo generators, such as those involved in vehicle maintenance activities, laundry and drycleaning and other service industries, are believed by the Agency to be locally owned or operated small businesses.

Since 100–1000 kg/mo generators are likely to be small businesses, the Agency assumes that these generators will be less likely to have the capability to comply with the full set of hazardous waste regulations currently applicable to large quantity generators. This assumption is confirmed by the Agency's experiences with the Small Business Hotline. According to EPA's Small Business Ombudsman, firms with fewer than 100 employees typically account for more than 80 percent of the calls received by the Small Business Hotline. The majority of these calls involve requests for information and assistance in interpreting and complying with EPA regulations. Given the general unfamiliarity of the small businessperson with the RCRA regulations, EPA believes that these small businesses may have a more difficult time interpreting and complying with complicated RCRA regulations. Since they are smaller businesses, we also assume that they have lower profit margins and fewer financial resources to comply with full Subtitle C regulations. Therefore, the Agency is today proposing to modify the standards for these generators.

B. Protection of Human Health and the Environment

Generators of 100–1000 kg/mo would be less capable of absorbing the impacts of full regulation than would generators producing over 1000 kg/mo of hazardous wastes because of the distinction in business size and business type as discussed above. However, Congress did not intend that the Agency consider impacts on these generators in a void. The second theme that emerges from the statute and the legislative history is that the Agency must assume protection of human health and the environment when developing standards for 100–1000 kg/mo generators.

The legislative history construing the Agency's mandate to asssure protection of human health and the environment attempts to furnish a framework by which Administrator may assure protection of human health and the environment while varying the standards for 100–1000 kg/mo

[6] *National Small Quantity Hazardous Waste Generator Survey;* Abt Associates, Cambridge, MA; February 28, 1985. *National Survey of Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities Regulated Under RCRA in 1981;* Westat, Rockville, MD; April 20, 1984.

generators. The factors specified by Congress as necessary for such a determination are waste characteristics, waste management practices and locational criteria. Conference Report at 103. Congress anticipated that based upon these three criteria, the Administrator would be able to make distinctions between 100–1000 kg/mo generators and generators of larger quantities of waste.

The Agency believes that Congress did not intend the Agency to exclusively rely upon these factors. First, as a general matter, the Agency has always had the authority to consider these factors when making risk judgments for all hazardous wastes and has traditionally evaluated these criteria when making hazardous waste regulatory decisions. The Agency would, as a matter of course, have evaluated these criteria as part of this rulemaking irrespective of this legislative discussion. Consequently, the Agency believes that Congress must have intended that the Agency consider, and rely upon, other criteria as well when developing such standards.

Second, the Agency has considered the three criteria specified by Congress as providing a distinction between large quantity generators and 100–1000 kg/mo generators. After evaluating these criteria, the Agency has been unable to rely upon waste management practices, locational criteria or waste characteristics to draw meaningful distinctions between the two classes of generators. Data from EPA's survey of small quantity generators indicate that both small and large quantity generators produce many of the same types of waste and use many of the same waste management practices. Moreover, the Agency is unaware of any significant differences in locational criteria for the two classes of generators.

Therefore, under its broad discretion to protect human health and the environment, the Agency has evaluated the available survey data in order to determine if there are other factors which should also be considered by the Agency when fashioning such standards. As a result of such an evaluation, the Agency believes that it is both appropriate and consistent with Congressional intent to consider the "relative risk" posed by smaller quantities of waste when developing standards which assure protection of human health and the environment.

Based on survey data, the Agency now estimates that there are 630,000 generators of hazardous waste producing less than 1000 kg/mo of such wastes. This class of hazardous waste generator produces approximately 940,000 tons of hazardous waste annually. At levels of generation below 100 kg/mo, 455,000 generators account for only 0.07 percent of the hazardous waste generated annually (180,000 tons). This leaves an estimated 175,000 100–1000 kg/mo generators producing 760,000 tons of hazardous waste annually. In contrast, fewer than 14,000 generators produce more than 1000 kg/mo, yet these generators account for approximately 264 million tons of hazardous waste annually. In short, the 100–1000 kg/mo generators subject to today's proposal produce less than 0.3 percent of the hazardous waste generated annually when compared to the larger generators. In general, the Agency believes that given the small aggregate amounts of hazardous waste generated by 100–1000 kg/mo generators and the large number of potentially affected firms, the impacts of hazardous waste regulation must be carefully weighed against the need to protect human health and the environment.

While the Agency believes that wastes from small quantity generators, when aggregated, pose substantial overall risks, our analysis indicates that on a per-firm basis, the lesser quantities of waste managed by these generators may pose less relative risk than the significantly larger quantities of waste managed by larger generators.

A necessary component when comparing relative risks is an analysis of environmental threat. The environmental threat posed by a particular waste is most often associated with (1) spills resulting from transportation accidents and mishandling during transit, and (2) leaks from treatment, storage, or disposal facilities. These criteria are, for the most part, quantity-related. For instance, given a specific waste stream, a large spill from a hazardous waste transporter is likely to cause greater environmental damage (in a relative sense) than is a small spill. Likewise, major leaks from treatment, storage, or disposal facilities are likely to result in more significant environmental damage (again, in a relative sense) than are small leaks from such facilities.

This being the case, the Agency believes that in a qualitative sense the relative impact of a spill or leak is proportional to the quantity of the waste released. Since the quantity of waste generated by a 100–1000 kg/mo generator is substantially lower than the quantity generated by a larger generator, in terms of annual waste generation, the relative risk to human health and the environment from any given 100–1000 kg/mo generator's waste is also lower. Given this difference in relative risk, varying standards for 100–1000 kg/mo generators from those applicable to large generators would still assure protection of human health and the environment.

Relying upon a relative risk approach may arguably conflict with some specific legislative history. Congress asserted that the hazardousness of a given waste is imparted by its inherent properties and is not a function of the specific volume of those wastes. House Report at 26. The literal language of this legislative history could be read to conflict with the relative risk concept just discussed. Nonetheless, EPA believes that factually the quantity of a waste affects the relative risk it presents.[7] Therefore, the Agency believes that it is important to consider the quantity of waste involved in honoring the underlying Congressional theme of assuring protection of human health and the environment when fashioning alternate standards for 100–1000 kg/mo generators.

C. Balancing Impacts and Protection of Human Health and the Environment

The Agency confronts a challenge when fashioning standards for 100–1000 kg/mo generators of hazardous waste. On the one hand, the Agency is cognizant of the impacts which may be suffered by these generators if full Subtitle C standards are imposed. As discussed previously, the specific legislative history requires the Administrator to consider varying such standards in light of these perceived impacts. On the other hand, the Agency is mindful of its mandate to assure protection of human health and the environment when fashioning alternate standards for 100–1000 kg/mo generators.

In order to honor the two major themes inherent in section 3001(d)—protecting human health and the environment and avoiding unreasonable burdens on 100–1000 kg/mo generators—the Agency must, of necessity, engage in some balancing of these two competing goals. It appears that Congress anticipated that EPA would have to do some such balancing when writing the small quantity generator provisions. In a Congressional debate, the small quantity generator amendment was referred to as "an amendment that would be balanced between the protection of public health

[7] By way of analogy, it should be pointed out that the quantity of waste present is a factor in the statutory definition of hazardous waste, section 1004(5), and in the regulatory criteria for listing hazardous waste in § 261.11.

from the potential dangers that are associated with the disposal of hazardous waste on the one hand and the protection of over a million small businesses in America from burdensome, unnecessary regulations and paperwork." 129 Cong. Rec. H 9712 (daily ed. Nov. 3, 1983).

In order to develop standards which adequately balance impacts and protection of human health and the environment, the Agency has evaluated the potential impact of full Subtitle C regulation with respect to both administrative and technical considerations. As a result of this evaluation, the Agency is today proposing standards for 100–1000 kg/mo generators. A detailed discussion of these standards is presented in Part II of this package. This section merely sets forth the general rationale for EPA's approach in developing such standards.

1. *Administrative Standards.* The Subtitle C regulations impose administrative requirements on generators of hazardous wastes which include various recordkeeping and reporting requirements. In determining whether or not administrative requirements should be varied for 100–1000 kg/mo generators, the Agency first evaluated the impact of imposing full Subtitle C requirements on these generators. As suggested previously, Congress anticipated varying standards for these generators as a means of reducing impacts. In particular, the legislative history provides strong support for a minimization of reporting and recordkeeping requirements in order to relieve the administrative burden on this class of generators. Therefore, the Agency believes that it is in keeping with the legislative history to provide administrative relief for these generators.

The Agency next analyzed whether protection of human health and the environment would be assured if administrative relief were accorded these generators. As a general matter, the Agency believes that these administrative requirements, while environmentally significant, do not always constitute the essence of various environmental requirements. For example, while roundtrip manifesting of hazardous waste is important, a key purpose of the manifesting requirements is to ensure that the wastes are sent to the proper treatment, storage or disposal facility. Today's proposed rulemaking does not change that duty. Only the "round-trip" nature of the manifest has changed. In some circumstances such as the "round-trip" manifest, it may be appropriate to relieve a generator of administrative requirements when basic underlying concerns of the RCRA program would still be met.

In analyzing the importance of administrative requirements for the protection of human health and the environment the Agency evaluated the relative risk posed by smaller quantities of hazardous waste. This evaluation differed depending on whether there was on-site or off-site accumulation of these hazardous wastes. The statute allows generators to store hazardous waste on-site for less than 180 days (or 270 days if the waste was transported greater than 200 miles) without a permit or interim status. As discussed in Part II, Section II.D., there is a limitation on such on-site accumulation of 6,000 kg of hazardous waste. Generators storing for less than 180 days (or 270 days) would be storing smaller quantities of hazardous waste (in a relative sense) because the amount of wastes which could be accumulated would necessarily be limited. Therefore, the relative risk from releases of such wastes would be less. Given this relative risk factor in conjunction with the need to alleviate impacts for these generators, the Agency is today proposing to relieve some Part 262 standards which are administrative in nature, for 100–1000 kg/mo generators accumulating hazardous wastes on-site for less than 180 days (or, if appropriate, 270 days). These proposed standards are discussed in Part II, Section II.D.

For 100–1000 kg/mo generators who do not store hazardous wastes on-site for less than 180 days (or in certain circumstances, 270 days) or off-site facilities that manage wastes *only* from 100–1000 kg/mo generators, the evaluation of relative risk is slightly different. Under section 3001(d), these facilities are required to obtain either a permit or interim status, and would accordingly be subject to Part 264 or Part 265 standards. Since these facilities have no limits on the amount of hazardous waste accumulated it does not necessarily follow that these generators will be accumulating minimal amounts of waste. Therefore, the relative risk from releases of such wastes are not necessarily small for these facilities. Given the higher risk posed by such facilities, the Agency is not lessening the Part 264 or Part 265 administrative standards for such generators.

2. *Technical Standards.* The RCRA regulations in Parts 264 and 265 contain various technical standards governing the accumulation of hazardous wastes. In developing regulations for 100–1000 kg/mo generators, the Agency examined whether such technical standards were appropriate for hazardous wastes produced by these generators in the context of the balancing approach described above.

The Agency first evaluated the impact of imposing full Subtitle C technical standards on 100–1000 kg/mo generators. Given the distinctions in business size and business types between these generators and larger generators, the Agency believes that the imposition of certain technical standards could cause a small business to experience greater impacts than would a larger generator. Although the Agency believes that Congress primarily intended to relieve these generators from administrative impacts, it is arguable that Congress was also concerned with other requirements which would impose burdens on small businesses. *See* Conference Report at 103. This would include technical requirements.

The second tier of the balancing approach involves an evaluation of whether human health and the environment would be protected if Subtitle C technical standards were varied for these wastes. Clearly the technical requirements are more essential than the administrative requirements to the general goal of protecting human health and the environment because they are directly concerned with controlling releases to the environment. Thus, EPA believes that the decision to waive technical requirements for management of small quantity generator wastes must be made with great care. At this time, the Agency believes that protection of human health and the environment overrides the potential impacts which the technical standards may cause on these firms and is not, therefore, proposing to relieve 100–1000 kg/mo generators of any of the existing technical requirements. However, as discused in the next Section, EPA may decide to modify for 100–1000 kg/mo generators the proposed technical standards for accumulation tanks. The Agency may find, based on a risk assessment now being conducted for hazardous waste accumulation tanks, that the impacts of the proposed amendments would outweigh the risks from these generators' accumulation tanks.

VI. Impact of Proposed Hazardous Waste Tank Amendments on 100–1000 kg/mo Generators

On June 26, 1985, EPA proposed amendments to the technical standards for hazardous waste tanks contained in Subpart J of Parts 264 and 265. (See 50 FR 26444–26504.) Among other things,

these amendments would generally require that hazardous waste tanks be equipped with a secondary containment system to contain releases of hazardous waste that pose a threat to human health and the environment. This section discusses the impacts which those proposed amendments could have on generators of 100–1000 kg/mo that manage hazardous waste in tanks, if the tank amendments are finalized.

1. Short-Term Accumulation

As discussed in detail in Part II of today's preamble, EPA is proposing to subject generators of 100–1000 kg/mo to most of the existing Part 262 standards applicable to larger generators, with the exception of certain manifest and recordkeeping and reporting requirements. Among the standards which EPA is proposing to apply to 100–1000 kg/mo generators are the requirements of § 262.34 applicable to generators that accumulate hazardous waste on-site prior to off-site shipment. Today's proposal would extend the period of on-site accumulation from the current 90 days to 180 (or 270) days for 100–1000 kg/mo generators without the requirement to obtain a RCRA permit, in accordance with the HSWA of 1984. In addition, the Agency is today proposing to modify for these generators the requirements for contingency plans and personnel training (contained in Subpart D of Part 265 and § 265.16). However, the Agency is proposing to apply the existing requirements for preparedness and prevention (contained in Subpart C of Part 265), for storage in containers (contained in Subpart I of Part 265), as well as the *existing* requirements for storage in tanks (contained in Subpart J of Part 265). (See Part II, Section II.D.2. of today's preamble.)

EPA has initially concluded that the existing Subpart J requirements for accumulation in tanks are those necessary to protect human health and the environment from wastes stored by these generators. However, the Agency has not yet determined whether the *proposed* amendments to Subpart J of Part 265 requiring secondary containment for short term accumulation tanks should also be applied to generators of 100–1000 kg/mo since the Agency has not yet completed an assessment of the potential risks which such accumulation tanks may pose. Pending the completion of such a risk assessment for these generators, the Agency is not proposing the application of the secondary containment requirement to these generators, particularly in light of the significant impacts which such a requirement could have on generators of 100–1000 kg/mo. The Agency estimates that these tank amendments, if finalized as proposed and applied to the accumulation tanks of 100–1000 kg/mo generators, could impose additional annualized compliance costs of from $23 million to $26 million.

While the proposed amendments to Subpart J of Part 265 would impose secondary containment requirements upon generators accumulating hazardous waste in tanks, the Agency also invited comment on several other options that would tailor standards to risks posed by different wastes and environments. The Agency will also consider the application of those options to 100–1000 kg/mo generators.

Today, the Agency is not proposing to apply the secondary containment requirement to 180 (or 270) day accumulation tanks operated by 100–1000 kg/mo generators. However, if secondary containment is chosen for Subpart J of Part 265, the Agency will consider, and is requesting public comment on, four options for applying those amendments to 100–1000 kg/mo generators. The first option is a conditional exemption from secondary containment for generators of 100–1000 kg/mo who store relatively small amounts of waste for less than the statutorily exempted period of 180 (or 270) days. This exemption would be available under conditions that restrict both the amount of waste stored and the duration of storage. Further, the exemption could be withdrawn at the discretion of the Regional Administrator in situations that were known to pose an unacceptable risk to human health and the environment. The Agency solicits comment on the construction of such an exemption, both in terms of what constitutes a safe level of storage and a safe storage duration for 100–1000 kg/mo generators.

A second option the Agency is considering would require secondary containment for 180 (or 270) day accumulation tanks only for new tanks and those existing tanks that have been determined to be leaking, based on application of a leak detection scheme.

A third option would require secondary containment for all tanks operated by 100–1000 kg/mo generators, regardless of quantity stored or duration of storage. Such an option would be selected only if the results of the Agency's risk assessment indicated that the potential risk reduction would justify imposing secondary containment for all tanks in order to protect human health and the environment.

The final option the Agency is considering would simply delay the effective date of secondary containment requirements as applied to 180 (or 270) day accumulation tanks operated by 100–1000 kg/mo generators. Such an option could be applied to only new or leaking tanks, as discussed in the second option, above, or to all tanks of 100–1000 kg/mo generators.

Based on the results of the risks assessment now being conducted for 100–1000 kg/mo generator tanks and the comments received on both the Subpart J proposal and today's proposed rules for 100–1000 kg/mo generators, EPA will make a final determination on the application of secondary containment requirements to generators of 100–1000 kg/mo that accumulate waste on-site for up to 180 (or 270) days. However, at this time, EPA is proposing that only the existing Subpart J requirements for storage in tanks would apply to these generators. The Agency will determine, based upon comment, what rules are appropriate for 100–1000 kg/mo generators who accumulate in tanks when it publishes this rule in final form, unless this final rulemaking occurs prior to the final rulemaking which amends Subpart J of Part 265. Should this occur, the Agency will address accumulation in tanks by 100–1000 kg/mo generators in the final Subpart J rulemaking. For this reason, the Agency encourages the submission of comments addressing secondary containment requirements in response to both today's proposal and the proposed amendments to Subpart J.

2. Storage Tanks Subject to Permit Requirements

Under today's proposal, generators of 100–1000 kg/mo that store hazardous waste in tanks for longer than 180 (or 270) days would be subject to full regulation under Parts 264 and 265 of the hazardous waste regulations as a hazardous waste facility. As discussed in Part II, Section IV.A. of this preamble, the Agency sees no basis for distinguishing these generators from other hazardous waste facilities. Since such generators would be considered hazardous waste facilities under today's proposal and subject to the interim status standards of Part 265 and the permitting standards of Part 264, the secondary containment requirements for tanks, if finalized, would apply to such facilities. The Agency estimates that the application of the proposed secondary containment requirement (as well as the other proposed Subpart J technical amendments) to storage tanks of 100–1000 kg/mo generators that would require a permit under today's proposal could impose estimated additional

annualized compliance costs on these generators of $11 million.

Part II—Detailed Discussion of Proposed Regulations for Generators of 100–1000 kg/mo of Hazardous Waste

I. Applicability and Scope of Today's Proposal

This section addresses the scope of today's proposed rulemaking with respect to those generators covered by the proposed rule as well as those who are not affected by today's action and discusses those materials and practices which are subject to regulation and those which are not.

A. Proposed Redefinition of Small Quantity Generator—§ 261.5

EPA is today proposing to amend 40 CFR § 261.5 to redefine a small quantity generator as a generator that produces no more than specified quantities of acutely hazardous waste and no more than 100 kg of hazardous waste in a calendar month. By removing them from the § 261.5 exemption for small quantity generators, 100–1000 kg/mo generators would, instead, be subject to Parts 262–265, and 270 and 124 of the hazardous waste regulatory program.[8] However, EPA is proposing specific amendments to Part 262 that would relieve 100–1000 kg/mo generators from some of the administrative burden of complying with the hazardous waste regulations. The specific exemptions from Part 262 which would be applicable to 100–1000 kg/mo generators are discussed in detail in this Part of the preamble and will be specified in the regulatory language.

The term "small quantity generator" has, to date, referred to those generators who have been exempt from most of the hazardous waste regulatory program (*i.e.*, those generating less than 1000 kg/mo of non-acutely hazardous waste and those generating less than specified quantities of acutely hazardous waste). Since generators of 100–1000 kg/mo of hazardous waste would be subject under today's proposal to most of the hazardous waste regulatory program, the Agency believes that continuing to call such generators small quantity generators will result in substantial confusion as to the requirements that apply to the various classes of generator.

The proposed redefinition of "small quantity generator" would, therefore, result in there being two classes of large quantity generator (*i.e.*, those generating above 1000 kg/mo and those generating between 100 and 1000 kg/mo of hazardous waste), and two classes of small quantity generator *i.e.*, those generating less than 100 kg/mo of non-acutely hazardous waste and those generating specific quantities of acutely hazardous waste).

EPA is also proposing a clarifying amendment to § 261.5(c) to help reduce the confusion over what wastes are and are not counted in making quantity determinations for purposes of § 261.5. Section 261.5(c) currently states that in determining the quantity of hazardous waste he generates, a generator need not include those hazardous wastes that are recycled and exempted from regulation. However, the Agency believes that *all* hazardous wastes that are exempt from regulation should not be included in the quantity determinations. This principle has been in effect for recycled hazardous waste since May 19, 1980 (see 45 FR 33084–33133), and there is no basis for limiting the principle to recycling situations. An interpretation limited to recycling situations could lead to a circumstance where someone generating hazardous waste which is completely exempt from regulation would still be a large quantity generator; such an outcome does not make sense. We are, therefore, proposing to amend § 261.5(c) to make it clear that all hazardous waste that is excluded or exempted from regulation need not be included in the quality determinations.

In addition, there may be situations where generators are exempt from the substantive requirements (*i.e.*, manifesting or storage or accumulation) but are still subject to minimal regulation (*e.g.*, hazardous waste determination and notification). We believe that in these situations, the quantity of hazardous waste generated also need not be included in the quantity determination to avoid the same circumstances discussed in the preceding paragraph. Therefore, we are proposing to add a sentence to § 261.5(c) which would indicate that any hazardous waste that is exempted from regulation under 40 CFR Part 263, 264, 265 or 262.34 and the consequent permitting requirements need not be included in the quantity determination. This provision would eliminate counting of wastes exempted from regulation (see, *e.g.*, § 261.4, or § 264.1(g) (2), (4), (5) and (6)). This provision also would eliminate, among other things, the multiple counting of wastes which are reclaimed and then reused many times during the calendar month provided the material is not stored or accumulated before being reclaimed. For example, under today's proposed amendment, generators would need count the quantity of a spent solvent only if it becomes subject to substantive regulatory requirements.

B. Generators of Acutely Hazardous Waste

The HSWA explicitly states that the requirements applicable to generators of acutely hazardous waste (*i.e.*, those wastes listed in § 261.33(e)) are not affected by the HSWA amendments. (Section 3001(d)(7)). Thus, today's regulatory amendments will not alter those requirements applicable to generators of acutely hazardous wastes and these generators will remain subject to the exclusion limits contained in § 261.5(e).

C. Generators of Non-Acutely Hazardous Waste in Quantities Less Than 100 kg/mo.

The HSWA gives EPA authority to promulgate regulations for generators of less than 100 kg of hazardous waste per month if the Administrator determines that such standards are necessary to protect human health and the environment. However, the Agency is not required to promulgate such regulations. The Agency is not proposing to further extend coverage of the hazardous waste program to this class of hazardous waste generator at this time, beyond the minimal requirements currently in effect, for two reasons.

First, the Agency has no data to indicate that regulation of generators of less than 100 kg/mo of non-acutely hazardous waste will provide any significant additional level of environmental protection. Generators of less than 100 kg/mo of hazardous waste account for only 20% of the wastes generated by small quantity generators and less than .07 percent of the total quantity of hazardous waste generated nationally. A review of damage cases also indicates that very few incidents involved quantities below 100 kg.

Second, if full Subtitle C regulation were extended to generators of less than 100 kg of hazardous waste in a calendar month, as many as 455,000 additional establishments could be brought into the regulatory system.[9] Implementation of even minimal regulation on a population of this size would seriously weaken the Agency's efforts to permit existing

[8] Generators of hazardous waste in quantities greater than 100 kg but less than 1000 kg in a calendar month who do not qualify for the 180 or 270 day exemption will be required to comply with the full set of facility standards in Parts 264 and 265, to the extent that those standards apply.

[9] See Abt Associates Inc., *National Small Quantity Hazardous Waste Generator Survey*, February 28, 1985.

hazardous waste management facilities and enforce the existing regulations.

D. Materials That Are Not Solid Wastes

Certain materials are specifically excluded under § 261.4(a) from being considered solid wastes and are fully exempted from coverage under today's proposal since a material must first be a solid waste to be considered hazardous waste and, therefore, subject to regulation under Subtitle C of RCRA. Of specific importance to 100–1000 kg/mo generators is the exclusion for domestic sewage, and any mixture of domestic sewage and other wastes, which passes through a sewer system to a publicly owned treatment works (POTW) for treatment. Such sewage is not considered to be a solid waste, and is, therefore, exempt from regulation under Subtitle C of RCRA and regulated instead under the Clean Water Act.[10] The HSWA directs EPA, however, to study the existing exemption under RCRA for hazardous materials that are mixed with domestic sewage and discharged to a POTW, and to report to Congress early in 1986. The Agency is currently conducting this study, and may propose amendments to existing requirements under RCRA and CWA, if appropriate.

E. Requirements for Recyclable Materials—§ 261.6

Section 261.6 contains special requirements for materials that are recycled. In general, most materials that are recycled are subject to regulation under Parts 262 through 266 and Parts 270 and 124 of the hazardous waste regulations unless specifically excluded from regulation under § 261.6(a)(3).

While the diversity of materials generated and recycling practices utilized by 100–1000 kg/mo generators precludes a complete discussion of which materials and practices are exempted and which must be considered in the small quantity generator calculation, two specific materials—spent lead-acid batteries that are reclaimed and used oil—merit some discussion because of the prevalence of these materials among generators of between 100 and 1000 kg/mo of hazardous waste.

1. *Spent Lead-Acid Batteries*—According to EPA's survey of small quantity generators, spent lead-acid batteries account for roughly 370,000 metric tons a year, or 62 percent of the hazardous waste generated by 100–1000 kg/mo generators. The survey data also indicate that roughly 90 percent of these batteries are reclaimed.

Under § 261.6(a), persons who generate, transport, or collect spent batteries, or who store spent batteries prior to recycling, but do not recycle the batteries themselves, are not subject to regulation under Parts 262 through 266 and Parts 270 and 124 or the notification requirements of Section 3010 of RCRA. In addition, generators of spent lead-acid batteries that are destined for recycling do not have to count the weight of their batteries in determining if they are excluded from regulation as a small quantity generator under proposed § 261.5 or if they are subject to regulation under Part 262 as a 100–1000 kg/mo hazardous waste generator. (see 50 FR 665, January 4, 1985).[11]

2. *Used Oil*—Under the existing regulatory scheme, used oil is not considered a hazardous waste unless it exhibits one of the characteristics of hazardous waste, usually ignitability. Unless the oil has been mixed with solvents or other ignitable materials, it is unlikely that used oil would exhibit a characteristic of hazardous waste. Furthermore, even if the oil does exhibit a characteristic, the revised definition of solid waste specifically excludes used oil from being considered in the small quantity generator determination provided it is recycled (See 50 FR 665). Thus, as is the case with lead-acid batteries, 100–1000 kg/mo generators are not required to count the weight of any used oil when determining whether they are subject to the small quantity generator exclusion under proposed § 261.5 or subject, instead, to Part 262 as a generator of 100–1000 kg/mo of hazardous waste.

II. Standards for Generators of Hazardous Waste

A. Overview of Part 262 Standards for 100–1000 kg/mo Generators

As discussed in Section I.A. of this part of the preamble, EPA is today proposing to subject hazardous waste generators of 100–1000 kg/mo to the Part 262 generator standards and to amend a number of those requirements to simplify the regulatory system for this group of generator. Part 262 is divided into five subparts: Subpart A, General; Subpart B, The Manifest; Subpart C, Pre-Transport Requirements; Subpart D, Recordkeeping and Reporting; and Subpart E, Special Conditions. This section of the preamble discusses the existing Part 262 requirements in each of the Subparts and the Agency's proposals with respect to whether the requirement should be retained, modified, or waived for 100–1000 kg/mo generators. In many cases, EPA has concluded that the existing requirement is both necessary and appropriate for 100–1000 kg/mo generators and is not proposing any modification.

The specific Part 262 requirements which EPA *is* proposing to amend for application to 100–1000 kg/mo generators are as follows:

- Section 262.20 (General Manifest Requirements) would be amended to exempt generators of 100–1000 kg/mo from all manifest requirements if their hazardous waste is reclaimed under contractual agreements whereby ownership of the material does not change hands and provided the generator complies with specific recordkeeping requirements set forth in this section.
- Section 262.22 (Number of Copies) and § 262.23 (Use of the Manifest) are proposed to be modified to require that the 100–1000 kg/mo generator use only a single copy of the Uniform Hazardous Waste Manifest and give the transporter the single copy. Generators of 100–1000 kg/mo would be excluded from the requirement to retain one copy of the manifest.
- Section 262.32 (Marking) would be modified to exempt 100–1000 kg/mo generators from the requirement to mark containers with a Manifest Document Number;
- Section 262.34 (Accumulation Time) is proposed to be amended to extend the period of on-site storage allowed for 100–1000 kg/mo generators without the need to obtain interim status or a RCRA permit to 180 or 270 days for quantities not to exceed 6000 kg. In addition, § 262.34 would be amended to specify the requirements that would apply to such on-site storage by these generators.
- With the exception of records pertaining to hazardous waste determination under § 262.40(d) and the extension of retention periods under § 262.40(c), EPA is proposing to exempt generators of 100–1000 kg/mo from all of

[10] Waste discharged to a public sewer system is exempted from RCRA to avoid duplicative regulation since such wastes are regulated under the Clean Water Act. While disposal of hazardous wastes in this manner is not a violation of RCRA, the general pretreatment standards under the Clean Water Act contained in 40 CFR 403.5 prohibit the introduction of wastes into POTWs that would interfere with the operation of the treatment plant or subsequent POTW sludge management.

[11] It should be noted that while this exemption may significantly impact the number of 100–1000 kg/mo generators actually subject to regulation under the new RCRA amendments, used lead acid batteries sent off-site for reclamation are still subject to DOT requirements for packaging, labeling, and shipping. In addition, some States which regulate small quantity generators more stringently than EPA may require that spent lead-acid batteries be included in the small quantity generator calculation.

Subpart D—Recordkeeping and Reporting.

B. Part 262, Subpart A—General Standards Applicable to 100–1000 kg/mo Generators

1. *Purpose, Scope, and Applicability (§ 262.10)*—This section addresses the general applicability of Part 262 to hazardous waste generators. Since 100–1000 kg/mo generators are no longer excluded by § 261.5 from regulation under Part 262, the requirements of this section would apply to these generators. No amendments to § 262.10 are being proposed in today's notice.

2. *Hazardous Waste Determination (§ 262.11)*—Currently, in order to qualify for the existing small quantity generator exclusion in § 261.5, a generator must comply with § 261.11 to determine whether or not it generates a hazardous waste. This requirement is a crucial first condition for any generator to know that he is subject to the requirements of Part 262. In addition, the existing waste determination requirements do not require the generator to conduct expensive tests to determine if it generates a hazardous waste; instead, he may apply other knowledge of the material in order to make the necessary determination. Since the potential for widespread evasion of responsibilities under RCRA would be significant if potential generators were not responsible for determining whether their wastes are hazardous, EPA sees no reason to amend this requirement for 100–1000 kg/mo generators.

EPA recognizes that many 100–1000 kg/mo generators are likely to be unaware that they generate hazardous waste or have difficulty interpreting or applying the criteria for determining whether a waste is hazardous. The Agency is developing an education program designed to assist these generators in determining if they generate a waste regulated under RCRA and to help them understand the requirements which apply to them.

3. *EPA Identification Numbers (§ 262.12)*—Section 262.12 currently applies to hazardous waste generators not excluded under the small quantity generator provisions of § 261.5 or otherwise excluded under § 262.10. Under this provision, a generator: (1) May not treat, store, dispose of, transport, or offer for transportation, hazardous waste without receiving an EPA identification number; (2) may obtain an EPA Identification Number by applying to the Administrator on EPA form 8700–12; and (3) may not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

Today's proposal would subject generators of 100–1000 kg/mo to the requirements of this section for several reasons.

First, the EPA identification number allows the Agency to identify each member of the regulated community and establish a centralized data base of establishments subject to regulation under the hazardous waste provisions of RCRA. This data base is essential for effective compliance monitoring and enforcement, for characterizing the regulated community for its own analyses and in response to requests from others, including the Congress, and for making resource projects. The assignment of a unique identification number as an adjunct to names and addresses is essential for the type of automated filing and data processing necessary to effectively manage any large population.

Second, the Agency does not believe that the requirement to obtain a U.S. EPA Identification Number poses an unreasonable burden for 100–1000 kg/mo generators since it is a one time requirement with associated costs estimated at less than $40 per establishment.[12] In fact, many of these generators have already obtained an EPA identification number and would not be required to do so again. Further, in order to keep accurate records, it is likely that transporters, disposal facilities, and many of the states will require 100–1000 kg/mo generators to obtain EPA identification numbers even if EPA chose not to require such numbers.

Finally, the requirement to offer hazardous wastes only to treatment, storage, and disposal facilities with an EPA identification number (taken along with the requirements of § 262.20) establishes the obligation of generators to ensure that their wastes are managed in accordance with Subtitle C of RCRA.

In light of the predominantly small business nature of 100–1000 kg/mo generators, EPA considered whether to propose a simpler system for obtaining ID numbers for these generators. Among the alternatives considered were: (1) A simplified notification form which would ask only for name, address, and certification and not require the identification of wastes generated by that establishment, and (2) a system that would allow an identification number to be obtained over the telephone.

The Agency has concluded that the first approach, a simplified form, would not result in any significant savings for these generators. The existing notification form is a relatively simple and easily completed form and the Agency is not aware of instances where generators have had difficulty understanding or completing the form. The only potential area of confusion is the requirement to list the wastes generated by the establishment on the reverse side of the form. Currently, any hazardous waste generator is required under § 262.11 to determine if his waste is hazardous. The requirement to list those wastes on the notification form would not impose any significant additional burden.

The second approach we considered would allow these generators to obtain a U.S. EPA Identification Number by telephone. Administrative and technical considerations forced us to reject this approach. Lack of a verifiable record, signed by the waste handler, would yield a high potential for misrepresentation or confusion, resulting in a single U.S. EPA Identification Number assigned to multiple facilities or one facility having more than one U.S. EPA Identification Number.

While EPA believes that requiring identification numbers from generators of between 100 and 1000 kg of hazardous waste in a calendar month is both necessary and appropriate, the Agency is requesting public comment on this issue. Specifically, is a requirement to obtain a U.S. EPA Identification Number necessary to ensure protection of human health and the environment from the potential mismanagement of small quantities of hazardous waste? Is the existing system of obtaining an identification number appropriate for these hazardous waste generators?

C. Part 262, Subpart B—The Manifest

1. *General Overview.* Under today's proposed redefinition of a small quantity generator (See Part II, Section I.A.), generators of 100–1000 kg/mo would be subject to Part 262, including the manifest provisions of Subpart B. However, EPA is today proposing to modify the manifest system currently applicable to larger generators of hazardous waste to exempt generators of 100–1000 kg/mo from the requirements to prepare multiple copies of the Uniform Hazardous Waste Manifest (§ 262.22), retain a copy for the generator's records (§ 262.23(a)(3)), and provide multiple copies to the transporter (§ 262.23(b)). In essence, EPA is proposing to exempt generators

[12] Estimate updated from *Economic Impact Analysis of RCRA Interim Status Standards—Volume II*; Arthur D. Little; November 1981.

of 100–1000 kg/mo from the "roundtrip" or "tracking" function of the manifest (*i.e.*, establishment of a paper trail for enforcement purposes) while preserving and expanding the notice functions of the "single copy" manifest discussed earlier.[13] EPA has concluded that the information contained on the manifest is necessary to ensure that emergency personnel and others handling the waste during transportation and subsequent management have sufficient information to handle the waste safely. Under this system, 100–1000 kg/mo generators would be required to complete a single copy of the manifest in its entirety (with the exception of the manifest document number) and ensure that this manifest accompany the waste when it is shipped off-site. Section 261.5(h) currently provides for a partial manifest system for generators of 100–1000 kg/mo, as required by HSWA section 3001(d)(3). (See 50 FR 28702–28755, July 15, 1985.) Since generators of 100–1000 kg/mo would be subject to Part 262 under today's proposed rulemaking, the manifest requirements for these generators in § 261.5(h) would be deleted and 100–1000 kg/mo generators would be subject to the applicable requirements in Part 262, Subpart B.

The HSWA explicitly requires EPA to study the existing manifest system as it applies to small quantity generators and recommend whether the current system should be retained or whether a new system should be introduced. In addition, as noted earlier, the legislative history accompanying the HSWA makes it clear that Congress believed that small quantity generators are generally smaller businesses and intended for the Agency to relieve these generators of as much of the administrative burden of the hazardous waste regulations as possible, consistent with the Agency's mandate to place protection of human health and the environment above other considerations.

Thus, a review of the entire manifest system, including the format of the manifest that should ultimately apply to generators of 100–1000 kg/mo, is being conducted with the goal of reducing the administrative burden on these generators while assuring protection of human health and the environment. EPA has concluded that imposition of the full manifest system for generators of 100–1000 kg/mo is not warranted at this time. The Agency believes that requiring 100–1000 kg/mo generators to obtain an EPA identification number (§ 262.12), to complete a copy of the manifest for all off-site shipments (§ 262.20), and requiring facilities to retain copies of each manifest they receive (§ 265.71(a)(5)) creates a substantial legal obligation that the waste be managed at approved hazardous waste management facilities and thus assures protection of human health and the environment. EPA does not believe that this obligation would be significantly enhanced by requiring the use and distribution of multiple copies of the manifest.

While the Agency is proposing to reduce the manifest requirements for generators of 100–1000 kg/mo by eliminating the need for multiple copies, we are requesting specific public comment on the utility of the single copy manifest system being proposed today for these generators. Specifically, will the "single copy" manifest significantly ease the burden on 100–1000 kg/mo generators? Will this reduced burden offset: (1) The potential confusion that separate manifest systems may cause; and (2) the elimination of the tracking function of the manifest for wastes from 100–1000 kg/mo generators?

A second manifest modification being proposed today would exempt 100–1000 kg/mo generators from all of the requirements of Part 262, Subpart B with respect to the manifest if the generator's waste is reclaimed under a contractual arrangement whereby the generator or the reclaimer retains ownership of the material at all times and provided specific recordkeeping requirements are fulfilled.

2. *Proposed Amendments to Subpart B—The Manifest*—a. *Proposed Manifest Exemption for Certain 100–1000 kg/mo Generators.* EPA is today proposing to exempt *certain* 100–1000 kg/mo generators from all of the Part 262, Subpart B manifest requirements under the following conditions:

1. The generators must have a written reclamation agreement with a recycling facility to collect and reclaim a specified waste and to deliver regenerated material back to the generator at a specified frequency;

2. The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator must be owned and operated by the reclaimer of the waste;

3. Either the generator or the reclaimer must retain title to the material at all times; and

4. The generator and transporter/reclaimer must comply with specific recordkeeping requirements.

It is the Agency's belief that wastes transported and reclaimed according to the above requirements satisfy the intent of the "single copy" manifest as described in today's proposal. As mentioned earlier, Congress intended the manifest system proposed for generators of 100–1000 kg/mo of hazardous waste primarily as a notification to subsequent handlers that the waste is hazardous. To the extent that all subsequent handlers of the waste are owned and operated by a single company and this company either owns the material or has been made aware of its nature through a contractual agreement, no additional notification appears necessary. Furthermore, such materials will continue to be subject to DOT shipping paper requirements which would provide necessary information to emergency personnel, should the need arise.

In addition, because ownership of the material does not change hands, reclamation agreements organized in the above fashion satisfy the Agency's concern that materials will be tracked properly and safely from the generator to the reclaimer since the owner of the material has a vested interest in ensuring that the material is managed properly. The existence of a contractual agreement also serves as a strong incentive for safe management because nonconforming shipments would constitute a breach of contract.

EPA has concluded that this type of recycling operation is environmentally desirable (this type of arrangement was complimented during the House of Representatives debate on H.R. 6307 for providing environmental safeguards; 128 Cong. Rec. H. 6740, daily ed. September 8, 1982) and the use of the manifest as a notification device would impose additional requirements on this segment of the regulated community without any corresponding benefits.

EPA is, therefore, proposing to amend § 262.20 by adding a new paragraph (e) to exempt from the manifest requirements of Part 262, Subpart B wastes produced by 100–1000 kg/mo generators if the generator meets the previous criteria, provided that:

1. A copy of the reclamation agreement is kept in the files of both the reclaimer and the generator;

2. The reclaimer/transporter records (for example, on a log or shipping document) the following information (which would be required of transporters in a proposed amendment to § 263.20):

- The name, address and EPA identification number of the generator;
- The quantity of waste accepted;
- All DOT required shipping information;

[13] The manifest system now in effect for 100–1000 kg/mo generators is described in Part I, Section IV.C.1.

• The date the waste is accepted.

3. The above record accompanies the waste as it is shipped from generator to recycling facility; and

4. The reclaimer/transporter keeps these records for at least three years.

EPA requests comment on this proposed exemption from the manifest requirements. In addition, the Agency is interested in comments concerning other situations in which the "notice" function of the single copy manifest may be unnecessary or where a simplified manifest form may be more appropriate.

b. *Proposed Amendment to § 262.20—General Requirements.* Section 262.20(a) requires a generator to prepare a manifest (EPA form 8700–22) according to the instructions included in the Appendix to 40 CFR Part 262 before transporting, or offering for transportation, hazardous waste. EPA is today proposing to amend § 262.20 to eliminate the manifest document number from the required manifest information for 100–1000 kg/mo generators. Since the manifest document number is intended to allow the multiple copies of a single manifest to be compared for tracking and recordkeeping purposes, it will not serve any specific purpose under the manifest system being proposed today for generators of 100–1000 kg/mo.

Under today's rulemaking 100–1000 kg/mo generators would be required to comply with all other manifest information requirements. Many of these requirements are already required for these generators under the manifest system now required by the statute, as well as by DOT requirements, with the exception of complete identification of the generator, transporter and facility, including EPA identification numbers. (See Part I, Section IV.C.1.) EPA is today requiring 100–1000 kg/mo generators to use EPA identification numbers on the manifest form since such numbers will serve to demonstrate that these generators have: (1) Complied with the requirement to obtain an EPA identification number and to offer their wastes only to transporters and facilities that have also received an EPA identification number (§ 262.12); and, (2) have complied with the requirement to ship their waste only to facilities authorized to manage that waste (§ 262.20).

The generator must designate at least one facility permitted to handle his waste and may designate an alternate facility if an emergency prevents the transporter from delivering the waste to the originally designated facility (§ 262.20 (b) & (c)). If the transporter is unable to deliver the waste to either the designated facility or the alternate facility, the generator must either specify another facility or instruct the transporter to return the waste to the generator (§ 262.20(d)).

As discussed in the background section of today's proposal, Congress specified in the HSWA that, at a minimum, EPA must require that all wastes from 100–1000 kg/mo generators be managed at a Subtitle C hazardous waste facility with interim status or a permit under Section 3005 of RCRA. Under the existing regulatory scheme, generators that do not manage their wastes on-site are required, by virtue of the general requirements for use of the manifest, to send their wastes only to Subtitle C facilities authorized to handle their wastes (§ 262.20(b)). By subjecting generators of 100–1000 kg/mo to Part 262 and removing them from the small quantity generator exclusion contained in § 261.5, these generators would, as a result of today's proposal, become subject to the requirement to send their wastes only to a facility authorized to manage that waste. Thus, the general requirements for use of the manifest embody the statutory requirement that wastes from small quantity generators producing more than 100 kg but less than 1000 kg in a calendar month manage their wastes at Subtitle C facilities.

c. *Acquisition of Manifests—§ 262.21.* This section describes the hierarchy for obtaining copies of the manifest form which currently applies to hazardous waste generators. If the State to which the shipment of waste is destined supplies a copy of the manifest and requires its use, the generator must use that manifest form. If the consignment State does not supply the manifest, but the State in which the generator is located supplies the manifest and requires its use, then the generator must use that State's manifest. If neither the generating State nor the destination State supplies the manifest, the generator may obtain and use a manifest from any source (*e.g.*, a transporter or facility).

In developing its hazardous waste program, EPA gave great weight to RCRA's emphasis on the role of the States in implementing the hazardous waste program. Both Sections 3006 and 3009 recognize the right of the States to impose requirements more stringent than the Federal requirements. EPA believes, therefore, that it is appropriate to consider the States' interest in designing their own unique procedures beyond the Federal requirements when establishing regulations. As a result, the Agency sees no reason to alter the hierarchy for obtaining the appropriate form since some existing State requirements mandating use of the manifest by their small quantity generators may be more stringent than EPA's proposed requirements and will, therefore, apply in those States.

d. *Proposed Amendment to § 262.22—Number of Copies.* This section states that the manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner and operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

Today's proposal would exempt 100–1000 kg/mo generators from the requirement to use a multiple copy manifest.[14] However, the designated facility would be required to retain in its files the single copy manifest. (See proposed amendments to § 264.71 and § 265.71—Use of Manifest.)

The purpose of this proposed amendment is to relieve 100–1000 kg/mo generators of the additional paperwork of having to prepare and manage multiple copies of the manifest form. The Agency requests public comment on the degree of administrative relief that would be achieved by this amendment and the potential impacts of the "single copy" manifest on existing hazardous waste management practices and State hazardous waste programs.

e. *Proposed Amendments to § 262.23—Use of the Manifest.* The requirements for use of the manifest are being substantially revised under today's proposal for generators of 100–1000 kg/mo. The existing system requires that the generator sign the certification, obtain the written signature of the transporter, retain one copy of the manifest and give the remaining copies to the transporter. Special requirements apply when the waste is being shipped either by rail or water transport.

Since the Agency is proposing to require the use of only a single copy manifest for 100–1000 kg/mo generators, this section will be amended to only require that these generators 1. sign the manifest (§ 262.23(a)(1); 2. obtain the signature of the transporter (§ 262.23(a)(2); and 3. ensure that it accompanies the waste shipment when it leaves the establishment (§ 262.23(b)). The Agency is proposing to modify § 262.23(a)(3) to exempt 100–1000 kg/mo generators from the requirement to retain a copy of the manifest in their files.

Because the Agency does not believe that 100–1000 kg/mo generators utilize transportation by rail or water, the

[14] Of course, a State may be more stringent and require multiple copies of the manifest.

Agency is not proposing to amend the special requirements for rail and water shipments contained in §§ 262.23 (c) and (d).

D. Part 262, Subpart C—Pre-Transport Requirements

This section of 40 CFR Part 262 (§§ 262.30 thru 262.34) includes requirements applicable to generators prior to shipment of waste off-site for treatment, storage, or disposal. The requirements for packaging (§ 262.30), labeling (§ 262.31), marking (§ 262.32), and placarding (§ 262.33) incorporate by reference DOT requirements (contained in 49 CFR Parts 172, 173, 176, and 178) under the Hazardous Materials Transportation Act (HMTA) which must be followed by all generators when shipping hazardous wastes from the point of generation. Congress specifically stated in the HSWA that DOT requirements were not affected by the amendments and, as a result, EPA is not generally proposing to amend these requirements. For the reasons previously discussed, EPA is proposing an amendment to § 262.32 conforming to the proposed § 262.20 amendment which would relieve 100–1000 kg/mo generators from the obligation to mark each container with the Manifest Document Number.

Section 262.34 contains the requirements for generators that accumulate waste on-site prior to shipment off-site. Under § 262.34(a) a generator may accumulate hazardous waste on-site in tanks or containers[15] in any quantity for up to 90 days without the need to have interim status or obtain a storage permit under RCRA (or comply with Part 264 or 265) provided the generator complies with the limited requirements of § 262.34. These requirements specify that: (i) The date upon which the period of accumulation begins is clearly marked on the tank or container; (ii) the tank or container is labeled with the words "Hazardous Waste"; (iii) the generator complies with Subparts C and D of 40 CFR Part 265 (Preparedness and Prevention and Contingency Plan and Emergency Procedures, respectively); and (iv) the generator complies with Subpart I of 40 CFR Part 265 if the waste is placed in containers or with Subpart J of 40 CFR Part 265 if the waste is placed in tanks, and he complies with the personnel training requirements of § 265.16.[16]

Section 3001(d)(6) directs EPA, in developing its regulations for 100–1000 kg/mo generators, to allow them to store hazardous waste on-site without the need for interim status or a RCRA permit for up to 180 days. In addition, EPA is directed to allow these generators to store up to 6000 kg of hazardous waste for a period of 270 days without the need for interim status or a permit if the generator must ship or haul his waste greater than 200 miles. EPA is today proposing to amend § 262.34 to allow for such on-site accumulation in tanks and containers by 100–1000 kg/mo generators for up to 180 days (or 270 days for long-distance transport) without the need to obtain interim status or a RCRA permit, in accordance with section 3001(d)(6) of the HSWA, provided they comply with the requirements of § 262.34.

Although the statutory language does not specifically limit accumulation that is exempt from permitting requirements to tanks and containers for these 100–1000 kg/mo generators, the legislative history accompanying the HSWA indicates that Congress intended this provision as an extension of the existing 90-day accumulator exemption currently applicable to large quantity generators. The legislative history states:

> . . . The bill explicitly modifies the administrative and managerial requirements for those generators prior to the actual disposal or treatment of the wastes. . . . For example, the maximum storage period for smaller generators is extended to 180 days from 90. This means that smaller generators would only be required to dispose of their waste twice a year, but that it be done properly. 221 Cong. Rec. H. 6761, September 8, 1982.

Since Congress based this provision on the existing exemption for 90 day accumulators contained in § 262.34 in order to allow smaller generators to accumulate more economical shipments of hazardous waste, EPA is not proposing to modify the existing limitation of this exemption to storage in tanks and containers.

EPA is proposing to modify certain of the requirements for such on-site accumulation by 100–1000 kg/mo generators in order to simplify the requirements for contingency plans and emergency procedures, and personnel training (contained in Part 265, Subpart D, and § 265.16). These proposed amendments to § 262.34 will be contained in new paragraphs (d), (e), and (f) specifying the particular requirements applicable to on-site accumulation by generators of 100–1000 kg/mo. No modifications are being proposed to the standards for storage in containers and tanks (Part 265, Subparts I and J) or to the requirements for preparedness and prevention contained in Subpart C of Part 265. EPA believes these standards to be appropriate and necessary and not unduly burdensome. As discussed in Part I, Section VI of today's preamble, EPA has not fully evaluated the appropriateness or the burden of applying the proposed secondary containment requirement to these generators.

1. *Time and Quantity Limitations.* As noted above, Congress specifically established time limits for accumulation of waste on-site by 100–1000 kg/mo generators of 180 days if the waste is to be transported less than 200 miles and 270 days if the waste is to be transported greater than 200 miles. While no specific quantity cutoff was established for 180 day accumulation in the legislation, a de facto limitation of 6000 kg exists. (This is due to the fact that a 100–1000 kg/mo generator could produce no more than 6000 kg in a 180 day period without exceeding 1000 kg/mo at least once during that period, and thus become fully regulated under Part 262 instead of under the modified standards being proposed today for 100–1000 kg/mo generators.)

With respect to storage for 270 days in cases where the generator must ship his waste greater than 200 miles, EPA considered establishing specific criteria that would have to be met in order for a generator to store waste for greater than 180 days. Such criteria would have required a generator to demonstrate that there was no facility that would accept his waste within 200 miles. However, the Agency is concerned that there are a number of situations in which shipment to a facility greater than 200 miles from the generation site may be preferable, even though a facility permitted to accept the waste is located less than 200 miles from the generator. For example, the Agency can foresee situations where the closest disposal facility is located within 200 miles, while a recycling facility which can recycle the waste is located just beyond the 200 mile limit. Unless substantial flexibility were built into the rule, the generator would be forced to employ the less desirable, and perhaps more costly, alternative (*i.e.*, disposal). Other factors, such as availability of transportation and disposal charges by commercial

[15] A generator who accumulates waste in surface impoundments or waste piles must comply with the full set of facility standards under Parts 264 and 265 rather than the limited requirements of § 262.34. Surface impoundments and waste piles, because they are unenclosed, tend to pose greater risks to the surrounding environment and are, therefore, subject to more rigorous operating and closure requirements.

[16] The provisions of the recently published "satellite accumulation rule" will apply to those 100–1000 kg/mo generators which accumulate hazardous waste at more than one location at the site of generation (see 49 FR 49568, December 20, 1984).

facilities could also influence which facility would be most appropriate.

EPA has decided not to propose specific criteria for allowing storage on-site for up to 270 days for two reasons. First, the maximum quantity that would be accumulated is no different whether it is on-site for 180 days or 270 days (*i.e.*, 6000 kg) and thus, the Agency sees no difference in risk to human health or the environment. Second, EPA believes that in most cases, market forces will dictate that 100–1000 kg/mo generators send their wastes to the closest facility and that those shipping their waste greater than 200 miles will have good reason to do so. In addition, as discussed below, on-site storage by these generators will be subject to certain § 262.34 requirements which minimize the possibility of releases to the environment. Accordingly, the Agency is not proposing any specific requirements for 100–1000 kg/mo generators to demonstrate that the closest facility is further than 200 miles if they choose to accumulate waste on-site for up to 270 days. The Agency is requesting public comment on the issue of whether additional requirements should apply to such generators storing for greater than 180 days, but less than 270 days.

Finally, today's proposal would apply the existing provisions of § 262.34(b) requiring compliance with Parts 264, 265, and 270 to 100–1000 kg/mo generators that exceed the time limitations in proposed § 262.34(d) and (e). These requirements, as they would apply to 100–1000 kg/mo generators, are contained in proposed § 262.34(f). Also included in § 262.34(f) is a provision currently applicable to 90 day accumulators which provides for a 30 day extension of the allowed storage period at the discretion of the Regional Administrator where he determines that such an extension is approprate due to temporary, unforeseen, and uncontrollable circumstances. EPA believes that the inclusion of this provision for a 30 day extension of the 180 day or 270 day storage limitation for 100–1000 kg/mo generators is both necessary and appropriate to account for similar unforeseen circumstances.

2. *Standards for On-site Accumulation—§ 262.34.* While Congress specifically required that EPA allow 100–1000 kg/mo generators to store waste on-site for 180 (or 270) days, no reference was made in the legislation regarding what standards, if any, should be applied to that waste while it is being accumulated. (Small quantity generators are currently allowed to store their waste on-site indefinitely, provided they do not exceed 1000 kg. If at any time the 1000 kg accumulation limit is exceeded, a small quantity generator immediately becomes subject to the accumulation time requirements and standards (40 CFR 262.34) applicable to generators of greater than 1000 kg/mo.) However, Congress directed EPA to promulgate standards necessary to ensure protection of human health and the environment from wastes from generators of 100–1000 kg/mo and to consider the impacts on small businesses in establishing those standards. In addition, the legislative history accompanying the HSWA states:

> In providing for on-site storage for up to 180 days, EPA may prescribe design or operating standards as necessary to protect human health and the environment. (House Report at 26)

Under the proposed redefinition of a small quantity generator (Section I.A. of this Part of the preamble), these 100–1000 kg/mo generators would be subject to all of Part 262, including the standards contained in § 262.34. Because of the increased quantities of hazardous waste which 100–1000 kg/mo generators may store on-site (*i.e.*, up to 6000 kg), EPA believes that the regulation of such on-site accumulation by these generators is necessary to protect public health and the environment from potential leaks or spills. However, because of the 6000 kg accumulation "cap" on these generators and the fact that they are generally smaller businesses with lesser administrative and financial capability, EPA is proposing certain modifications to the existing storage standards with respect to the contingency planning and emergency procedure requirements of Subpart D of Part 265 and the personnel training requirements in § 265.16. The § 262.34 standards which the Agency is proposing to apply to 100–1000 kg/mo generators that store hazardous waste on-site for up to 180 (or 270 days) are discussed below.

a. *Standards for Storage in Containers—Part 265, Subpart I.* Section 262.34 requires that in order to accumulate hazardous waste on-site without a permit, the generator must meet certain requirements. If the waste is stored in containers, the generator must comply with Subpart I of Part 265 (§§ 265.170 thru 265.177) which contains the following general requirements applicable to the management of hazardous waste storage containers:

- They must be kept in good condition and any leaking containers replaced (§ 265.171);
- The containers must be compatible with the hazardous waste stored in them (§ 265.172);
- Containers holding hazardous waste must always be closed during storage (except when necessary to add or remove wastes) and must not be handled in a way that would cause them to rupture or leak (§ 265.173);
- Containers must be inspected at least weekly to check for leaks and any signs of corrosion (§ 265.174);
- Containers holding ignitable or reactive wastes must be placed at least 50 feet from the facility's property line (§ 265.176);[17] and
- Incompatible wastes must not be placed in the same container so as to cause fires, leaks, or other discharge of hazardous waste or hazardous waste constituents (§§265.177 and 265.17(b)).

In addition, § 262.34(a)(2) requires that the date upon which each period of storage begins is clearly marked on each container and § 262.34(a)(3) requires that each container be marked with the words "Hazardous Waste".

Since these requirements and the requirements of Subpart I embody common sense "good housekeeping" requirements which are necessary to avoid releases into the environment, EPA has concluded that no modification to these standards should be proposed for 100–1000 kg/mo generators. Consequently, the requirements of Subpart I of Part 265 will be incorporated by reference into proposed § 262.34(c).

b. *Standards for On-site Accumulation in Tanks—Part 265, Subpart J.* As in Subpart I, this subpart contains general standards that must be followed by generators storing hazardous waste in tanks under § 262.34:

- Wastes must not be placed in tanks if they could cause ruptures, leaks, corrosion, or otherwise cause the tank to fail (§ 265.192(b));
- Uncovered tanks must be operated with at least 60 centimeters (2 feet) of freeboard or a secondary containment dike or trench to prevent overfilling spillage (§ 265.192(c));
- Where waste is continuously fed into a tank, the tank must be equipped with a waste feed cutoff or bypass system to stop the inflow to the tank (§ 265.192(d)).
- At least once each operating day, a generator must inspect, where present, discharge control equipment (*e.g.*, waste feed cut-off systems and drainage systems), data gathered from monitoring

[17] On June 5, 1984, EPA proposed to use the National Fire Protection Association (NFPA) code as a more flexible "buffer zone" requirement. (See 49 FR 43290.) We are considering comments received and, if adopted, this more flexible requirement would be applied.

equipment (*e.g.*, pressure and temperature gauges), and the level of waste in the tank to assure compliance with the above freeboard requirements (§ 265.194 (a)(1), (a)(2), and (a)(3)).

• At least weekly, a generator must further inspect the construction materials of the tank and the area immediately surrounding the tank to detect corrosion or obvious signs of leakage (§ 265.194 (a)(4) & (a)(5)).

• Special requirements apply to ignitable or reactive waste, and incompatible waste that are more or less analogous to those in Subpart I. (The major difference is in the requirements for ignitable or reactive waste which, when stored in a covered tank, must be in compliance with buffer zone requirements contained in Tables 2–1 through 2–6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code". These requirements are based on the hazardous characteristics of all combustible and flammable liquids and, as such, are applicable to any type and size of tank.)

The requirements of Subpart J are meant not only to protect human health and the environment, but are in the generator's best interest in reducing the likelihood of damages or injuries caused by leaks and spills. The Agency is not proposing to modify these standards for 100–1000 kg/mo generators. The requirements of existing Subpart J of Part 265 would, therefore, be incorporated by reference in proposed § 262.34(d).

As discussed in Part I, Section VI, of today's preamble, the Agency is developing new management standards for tank storage that may require secondary containment for accumulation tanks. These additional tank requirements, if finalized, could impose substantial additional costs on generators of 100–1000 kg/mo who accumulate hazardous waste in tanks, if the amended Subpart J requirements were applied to 100–1000 kg/mo generators. However, as previously discussed, the Agency has not yet completed its evaluation of this issue and is requesting specific public comment on the appropriateness of the secondary containment requirement for 100–1000 kg/mo generators. Accordingly, the Agency is today proposing to apply only those Subpart J requirements currently required under § 262.34.

c. *Standards for Preparedness and Prevention—Part 265, Subpart C.* Under § 262.34(a), generators who accumulate hazardous waste on-site must comply with the requirements of Subpart C of Part 265 which contains requirements for facility preparedness and prevention.

Section 265.31 requires that facilities be maintained and operated to minimize the possibility of fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.

Section 265.32 specifies that facilities must be equipped with certain kinds of equipment (*i.e.*, an internal communications or alarm system, a telephone or other device capable of summoning emergency assistance, and appropriate fire control equipment including fire extinguishers and water at adequate volume and pressure to supply fire control systems) *unless* none of the wastes handled at the facility could require a particular kind of equipment.

Section 265.33 requires that this equipment be tested and maintained, as necessary, to assure its proper functioning.

Section 265.34 requires that all persons involved in hazardous waste handling operations have immediate access to either internal or external alarm or communications equipment, unless such a device is not required under § 265.32.

Section 265.35 requires the owner or operator of the facility to maintain sufficient aisle space to allow the unobstructed movement of personnel and equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Finally, § 265.37 requires the owner or operator to attempt to make certain arrangements with police, fire departments, State emergency response teams, and hospitals, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations. Further, if State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal.

The Agency is not proposing any amendments to Subpart C for two reasons. First, the requirements all involve common sense principles for preparedness and prevention which hazardous waste handlers can and should address in order to ensure safe handling of hazardous wastes. Second, because the requirements are structured such that specific equipment and procedures are required only on an as needed basis, the existing regulation provides flexibility for hazardous waste generators to tailor their preparedness and prevention activities to the specific kinds of wastes handled at the facility.

The Agency considered proposing a set of more specific but less numerous requirements for 100–1000 kg/mo generators that store waste on-site in accordance with § 262.34 in order to alleviate the potential uncertainty which many establishments may have over which preparedness and prevention procedures would be appropriate for the types of wastes handled at their facility. The Agency is interested in public comment on this issue. Specifically, are the existing Subpart C requirements the least burdensome while being sufficiently protective of human health and the environment? Would uncertainty as to the appropriate equipment or procedures result in less protection than a few explicit requirements (*i.e.*, a requirement to request an inspection by the fire department and requirements to have on-site a telephone or other communications device, spill control materials, and an appropriate number and type of fire extinguishers to be determined by the fire department) even though these requirements may be more burdensome than necessary for some types of waste or generating establishments?

d. *Standards for Contingency Plans and Emergency Procedures—Part 265, Subpart D, and Personnel Training Requirements—§ 265.16.* Under § 262.34(a), generators who accumulate waste on-site must comply with certain requirements from Part 265, Subpart D pertaining to contingency plans and emergency procedures and personnel training requirements contained in § 265.16.

These requirements are intended to ensure that personnel are adequately prepared to manage hazardous waste and to respond to any emergencies that are likely to arise. EPA considered applying these same requirements to 100–1000 kg/mo generators since, for the most part, the requirements embody common sense principles that are necessary and appropriate for facilities managing hazardous waste. However, we are concerned that in some cases these requirements may be unnecessarily burdensome (*e.g.* requiring formal classroom training and written, detailed contingency plans) and costly (about $1000 per facility) and may have unnecessarily severe impacts on many small businesses. We have concluded, therefore that a much simpler set of requirements for generators of 100–1000 kg/mo would be adequately protective of human health and the environment and the least burdensome to small businesses.

The requirements in proposed § 262.34 (c)(3) capture the essence of Subpart D of Part 265 and § 265.16 but they are administratively simplified (*i.e.* tailored

to smaller businesses) and are more specific and so depend less on the preparation of written plans. EPA is proposing and seeking public comment on the following requirements.

- At all times, an "emergency coordinator" (E.C.), *i.e.*, someone familiar with these requirements, must be on-site (or on call). The coordinator may also designate someone to act in his place.
- The generator must post certain information next to the telephone, including: the name and telephone number of the E.C.; location of fire extinguishers and spill control material; and the phone number of the fire department;
- The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures;
- The generator (or the E.C.) would have to respond to any emergencies that arise. In the case where an emergency was serious enough to warrant a visit by the fire department or when the generator (or E.C.) has knowledge of a spill of hazardous waste that could reach surface water or otherwise threaten human health or the environment, the generator would have to notify the National Response Center and file a report with the EPA Regional Administrator as provided by proposed § 262.34(c)(3)(E).

EPA believes these requirements are adequate to protect public health and the environment from fires, leaks, spills, or other releases from generators of 100–1000 kg/mo who are accumulating waste on-site prior to shipment off-site. Comments are requested on the proposal and alternative means of ensuring proper contingency planning, emergency response, and personnel training.

E. Proposed Amendments to Part 262, Subpart D—Recordkeeping and Reporting

Subpart D of Part 262 contains recordkeeping and reporting requirements applicable to generators of hazardous waste. In Section II.C. of this part of today's preamble, EPA proposed modifications to the manifest system that would be applicable to generators of 100–1000 kg/mo in order to relieve them of some of the administrative burden associated with hazardous waste management because of the small business nature of many of these generators and the lesser quantities of waste involved. EPA is today proposing to eliminate for 100–1000 kg/mo generators the recordkeeping requirements pertaining to the manifest (§ 262.40(a)) as well as the biennial and exception reporting requirements contained in this Subpart (§§ 262.40(b), 262.41, and 262.42). However, the Agency is not proposing to eliminate or modify the requirements of § 262.40 (c) and (d) and § 262.43.

EPA's rationale for proposing to exempt generators of 100–1000 kg/mo from most of the recordkeeping and reporting requirements contained in Part 262 is consistent with the Agency's rationale for reducing the manifest requirements. Under today's proposed rulemaking, a significant legal obligation will be imposed on these generators to notify EPA of their hazardous waste activity, to accumulate waste in accordance with the storage requirements discussed in the previous section, to manifest their waste when shipping it off-site, and to ensure that the waste is managed at approved Subtitle C facilities. The absence of recordkeeping or reporting in no way relieves these generators of these significant legal obligations. In addition, EPA still requires these records to be kept by the treatment, storage, or disposal facility. (See Section IV. of this Part of the Preamble.) Therefore, enforcement of the regulations may still be accomplished through inspection of these records.

EPA is today proposing a new § 262.44 to specify the recordkeeping and reporting requirements that would be applicable to 100–1000 kg/mo generators. The specific requirements which EPA is proposing to retain or eliminate for generators of 100–1000 kg/mo are discussed below.

1. *Recordkeeping—§ 262.40.* Section 262.40(a) requires the generator to retain a copy of each manifest for a period of three years. Since today's proposal would eliminate the requirement that multiple copies of the manifest be used for wastes from 100–1000 kg/mo generators, EPA is today proposing to eliminate this retention requirement.

Section 262.40(b) requires the generator to retain a copy of each Biennial Report and Exception Report for three years. The Agency is proposing to eliminate both the Biennial Report and Exception Reports for 100–1000 kg/mo generators. (See E.2. and E.3. of this Section, below.) Consequently, EPA is proposing to eliminate the recordkeeping requirements for these reports.

Section 262.40(c) requires each generator to keep records of any test results, waste analyses, or other determinations made in accordance with § 262.11 for at least three years. Since the Agency believes that the waste determination provisions of § 262.11 are crucial to the hazardous waste program, the Agency sees no reason to eliminate the requirement to keep such records for generators of 100–1000 kg/mo and is not, therefore, proposing any modification to this requirement.

Section 262.40(d) automatically extends the period of recordkeeping during the course of any unresolved enforcement action or at the request of the Administrator. This requirement would be retained under today's proposal but would apply only to § 262.40(c) reports.

2. *Biennial Report—§ 262.41.* A generator who ships his hazardous waste off-site is required to submit a biennial report to the Regional Administrator by March 1 of each even numbered year covering the generator's activities during the preceding odd numbered calendar year.

The report is to provide information on the types and quantities of wastes generated and the facility(s) to which the waste was shipped for treatment, storage, or disposal. The report is generally compiled from the manifests retained by generators during the reporting year. While the biennial report was originally intended to serve primarily as a summary of manifests from both generators and facilities that could be used as an enforcement tool through comparisons between generator and facility reports, its primary function is as a data collection device.

Under the existing system of State authorization, EPA's biennial report requirement applies only to those States that have not received interim authorization to operate any portion of the hazardous waste regulatory program. Consequently, EPA receives reports directly from handlers located in approximately a dozen States. The remaining hazardous waste generators in the balance of the States report directly to the State agency according to a reporting system established by that State.

In order to obtain nationwide data on hazardous waste generation and treatment, storage, and disposal, EPA requires each State agency to submit a Biennial State Program Report to EPA summarizing the data from their own reporting system. This summary data is then aggregated to provide a profile of the regulated community and estimates of the quantities of waste generated and managed.

EPA is today proposing to exempt generators of 100–1000 kg/mo from the requirement to complete a biennial report for several reasons. First, the total quantity of waste generated by these small quantity generators is

approximately 0.3 percent of all of the hazardous waste generated nationally while the number of generators who would have to complete the biennial report would exceed 100,000. In compiling the data from the 1983 biennial reports, EPA has found that the extent of error in State summary reports exceeds the total quantity of hazardous waste represented by all small quantity generator waste. While a degree of error of one-half of one percent is not uncommon or unacceptable for developing estimates of waste generation nationally, the value of the data from the reports of 100–1000 kg/mo generators would not significantly add to the accuracy of the biennial report data. In fact, EPA believes that the value of these reports would be far outweighed by the burden to these generators of preparing and filing such a report.

Second, requiring biennial reports from generators of 100–1000 kg/mo in the unauthorized States alone would far outweigh the Agency's administrative ability to make use of the reports.

Third, if today's proposal concerning the "single copy" manifest and the exemption from most recordkeeping requirements becomes final, these generators would not be required to have the information necessary to complete the report since these generators do not need to retain a copy of the manifest. The manifest provides most of the information necessary to complete the Biennial Report.

Finally, information concerning the number of generators and the quantities of waste generated will still be available from the biennial reports required to be filed by treatment, storage, and disposal facilities. These facilities should file biennial reports because such facilities would be required under today's proposal to retain the single copy of the manifest accompanying shipments (or other record of a shipment) from 100–1000 kg/mo generators.

3. *Exception Reporting—§ 262.42.* EPA is also proposing to exempt 100–1000 kg/mo generators from the requirement to file reports in cases where they do not receive copies of the manifest signed by the designated facility since a copy of the manifest signed by the designated facility would not be required to be returned to the generator under today's proposed rule.

4. *Additional Reporting—§ 262.43.* This section reserves the right of the Administrator to require additional reports from generators as he deems necessary. Since the Agency may require additional information about wastes from 100–1000 kg/mo generators at some future time, EPA is not proposing an exemption from this requirement for these generators.

F. Request for Comments on Part 262 Standards

In considering amendments to Part 262 for generators of 100–1000 kg/mo, the Agency initially felt that a straightforward lowering of the small quantity generator exclusion to 100 kg would be the least confusing and most protective approach, particularly in light of the statutory deadline to propose and promulgate regulations for these generators by March 31, 1986.

However, in light of Congressional and Agency concerns about the impacts of full regulation on the number of small businesses that would be affected, EPA decided to propose the modifications to Part 262 embodied in today's proposal. These amendments would eliminate some of the administrative burden on these newly regulated establishments while retaining the legal obligations necessary to ensure protection of human health and the environment.

The Agency is not fully convinced, however, that the administrative relief being offered—while warranted based on the quantities of waste involved and the small business nature of these small generators—is substantial enough to offset the potential confusion which may result among the newly regulated community as to the requirements which apply, as well as the loss of the tracking function of the manifest as an enforcement tool.

Consequently, EPA is requesting specific public comment on the approach contained in today's proposal for regulating 100–1000 kg/mo generators and is particularly interested in comments from both the public and the regulated community on the following issues:

1. To what extent are the existing requirements for a hazardous waste generator to complete a multi-part manifest, retain a copy of his records, and file manifest exception and biennial reports particularly burdensome and unnecesssary for generators of 100–1000 kg/mo?

2. Are the savings (*i.e.*, reduced costs and administrative burden) of the single copy manifest and reduced recordkeeping and reporting requirements significant enough to offset the confusion which different requirements may cause?

3. Will a separate set of manifest requirements for 100–1000 kg/mo generators seriously hamper implementation of the existing manifest system for larger generators, or seriously weaken the States' regulatory program that is intended to protect human health and the environment from the mismanagement of hazardous waste?

III. Standards for Transporters of Hazardous Waste—Part 263

A. Proposed Amendments

The existing standards for transporters of hazardous waste are contained in 40 CFR Part 263 and are applicable to any form of hazardous waste transportation that requires the use of a hazardous waste manifest (§ 263.10(a)). These standards pertain to compliance with the manifest system, recordkeeping, and actions to be taken in response to spills or discharges of hazardous waste. Taken in conjunction with U.S. Department of Transportation (DOT) requirements under the Hazardous Materials Transportation Act (HMTA) regarding labeling, marking, packaging and placarding (incorporated in 40 CFR Part 262, Subpart C), such standards are deemed by the Agency to be those necessary to protect human health and the environment during the transportation of hazardous waste.

In directing EPA to develop new standards for generators of 100–1000 kg/mo, section 3001(d)(7)(of RCRA, as amended, specifically states that "nothing in this subsection shall be construed to affect or impair the validity of regulations pursuant to the Hazardous Materials Transportation Act." Consequently, EPA is not proposing any substantive amendments to applicable DOT requirements or to Part 263. However, a number of minor amendments would be necessary to bring the transporter standards into conformance with today's proposed amendments for 100–1000 kg/mo generators.

Under today's proposal, 100–1000 kg/mo generators would be required to fully complete a copy of the Uniform Hazardous Waste Manifest—including the names and EPA identification numbers of the transporter and designated facility—and ensure that the manifest accompanies each shipment of hazardous waste off-site for storage, treatment, or disposal.

However, generators of 100–1000 kg/mo would not be required to provide multiple copies to the transporters or disposal facility or to receive back or retain signed copies from the transporters or disposal facilities. (See proposed § 262.23) Consequently, transporters designated to receive hazardous waste shipments from these generators would receive only a single copy of the manifest accompanying the

waste shipment. Thus, the transporter would be unable to keep a copy of the manifest for himself and return a signed copy to the generator before leaving the generator's property (§ 263.20(b)). Similarly, the requirement that subsequent transporters and the designated facility receive copies of the manifest would be impossible under today's proposed regulatory scheme (§ 263.20(d)(2) and (d)(3)). These sections are proposed to be amended accordingly.

However, to ensure that the transporter and recipient facility are aware of the hazardous nature of the waste being transported, as well as acknowledge receipt of the hazardous waste, the Agency is not proposing to amend those provisions requiring that the transporter (as well as the receiving facility) sign the manifest provided by the generator and that the manifest accompany the hazardous waste. The single copy of the manifest that must be provided by the 100–1000 kg/mo generators will, therefore, serve as a label and as a form of notification to the transporter of the hazardous nature of the waste.

Finally, the Agency is proposing to add a new § 263.20(h) to specify certain recordkeeping requirements for transporters (who are also reclaimers) accepting unmanifested hazardous waste from generators utilizing the § 262.20 exemption for wastes reclaimed under contractual agreements.

B. Transportation Issues

Under today's proposal, hazardous waste from 100–1000 kg/mo generators must be managed at facilities with interim status or a permit under RCRA and such generators may only offer their waste to hazardous waste transporters who have obtained a U.S. EPA Identification Number (See earlier discussion of § 262.12 and 262.20 in today's preamble). Transportation costs often account for a substantial portion of hazardous waste management costs and today's proposal is likely to result in a net increase in hazardous waste transportation by 100–1000 kg/mo generators (*i.e.*, some 100–1000 kg/mo generators who now manage waste on-site will likely shift to off-site management under today's proposed application of full regulation under Parts 264 and 265 to these generators [See Section IV. of this Part]). EPA is concerned about a number of transportation issues relevant to shipments of hazardous waste from generators of 100–1000 kg/mo. In particular, we are concerned about the availability of transportation services for this group of generators, the cost impacts of transportation of relatively small quantities of hazardous waste of small businesses and, finally, whether today's proposal will cause any substantial increase in risks from hazardous waste transportation.

In passing the HSWA, it is clear that Congress was also concerned about the availability of transportation services and the administrative burden of compliance for generators of small quantities of hazardous waste. EPA was directed in section 221(e) to study the issues related to transportation of small quantity generator wastes and, in particular, to explore the feasibility of licensing transporters to assume many of the responsibilities of the generator with respect to the manifest. In addition, Congress directed EPA to allow generators of 100–1000 kg/mo to accumulate waste on-site for up to 180 (or 270) days without the need to obtain a RCRA permit in order to allow these generators to accumulate more economical shipments of hazardous waste (section 3001(d)(6)).

The Agency is conducting a study that identifies and discusses the feasibility of alternatives for the transportation of hazardous waste produced by generators of 100–1000 kg/mo. Based on preliminary results from that study, EPA has concluded that the existing system already allows for flexibility in the transportation of hazardous waste from generators of 100–1000 kg/mo by allowing self-transportation of hazardous waste to Subtitle C facilities for these generators (provided they comply with Part 263) and by allowing transporters to assume many of the responsibilities of the generator with respect to the manifest.

1. *"Self-Transportation" of Hazardous Waste.* Self-transportation of hazardous waste to an approved hazardous waste management facility has never been precluded under 40 CFR Part 262, provided the generator has a U.S. EPA Identification Number and complies with the applicable portions of DOT and EPA transportation requirements (40 CFR Part 263). While the Federal Motor Carrier Act (MCA) establishes financial responsibility and liability requirements for transporters of hazardous materials (which would impose substantial costs on transporters) there are two specific exemptions contained in that Act designed to facilitate transportation of small quantities of hazardous materials. First, the MCA exempts from financial insurance and liability requirements any "for hire" vehicle with a Gross Vehicle Weight Rating (GVWR) of less than 10,000 pounds (*e.g.*, a van or pick-up truck). (See 49 CFR 387.3(c)). Second, the Act provides an exemption from these requirements for the transportation of non-bulk (*i.e.*, containment systems with less than 3500 gallon capacity) hazardous materials, substances, or wastes, in intrastate commerce (except for large quantity radioactive materials). See 49 CFR 387.3(c).

Transportation of hazardous materials is also regulated by the States. Generators of 100–1000 kg/mo should contact their State transportation agency to determine under what circumstances self-transportation of small amounts of hazardous waste may be permitted in their State.

2. *Transporter Assumption of Generator Responsibilities.* Under RCRA, a hazardous waste transporter may already assume certain of the manifesting responsibilities for hazardous waste generators. With the exception of the generator certification and signature, a generator may contractually delegate specific tasks to the transporter; however, the generator remains liable under RCRA for the satisfactory performance of those tasks. The Agency is aware that many transporters are presently providing such services to both small and large hazardous waste generators, and no regulatory amendments are being proposed that would preclude such arrangements.

C. Request for Comments

EPA is interested in comments from hazardous waste transporters on all aspects of today's proposed amendments applicable to 100–1000 kg/mo generators. We are particularly interested in comments with respect to the utility for transporters of the single copy manifest requirement proposed today (*i.e.* will hazardous waste transporters accept only a single copy manifest when transporting wastes from generators of 100–1000 kg/mo?).

IV. Standards for Facilities—Parts 264 and 265

A. Requirements Applicable to Generators of 100–1000 kg/mo that Manage Hazardous Waste On-site

The requirements for facilities that treat, store, or dispose of hazardous waste are contained in Parts 264 and 265 of the hazardous waste regulations. The Part 265 standards are applicable to facilities under interim status, a condition which allows a facility to continue operating until it receives a full RCRA permit. (See HSWA section

3005(e)).[18] The Part 264 standards establish the minimum standards to be incorporated in a full RCRA permit by EPA or a State with an EPA authorized hazardous waste program.

Under existing § 261.5(b), generators of 100–1000 kg/mo that treat, store, or dispose of hazardous waste on-site are exempt from the facility requirements of Parts 264 and 265, provided the facility is at least approved by a State to manage municipal or industrial (non-hazardous) solid waste. (§ 261.5(h)) 19 Under today's proposed redefinition of a small quantity generator (Section I.A. of this Part of the preamble), 100–1000 kg/mo generators would no longer be covered by the § 261.5 exemption; instead, these generators would be subject to regulation under Parts 262, 263, 264, 265, 270 and 124 of the hazardous waste regulations, to the extent those regulations are applicable. As discussed above, EPA is proposing certain modifications to the Part 262 standards to relieve 100–1000 kg/mo generators from some of the administrative and paperwork requirements of that part. In addition, EPA is proposing certain modifications to the Part 265 facility requirements applicable to those generators who accumulate hazardous waste on-site for no more than 180 (or 270) days, in accordance with § 262.34. The Agency, however, is not proposing any modifications to Parts 264 and 265 that would be applicable to generators of 100–1000 kg/mo who do not qualify for the 180 day (or 270 day) exemption.

Data from EPA's small quantity generator survey indicate that less than 15 percent of generators of 100–1000 kg/mo do not qualify for the 180 day (or 270 day) exemption and would, therefore, be subject to full regulation under Parts 264 and 265.

The Agency has concluded that this relatively small percentage of generators of 100–1000 kg/mo should be subject to full Part 264 and 265 requirements. Under today's proposal, the Part 264 and 265 requirements. Under today's proposal, the Part 264 and 265 requirements would apply to those 100–1000 kg/mo generators of hazardous waste that store their waste in tanks or containers for very long time periods (*i.e.*, longer than 180 or 270 days), engage in waste treatment (*e.g.*, on-site incineration), or manage their waste in surface impoundments, waste piles, landfills or land treatment facilities. Under each of these management scenarios, the potential for release of hazardous waste to the environment is significant or the quantity of waste present, over time, becomes significant.

The Agency requests public comment on the application to 100–1000 kg/mo generators of uniform Parts 264 and 265 requirements versus special (*i.e.*, tailored) Parts 264 and 265 requirements. The Agency is specifically interested in comment on the following situations or circumstances that might warrant lesser standards which would be less burdensome than existing Part 264 and 265 requirements, but which would be protective of human health and the environment:

(1) The need for secondary containment for tanks used for long-term storage (*i.e.*, greater than 180–270 days) or treatment of hazardous waste;

(2) Allowance of accumulation in tanks and containers for longer than 180 or 270 days, without the need for interim status or a permit, in situations where the distance to the nearest Subtitle C facility is great or the availability of a hazardous waste transporter is limited;

(3) The treatment of small volumes of hazardous waste in tanks.

(4) Specific waste types and their handling practices which deserve special consideration because of their low potential for harm to human health and the environment.

Commenters should provide the human health and environmental protection rationale for suggested tailored requirements.

B. Off-site Facilities that Manage Wastes From 100–1000 kg/mo Generators

Parts 264 and 265 of the hazardous waste regulations contain blanket exemptions from the requirements of those Parts for state approved municipal or industrial waste facilities that manage wastes *only* from small quantity generators excluded from regulation under § 261.5. (§§ 264.1(g)(1) and 265.1(c)(5)). Under today's proposed redefinition of small quantity generator (discussed in Part II, Section I.A. of this preamble), generators of 100–1000 kg/mo would no longer be conditionally exempt from regulation under § 261.5. Thus, the exemption for facilities that manage wastes only from these generators would no longer apply and facilities managing wastes from 100–1000 kg/mo generators would be subject to regulation under Part 264 or 265.

EPA is not proposing a new exemption for these facilities since we have concluded that hazardous waste from 100–1000 kg/mo generators, upon arrival at an off-site facility for treatment, storage or disposal, loses any distinction related to the point of origin (*i.e.*, the types and quantities of hazardous waste managed at such facilities are very similar to facilities managing wastes from larger quantity generators.) However, EPA invites comments on the need for, and appropriateness of, uniform versus tailored Parts 264 and 265 requirements for application to facilities which treat, store, or dispose of hazardous waste solely from 100–1000 kg/mo generators. Comments should address the human health and environmental protection bases for suggested tailored requirements.

Off-site interim status facilities managing wastes from both fully regulated large quantity generators and generators of 100–1000 kg/mo may, of course, be required to modify their Part A permit applications under § 270.72 to account for wastes from 100–1000 kg/mo generators if those wastes are currently being managed as exempt pursuant to § 261.5 and are not currently identified on the Part A application. The Agency also intends to propose a modification to § 270.41 to allow the Agency to initiate the modification of a permit without first receiving a request from the permittee if amended standards are promulgated which affect the basis of the permit. As discussed previously, as a result of today's proposed rules, RCRA permitted facilities handling wastes from both large generators and generators of 100–1000 kg/mo would need to modify their permits to reflect these wastes from 100–1000 kg/mo generators if the amendment to § 270.41 is proposed and finalized.

C. Delayed Effective Date

While the Agency is today proposing that the full set of Part 264 and 265 standards be applied to generators of 100–1000 kg/mo that manage waste on-site (with the exception of accumulation or storage exempted under § 262.34), EPA is proposing to delay the effective date of the Part 264 and 265 standards for these facilities.

Today's proposal provides an additional six months before these on-site management standards become effective, beyond the six month effective date of the remainder of the regulatory

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[18] Previously, interim status was only available to facilities that were in existence on November 19, 1980, the date the bulk of the hazardous waste regulatory program went into effect. However, section 3005(e)(1)(A)(ii) of RCRA, as amended by HSWA, expressly provides that facilities that are in existence on the effective date of statutory or regulatory amendments that subject them to the requirement to obtain a RCRA permit may also qualify for interim status. (See Section IV.D. of this Part of the preamble).

[19] These requirements also apply to generators of less than 100 kg/mo of hazardous waste (or 1 kg/mo of acutely hazardous waste). These generators, however, are not affected by today's proposal.

requirements included in today's proposal, for two reasons. First, the Agency anticipates that most 100–1000 kg/mo generators who are currently engaged in on-site management activities that would be subject to these requirements will shift their waste management activities to either conditionally exempt on-site practices or to off-site management practices, or both. The regulatory impact analysis performed for this rulemaking indicates that these generators may be unwilling or unable to economically bear the cost of eventual full permitting and the cost, for "land disposal facilities", of groundwater monitoring and the possibility of corrective action in cases of groundwater contamination. The delayed effective date will allow these generators to shift their management practices to either exempt on-site activities or to off-site management.

Second, the delayed effective date for the part 265 requirements will also allow the small percentage of 100–1000 kg/mo generators likely to continue managing their waste on-site in accordance with full Parts 264 and 265 requirements in time to come into compliance with those requirements.

Therefore, the Agency is proposing that the requirements of Parts 264 and 265 applicable to 100–1000 kg/mo generators that manage waste on-site take effect one year from the date of publication of these regulations in the **Federal Register**.

D. Obtaining Interim Status

Under Section 3005(e)(1) of the HSWA, generators of 100–1000 kg/mo that manage hazardous waste on-site are newly subject to the requirement to obtain a permit as a result of the HSWA and may continue to manage these wastes without a full RCRA permit after the effective date of these regulations (*i.e.*, one year after the date of publication in the **Federal Register**), provided that they qualify for interim status by meeting the requirements described below. Off-site facilities that manage wastes *only* from 100–1000 kg/mo generators may continue to manage those wastes without a full RCRA permit after the effective date of the Part 262 regulations (*i.e.*, six months from date of publication in the **Federal Register**), provided that they qualify for interim status by meeting the following requirements:

1. The facility (*i.e.*, the generator's waste management operation or the off-site facility) was in existence on the effective date of these regulations; and

2. The facility has applied for a permit in accordance with Section 270.10(e)(1).

EPA is proposing a conforming amendment to § 270.10(e)(1) by adding a new subsection (iii) to provide that 100–1000 kg/mo generators managing waste on-site and newly subject to permitting requirements must file Part A of the permit application within one year after the publication of the final regulations. This proposed amendment would conform to the proposed delay of the effective date for these generator's facilities discussed in Section IV.C.

E. Conforming Amendments

EPA is proposing certain modifications to the manifest provisions of existing Parts 264 and 265 to bring them into conformance with the modifications to the proposed amendments to Part 262 applicable to 100–1000 kg/mo generators. These amendments would affect only those off-site facilities that manage wastes from 100–1000 kg/mo generators.

Under today's proposal, 100–1000 kg/mo generators would not be required to provide multiple copies of the Uniform Hazardous Waste Manifest to the transporter, or receive back from the designated facility a signed copy of the manifest.

For these reasons, today's proposal would exempt recipient facilities of hazardous waste from 100–1000 kg/mo generators from the following existing requirements: (1) The requirement to give the transporter a copy of the signed manifest (§ 264.71(a)(3) and § 265.71(a)(3)); and (2) the requirement to return a copy of the signed manifest to the generator (§ 264.71(a)(4) and § 265.71(a)(4)).

F. Request for Comments on Parts 264 and 265 Standards

While the Agency is today proposing that the full set of existing Parts 264 and 265 requirements be imposed upon generators of 100–1000 kg/mo that manage their waste on-site (except for conditionally exempt on-site storage), specific comment is invited on alternatives to this proposed regulatory approach.

Part III—Economic, Environmental and Regulatory Impacts

I. Impact on Authorized States

A. Applicability in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce their own hazardous waste programs pursuant to Subtitle C (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 3013 and 7003 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any hazardous waste management facilities which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames, however; the new Federal requirements did not take effect in an authorized State until the requirements were adopted as State law.

In contrast, under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

Today's announcement proposes HSWA standards pursuant to section 3001(d) of RCRA, as amended, that would be effective and administered by EPA in all States. If promulgated, EPA will implement the standards in authorized States until such time as they revise their programs to adopt these rules and the revisions are approved by EPA.

A State would be able to apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State adoption of these regulations under section 3006(b) are described in 40 CFR 271.21 (49 FR 21678, May 22, 1984). Similar procedures should be followed for section 3006(g)(2).

Applying § 271.21(e)(2), States that have final authorization would have to revise their programs within one year from the date of promulgation of EPA's regulations if regulatory changes are all that are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be

extended in exceptional cases (40 CFR 271.21(e)(3)).

States that submit official applications for final authorization less than 12 months after promulgation of EPA's regulations could be approved without including standards equivalent to those promulgated. Once authorized, however, a State must revise its program to include standards substantially equivalent or equivalent to EPA's within the time period discussed above.

Several States with authorized RCRA programs also have regulations covering small quantity generators. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. For that and other reasons, such States' small quantity generator regulations are not part of the approved State programs. As a result, the standards ultimately promulgated under section 3001(d) will apply in all States, including those with existing small quantity generator standards, until program revisions are submitted to, and approved by, EPA. In the meantime, States with existing small quantity generator standards will continue to administer and enforce them as a matter of State law. However, the regulated community must also comply with any more stringent requirement in today's rule. To the extent that State and Federal requirements are inconsistent, the more stringent requirements must be complied with. In implementing the Federal program, EPA will work with States under cooperative agreements to minimize duplication and disruption.

II. Executive Order 12291—Regulatory Impact

Executive Order 12291 (46 FR 13193, February 9, 1981) requires that a regulatory agency determine whether a new regulation will be "major" and if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation which is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator has determined that today's proposal is not a major rule, with total estimated costs to the regulated community of approximately $58 million per year,[20] and no significant adverse economic effects. These conclusions are based on an economic analysis of today's proposal. This analysis involved first developing cost estimates both of current waste management practices used by 100–1000 kg/mo generators and of practices required by today's proposed. Some of these estimates were firm-specific and other were waste stream-specific. These costs were used along with estimates of the changes in waste management practices likely to result from today's proposal to estimate the aggregate compliance costs associated with each of the top ten wastes generated by 100–1000 kg/mo generators. Total aggregate compliance costs were then estimated by summing across the ten waste streams and adjusting the total to account for other waste streams managed by 100–1000 kg/mo generators.

In order to analyze the potential impact of the compliance costs on affected plants, the Agency used a model plant approach involving 289 model 100–1000 kg/mo generator plants. These models differ in terms of the types and quantities of wastes generated and in their financial characteristics.

Three size categories of models were used: establishments with 1–9 employees, those with 10–49 employees, and those with 50 employees or more. Using data from the small quantity generator survey, a dominant waste type and annual waste load were assigned to each model plant. Financial characteristics for the model plants were developed using financial data bases.

Compliance costs were estimated for each model plant and these were compared to financial characteristic of the models to identify models that potentially would be significantly affected by the compliance costs. Any models so identified were analyzed in more detail to determine if they would close as a result of the compliance costs.

A. Estimates of Per Firm Cost

1. *Proposed Part 262 Generator Standards.* The estimated incremental compliance costs attributable to the proposed Part 262 requirements can be divided into an initial, one-time, cost of $2,180 per firm, and an annual recurring cost of $188 per firm. These costs would be incurred by all 100–1000 kg/mo generators that would be subject to the requirements of today's proposal with two exceptions—generators disposing of their wastes by sending them to POTW's and generators that have their waste reclaimed under certain contractual agreements. Generators sending wastes to POTW's would incur no Part 262 related costs as a result of the proposed regulation. Generators using reclamation agreements would incur a cost of $1,694 initially and no annual costs.

These cost estimates were developed by calculating the labor and material resources necessary to be in compliance with the proposed Part 262 requirements. The majority of the estimated costs for generators who store wastes on-site involve labor charges for the personnel required to bring the establishment's waste management practices into compliance. Included in these labor cost estimates is the time necessary for generators to become aware of and understand their responsibilities under the proposed regulations through education programs and information provided by EPA and trade associations. Only a fraction of the aggregate or facility cost to the generator is attributable to the purchasing of equipment or facility upgrading in order to comply with today's proposal.

2. *Transportation Costs.* Under today's proposal, generators of 100–1000 kg/mo would be required to either contract with an authorized hazardous waste transporter or haul the hazardous waste to a hazardous waste management facility that has a permit from the Agency or an authorized State, or is in interim status. Incremental transport costs depend on current generator practices, the distance which wastes are transported, the quantity of wastes transported, and the number of times wastes are loaded and transported each year.

In many cases, there will be no incremental transportation costs due to the small quantity generator regulations because current waste management practices involve waste transportation. Where this is not the case, average incremental costs that would be imposed on 100–1000 kg/mo generators for the transportation of their hazardous waste are estimated to be between $258 per year (for generators that ship 600 kg of waste a short distance twice yearly) and $1,874 per year (for generators that ship 6000 kg of waste a longer distance twice yearly).

3. *Treatment, Storage and Disposal Costs*—a. *On-Site Accumulation.* Under today's proposal, generators of 100–1000 kg/mo would be allowed to store hazardous waste on-site without a

[20] The proposed Subpart J amendments for tanks (see 50 FR 26444) would impose aggregate additional costs estimated at $11 million per year if applied to 100–1000 kg/mo generators who would be fully regulated as storage facilities under Parts 264 and 265.

permit or interim status for up to 180 days, or for up to 270 days if the waste is to be shipped over 200 miles.

Generator of 100–1000 kg/mo who store hazardous waste on-site, within the 180 day (or 270 day) period specified under the provisions of the storage exemption, would have to comply with Part 265, Subpart C (Preparedness and Prevention), a reduced set of requirements in Subpart D (Contingency Plan and Emergency Procedures), and limited requirements for personnel training (Section 265.16 of Subpart B). The incremental compliance costs for facilities that choose this management option are divided into an initial start-up cost of $1,447, and an annual cost of $53.

Generators that store hazardous waste on-site within the 180 day (or 270 day) period may also incur costs related to storage container (Subpart I) and storage tank (Subpart J) requirements. The incremental costs for these requirements depend on a number of factors, including the current practices of the generator, the generator's storage capacity, and the composition of the hazardous waste being stored. The range of incremental costs, as a result, is fairly large. For container storage, initial incremental costs range from practically zero to $2,323, and annual costs range from $404 to $4,454. The corresponding incremental cost estimates for the existing rules for tanks are from $155 to $4,647 for initial costs, and $770 for annual costs.

b. *Treatment and Disposal.* After analyzing the cost of on-site treatment and disposal for 100–1000 kg/mo generators relative to off-site costs, the Agency has determined that in nearly all cases, the least expensive hazardous waste management alternatives available to these generators involve off-site activities. The small quantities of waste generated by these establishments simply do not permit them to operate expensive on-site management facilities on an economically efficient basis. The costs of off-site commercial treatment and disposal upon which this conclusion is based are derived from a composite of various existing sources of data on commercial waste management prices. They range from $150 to $250 per metric ton (for secure landfills) to $200 to $1200 per metric ton (for either treatment or incineration), depending on the characteristics of the wastes.

B. Estimates of Nationwide Incremental Cost Burden on Generators of 100—1000 kg/mo

The aggregate costs for today's proposal were developed by comparing the costs of current (baseline) hazardous waste management practices with hazardous waste management practices which would comply with the proposal. The Agency has determined, based on this analysis, that the annual incremental compliance cost for this proposal would be approximately $58 million.[21]

On a per metric ton basis, the average incremental compliance cost over all wastes is about $206. Because of differences in baseline practices, and, hence, the cost of compliance, the incremental costs vary substantially across different wastes. In fact, the baseline method of waste management by small quantity generators is adequate to comply with the regulations in many cases. Others will have to change waste management practices in order to comply. Much of the $58 million in compliance costs is focused on a few types of wastes (spent solvents, dry cleaning filtration residues, acids, and alkalies, and ignitable wastes) that constitute a large proportion of the wastes generated by small quantity generators.

C. Estimates of the Economic Impacts of Today's Proposed Rule

An analysis of the effects of compliance costs on the sales and profitability of the model plants indicates that in over 80 percent of plants the incremental costs are less than 10 percent of profits. A few of the plants, particularly in service industries, show incremental costs of greater than 10 percent of profits. Of the 50 model plants most affected by the proposal, 41 show incremental compliance costs of greater than 10 percent. Fifty-four of these are in service industries, compared with 23 percent of all model plants. Seventy-four percent of the models most affected by the proposal have annual revenues of less than $500,000. Some of these establishments are low profit or non-profit by design, such as public or private golf courses, hospitals, and other public institutions.

Only six plants have incremental compliance costs which exceed 1 percent of sales and 25 percent of profits. For each of these model plants, a more detailed evaluation was conducted to determine whether these plants would be likely to close under this proposal. This evaluation employed a discounted net present value analysis of cash flows, including compliance costs. This analysis indicated that plant closings as a result of the proposal would be unlikely.

[21] Ibid.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), requires the Agency to evaluate the impacts of regulations on small businesses, small organizations and small governmental jurisdictions. The Regulatory Impact Analysis for today's proposal includes such an evaluation. The Administrator has determined that this proposal will not have a significant impact on small firms.

The key steps in preparing this analysis are as follows:

- Identify the universe of "small entities" affected by the rule;
- Determine if a "substantial number" of small entities will be affected by the rule; and
- Evaluate if the rule will have "significant" impacts on these "small entities."

Today's proposed regulations are expected to primarily affect small firms. Therefore, the Regulatory Flexibility Act requirement concerning effects on small businesses is addressed to a large extent by the overall economic analysis being performed in conjunction with the proposal.

Throughout the development of today's proposal, the Agency's goal has been promulgation of requirements that would be the least burdensome to small businesses and also meet the Congressional mandate of protecting human health and the environment. In our effort to design regulations that would meet this goal, we have worked closely with small business organizations, trade associations, State and local governments, EPA's Office of Small and Disadvantaged Business Utilization, and the Federal Small Business Administration to assess the needs and capabilities of small businesses. EPA believes that this proposal is a balanced approach to regulating hazardous waste from these generators while considering their small business nature.

In analyzing the effects of today's proposal on small firms, it is necessary to first determine if a substantial number of small entities are affected within those industries impacted by the rule. To make this determination, it is assumed that the potential affected population of small entities are within the over 200 4-digit SIC industries targeted by the Abt Survey. Basically, these industries are grouped into the following general industrial sectors:

- Agricultural Services;
- Construction;
- Manufacturing;
- Transportation;
- Wholesale Trade;

- Retail Trade;
- Services.

For purposes of this analysis, "small entities" were defined as firms comprised of fewer than 50 employees for all of the sectors except manufacturing (<100 employees). In many cases these classifications are approximations because the Small Business Administration establishes size standards in terms of sales levels, and the size standards vary within sectors. For example, most small entity size standards for manufacturing industries range between 500 and 1000 employees.

In estimating the percentage of small firms affected by the proposed regulations within the impacted industries, firms whose primary waste is used lead acid batteries intended for recycling were excluded (this accounts for 60 percent of the total waste). (See Part II, Section I.E.1.) It was also assumed that the regulated community will be those producing between 100 and 1000 kg/month of hazardous waste.

The results of this analysis indicates that less than 10 percent of small entities within the impacted industries will be affected by the proposed regulations. Most small businesses will not be affected by these regulations because they: (1) Do not generate hazardous waste, (2) generate less than 100 kg/mo, or (3) generate over 1000 kg/mo and are already subject to hazardous waste regulations.

Even though only a relatively small percentage of potentially affected small businesses will probably be affected, the more important issue to analyze is whether or not a large number of those which are affected will be severely impacted. Three commonly accepted tests were used to measure whether or not businesses would be severely impacted:

(1) Annual compliance costs will increase the relevant production costs for small entities by more than five percent;

(2) Capital costs of compliance will represent a significant portion of the capital available to small entities,

(3) The costs of the regulation will likely result in closure of small entities.

To analyze the significance of compliance costs on small businesses, data were developed for 25 different types and sizes of model plants representing those most likely to be severely impacted by the proposed regulations. The compliance costs used for this analysis reflect the following regulatory options and disposal assumptions:

- Off-site disposal in secured (Subtitle C) landfill;
- Storage without permit of up to 6,000 kg of waste for up to 180 days assuming transportation of less than 200 miles;
- Storage and disposal in covered metal containers (drums);
- Reduced manifest and storage requirements and the elimination of the requirement for a biennial report. The generator would be required to complete virtually all items on the manifest (including an EPA identification number), but only one copy of the manifest would be produced and there would be no recordkeeping or exception reporting requirements;
- Generators taking advantage of the storage exemption would be subject to some good-housekeeping requirements (*e.g.*, maintenance of containers and tanks) but would not be required to develop written contingency plans and also would not be required to provide formal employee training as long as appropriate emergency procedures are established and employees are made aware of these procedures as well as proper handling methods for hazardous wastes.

In general, these regulations will not cause significant impacts on small firms. None of the model plants established for this analysis show cost increases of more than five percent as a direct result of compliance costs. The proposed regulations require no significant capital outlays and thus should not affect capital requirements or availability. Even the most severely impacted model plants would not close under the assumptions of this exercise and would continue to operate at a profit.

In summary, it appears that the impact on small firms will not cause a significant number of hardships. There will be isolated cases, involving on-site management or transportation over long distances, where compliance costs for some individual firms may be severe. In the case of on-site management, however, the Agency believes that most 100–1000 kg/mo generators will switch to off-site practices rather than face the high costs of obtaining interim status or a permit. Furthermore, approximately 70 percent of these generators are in metropolitan areas, and would thus be able to reduce transportation costs by allowing transporters to consolidate shipments by picking up waste from more than one generator at a time.

IV. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs at OMB, marked "Attention: Desk Officer for EPA". The Agency will respond to any OMB or public comments on the information collection requirements prior to promulgation of the final rule regarding 100-1000 kg/mo generators.

V. List of Subjects

40 CFR Part 261

Environmental Protection Agency, Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 262

Environmental Protection Agency, Hazardous materials, Labeling, Packaging and containers, Reporting requirements, Waste treatment and disposal.

40 CFR Part 263

Environmental Protection Agency, Hazardous materials transportation, Waste treatment and disposal.

40 CFR Part 264

Environmental Protection Agency, Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Environmental Protection Agency, Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

40 CFR Part 270

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: July 25, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations, as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In § 261.5, paragraph (h) is removed and existing paragraphs (i) and (j) are redesignated as (h) and (i). Paragraphs (a), (b), and (c), and the introductory text of paragraph (e), are revised to read as follows:

§ 261.5 Special requirements for hazardous waste generated by small quantity generators.

(a) A generator is a small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e), (f) and (g) of this section, a small quantity generator's hazardous wastes are not subject to regulation under Parts 262 through 265 and Parts 270 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f) and (g) of this section.

(c) Hazardous waste that is recycled and that is excluded from regulation under §§ 261.6(a)(2) (iii) and (v), (a)(3), or 266.36 or hazardous waste that is exempt from regulation under 40 CFR 261.4(c) and (d) and 262.34 and Parts 263, 264, and 265 and the subsequent permitting requirements is not included in the quantity determinations of this section and is not subject to any of the requirements of this section. Hazardous waste that is subject to the requirements of § 261.6(b) and (c) and Subparts C, D, and F of Part 266 is included in the quantity determination of this section and is subject to the requirements of this section.

* * * * *

(e) If a small quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous waste are subject to full regulation under Parts 262 throughout 265 and Parts 270 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA. Those wastes are not subject to the requirements applicable to the hazardous wastes produced by generators generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

3. The authority citation for Part 262 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3002, 3003, 3004, 3005, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6906, 6912, 6922, 6923, 6924, 6925, and 6937).

4. Section 262.20 is amended by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 262.20 General requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a Manifest (OMB control number 2050–0039) of EPA form 8700–22, and, if necessary, EPA Form 8700–22A, according to the instructions included in the Appendix to Part 262, except that a generator producing greater than 100 kg but less than 1000 kg in a calendar month need not include a manifest document number under item 1.

* * * * *

(e) The requirements of this Subpart do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(1) The waste is reclaimed under a contractural agreement pursuant to which:

(i) Either the person generating the material, or the reclaimer, retains ownership of the material at all times;

(ii) The type of waste and frequency of reclamation shipments are specified in the agreement;

(iii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

(2) The generator maintains a copy of the agreement in his files for a period of at least three years.

5. Section 262.22 is revised to read as follows:

§ 262.22 Number of Copies.

(a) With the exception of a manifest from a generator generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month, the manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

(b) The manifest for a generator generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month consists of only a single copy which must accompany hazardous waste during transportation to the designated facility.

6. In § 262.23, paragraphs (a)(3) and (b) are revised to read as follows:

§ 262.23 Use of the manifest.

(a) * * *

(3) Retain one copy, in accordance with § 262.40(a) except for a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month, who is excluded from the requirements of § 262.40(a).

(b) The generator must give the transporter the remaining copies of the manifest. A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month must give the transporter the single copy of the manifest which is to accompany the waste to the designated facility.

* * * * *

7. Section 262.32 is amended by adding paragraph (c).

§ 262.32 Marking.

* * * * *

(c) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is exempt from the requirement of paragraph (b) of this section to include the Manifest Document Number on each container prepared for off-site shipment.

8. Section 262.34 is amended by adding new paragraphs (d), (e) and (f).

§ 262.34 Accumulation time.

* * * * *

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

(1) The quantity of waste accumulated on-site never exceeds 6000 kilograms;

(2) The generator complies with the requirements of paragraphs (a)(1), (a)(2) and (a)(3) of this section and the requirements of Subpart C of Part 265; and

(3) The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility

within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(3)(iv) of this section. This employee is the emergency coordinator.

(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424–8802). The report must include the following information:

(*1*) The name, address, and U.S. EPA Identification Number of the generator;

(*2*) Date, time, and type of incident (*e.g.*, spill or fire);

(*3*) Quantity and type of hazardous waste involved in the incident;

(*4*) Extent of injuries, if any; and

(*5*) Estimated quantity and disposition of recovered materials, if any.

(e) A generator who generates greater han 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of paragraph (d) of this section.

(f) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270 unless he has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

9. In Subpart D of Part 262, add the following new § 262.44:

§ 262.44 Special Requirements for Generators of between 100 and 1000 kg/mo.

A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is exempt from the requirements of this subpart, except for the recordkeeping requirements in paragraphs (c) and (d) in § 262.40 and the requirements of § 262.43.

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

10. The authority citation for Part 263 continues to read as follows:

Authority: Secs. 2002(a), 3002, 3003, 3004,and 3005 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. 6912, 6922, 6923, 6924, and 6925).

11. In § 263.20, paragraphs (b), (d)(2) and (d)(3) are revised, and paragraph (h) is added to read as follows:

§ 263.20 The manifest system.

* * * * *

(b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. Except for waste received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month, the transporter must return a signed copy of the manifest to the generator before leaving the generator's property.

* * * * *

(d) * * *

(2) Retain one copy of the manifest in accordance with § 263.22, except for a manifest received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month; and

(3) Give the remaining copies of the manifest, or the single copy of the manifest that accompanies waste shipped by a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month, to the accepting transporter or designated facility.

* * * * *

(h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of this section or those of § 263.22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in § 262.20(e);

(2) The transporter records, on a log or shipping paper, the following information for each shipment:

(i) The name, address, and EPA Identification Number of the generator of the waste;

(ii) The quantity of waste accepted;

(iii) All DOT required shipping information;

(iv) The date the waste is accepted; and

(3) The transporter carries this record when transporting waste to the reclamation facility.

12. In § 263.22, paragraph (a) is revised to read as follows:

§ 63.22 Recordkeeping.

(a) Except for a manifest received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month, a transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

13. The authority citation for Part 264 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and

Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6925).

14. In § 264.71, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 264.71 Use of manifest system.

(a) * * *

(3) Immediately give the transporter at least one copy of the signed manifest, unless the manifest is received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month;

(4) Within 30 days after the delivery, send a copy of the manifest to the generator, unless the manifest is received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month; and

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

15. The authority citation for Part 265 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, and 3015 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935).

16. In § 265.71, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 265.71 Use of manifest.

(a) * * *

(3) Immediately give the transporter at least one copy of the signed manifest, unless the manifest is received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

(4) Within 30 days after the delivery, send a copy of the manifest to the generator, unless the manifest is received from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

17. The authority citation for Part 270 continues to read as follows:

Authority: Secs. 1006, 2002, 3005, 3007, 3019, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6925, 6927, 6939, and 6974).

§ 270.1 [Amended]

18. Section 270.1 is amended by revising paragraph (c)(2)(i) to read as follows:

* * * * *

(c) * * *

(2) * * *

(i) Generators who accumulate hazardous waste on-site for less than the time periods provided in 40 CFR 262.34.

* * * * *

19. Section 270.10 is amended by adding paragraph (e)(1)(iii) to read as follows:

§ 270.10 General application requirements.

(e) * * *

(1) * * *

(iii) For generators generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calender month and treats, stores, or disposes of these wastes on-site, by ———— (one year after the date of publication of the final regulations).

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

20. The authority citation for Part 271 continues to read as follows:

Authority: Secs. 1006, 2002(a), and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6926).

§ 271.1 [Amended]

21. § 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

Table 1.—Regulations Implementing the Hazardous and Solid Waste Amendments of 1984

Date	Title of regulation	Federal Register reference
*	* * * *	*
Aug. 1, 1985	Proposed Regulations for Generators of 100–1000 kg/mo of Hazardous Waste.	50 FR [insert Federal Register page number]

[FR Doc. 85–18112 Filed 7–31–85; 8:45 am]

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Federal Register

Thursday
August 1, 1985

Part III

Department of Labor

Office of Labor-Management Standards
Bureau of Labor-Management Relations and Cooperative Programs

29 CFR Parts 207 et al.

Technical Amendments and Redesignation of Rules Relating to Standards of Conduct for Federal Sector Labor Organizations and Labor-Management Reports; Final Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

Bureau of Labor-Management Relations and Cooperative Programs

29 CFR Parts 207, 208, 209, 401, 402, 403, 404, 405, 406, 408, 409, 417, 451, 452, 453, 457, 458, and 459

Technical Amendments and Redesignation of Rules Relating to Standards of Conduct for Federal Sector Labor Organizations and Labor-Management Reports

AGENCIES: Office of Labor-Management Standards and Bureau of Labor-Management Relations and Cooperative Programs, Labor.

ACTION: Final rule.

SUMMARY: This document makes a number of technical amendments to Chapters II and IV of the Department's regulations. It also transfers the regulations relating to the standards of conduct for Federal sector labor organizations, Parts 207–209 of Chapter II, to a new Subchapter B of Chapter IV and redesignates them as Parts 457–459, respectively. These amendments and redesignations are necessary because of the reorganization of the agencies that have jurisdiction over Chapters II and IV. (In a related action made necessary by the reorganization, the **Federal Register** notice published June 28, 1985, 50 FR 26704, removed the regulations previously in Subchapter B of Chapter IV from the Code of Federal Regulations, relating to welfare and pension plan reports, after portions were transferred to Chapter XXV of Title 29.) This document also makes other changes in the redesignated regulations and in the regulations currently in Subchapter A of Chapter IV, relating to labor-management reports and standards in the private sector, in order to incorporate pertinent new statutes and court decisions, and to make a number of corrections and clarifications.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kay Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Washington, D.C. 20210; telephone 202–523–7373 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Secretary of Labor's Order No. 3–84, dated May 3, 1984 (49 FR 20578, published May 15, 1984) delegated authority and responsibility for certain labor-management relations programs to the Office of Labor-Management Relations Services (LMRS) and the newly established Office of Labor-Management Standards (OLMS) that had previously been assigned to the Labor-Management Services Administration (LMSA). LMRS was delegated authority and assigned responsibility for, among other things, the administration of sections 3(e), 4, and 13(c) of the Urban Mass Transportation Act of 1964. OLMS was delegated authority and assigned responsibility for, among other things, the administration of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), and the provisions of the Civil Service Reform Act of 1978 (CSRA) and the Foreign Service Act of 1980 (FSA) relating to the standards of conduct for Federal sector labor organizations, 5 U.S.C. 7120 and 22 U.S.C. 4117, respectively. LMSA and the predecessor of OLMS, the Office of Labor-Management Standards Enforcement, no longer exist. IMRS was subsequently redesignated as the Bureau of Labor-Management Relations and Cooperative Programs by Secretary of Labor's Order No. 7–84, dated September 20, 1984.

As a result of the jurisdictional changes made by this reorganization, it is necessary to make a number of technical amendments to Chapters II and IV of the Department's regulations. With regard to Chapter II, the present heading is the "Office of the Assistant Secretary for Labor-Management Relations" (the Assistant Secretary was the head of LMSA and also had the title of the Labor-Management Services Administrator). Chapter II is now under the jurisdiction of the Bureau of Labor-Management Relations and Cooperative Programs, and the heading is changed accordingly. (In addition, as described further below, Parts 207–209 of Chapter II will be transferred to Chapter IV.)

With regard to Chapter IV, the heading was formally changed to the "Office of Labor-Managment Standards" in the **Federal Register** notice published June 28, 1985, 50 FR 26704. The heading of Subchapter A is changed from "Labor-Management Reports" to "Labor-Management Standards." The regulations in Subchapter A implement the LMRDA.

In addition, Parts 207–209 of Chapter II, which implement the standards of conduct provisions of the CSRA and the FSA and are therefore under the jurisidiction of OLMS, are transferred to Chapter IV in a new Subchapter B (with the heading "Standards of Conduct"). These regulations are also redesignated as Parts 457–459, respectively.

It is also noted that a **Federal Register** notice, published June 28, 1985 (50 FR 26704) removed the previous Subchapter B of Chapter IV which had the heading "Welfare-Pension Reports." Portions of those regulations were transferred to Chapter XXV of Title 29 and the remainder were removed entirely from the Code of Federal Regulations.

The text of the regulations in Subchapter A and newly redesignated Subchapter B of Chapter IV require numerous changes in nomenclature throughout to reflect the new titles of offices and positions and the appropriate reassignment of duties (notice of which was made in 49 FR 36576, September 18, 1984). Several technical amendments have also been made in order to incorporate statutory changes. These include the extension of the applicability of the Standards of Conduct regulations to labor organizations covered by the Foreign Service Act (notice of which was made in 46 FR 12206, February 13, 1981) and the incorporation of the amendments made to section 504 of the LMRDA (29 U.S.C. 504) by the Comprehensive Crime Control Act of 1984.

Changes have also been made to reflect pertinent Supreme Court decisions. The decision in *Bureau of Alcohol, Tobacco and Firearms* v. *Federal Labor Relations Authority et al.*, 104 S. Ct. 439 (1983), requires the removal of the last sentence in new redesignated § 458.72(c) (previously § 208.72(c)) relating to per diem expenses. Other decisions are referred to as appropriate.

In addition, the rules in 29 CFR 70.62 regarding search and copying charges, which are applicable to all Department of Labor agencies, are now referred to in §§ 417.7 and 417.21 of the amended regulations. Also, §§ 451.3 and 452.12 are corrected to clarify that the rationale regarding the coverage of national and international unions that are composed of both exempt governmental locals and covered private or mixed sector locals applies to intermediate bodies as well. Finally, a number of typographical and clerical errors are corrected.

The rulemaking contained in this document was not listed in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41816).

Publication in Final

The undersigned has determined that this reorganization and amendment of regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553, since this

rulemaking merely reflects agency organization, procedure and practice. It is thus exempt under section 553(b)(A) of the APA.

Effective Date

Furthermore, the undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication since this rule is technical and nonsubstantive, and merely reflects agency organization, practice and procedure. Therefore, these amendments shall be effective upon publication. See 5 U.S.C. 553(d)

Classification—Executive Order 12291

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

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 et seq., pertaining to regulatory flexibility analysis do not apply. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not contain any new collection of information requirement.

List of Subjects

29 CFR Part 401

Labor unions.

29 CFR Parts 402, 403, 404 and 408

Labor unions, Reporting and recordkeeping requirements.

29 CFR Parts 405 and 406

Labor mangement relations, Reporting and recordkeeping requirements.

29 CFR Part 409

Insurance companies, Reporting and recordkeeping requirements.

29 CFR Part 417

Labor unions.

29 CFR Parts 451 and 452

Labor unions.

29 CFR Part 453

Labor unions, Surety bonds.

29 CFR Part 457 and 458

Labor unions.

29 CFR Part 459

Labor unions, Administrative practice and procedure.

Adoption of Amendments of Regulations

Accordingly, Chapters II and IV of Title 29 of the Code of Federal Regulations are amended as set forth below.

CHAPTER II—BUREAU OF LABOR-MANAGEMENT RELATIONS AND COOPERATIVE PROGRAMS, DEPARTMENT OF LABOR

1. The heading of Chapter II, now reading "Office of the Assistant Secretary for Labor-Management Relations," is changed to read "Bureau of Labor-Management relations and Cooperative Programs, Department of Labor."

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS, DEPARTMENT OF LABOR

2. The heading of Chapter IV, continues to read "Office of Labor-Management Standards, Department of Labor."

SUBCHAPTER A—LABOR-MANAGEMENT STANDARDS

3. The heading of Subchapter A of Chapter IV, now reading "Labor-Management Reports," is changed to read "Labor-Management Standards."

4. All references to the "Labor-Management Services Administrator" and to the "Administrator" are changed to the "Assistant Secretary."

5. All references to the "Office of Labor-Management Standards Enforcement," the "Director of the Office of Labor-Management Standards Enforcement," and the "Director, Office of Labor-Management Standards Enforcement" are changed to the "Office of Labor-Management Standards," except that a. the references to the Director in 29 CFR 451.1(c) and 453.1(a) are changed to refer to the Secretary of Labor and the parenthetical statement "(and delegated by him to the Assistant Secretary)" is added following the references to section 601 of the LMRDA, and b. the words "and to the Director, Office of Labor-Management Standards Enforcement" in 29 CFR 452.6 are removed.

6. The word "(Revised)" is removed wherever it appears.

7. The words "at the place aforesaid" are removed wherever they appear.

8. All references to addresses are removed by a. removing the words "Division of Reports Processing and Disclosure, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216" in 29 CFR 403.4(b)(4), and b. removing the words "United States Department of Labor, Washington, D.C. 20216" in 29 CFR 402.3(a), 403.2(a), 403.5(a), 404.2, 405.2, 406.2(a), 408.2 and 409.2.

PART 401—MEANING OF TERMS USED IN THIS SUBCHAPTER

9. The authority citation for Part 401 is revised to read as follows:

Authority: Secs. 3, 208, 301, 401, 402, 73 Stat. 520, 529, 530, 532, 534; 29 U.S.C. 402, 438, 461, 481, 482; Secretary's Order No. 3-84 (49 FR 20578).

10. A new § 401.19 is added to Part 401 to read as follows:

§ 401.19 Assistant Secretary.

"Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Standards, head of the Office of Labor-Management Standards.

PART 402—LABOR ORGANIZATION INFORMATION REPORTS

11. The authority citation for Part 402 is revised to read as follows:

Authority: Secs. 201, 208, 73 Stat. 524, 529; 29 U.S.C. 431, 438; Secretary's Order No. 3-84 (49 FR 20578).

§ 402.2 [Amended]

12. 29 CFR 402.2 is corrected by removing the words "the following" which precede "United States Department of Labor Form LM-1."

13. 29 CFR 402.4(a) is amended by removing the words that follow "documents called for by that form" and that precede "for each reporting period."

14. 29 CFR 402.4(b)(1) is amended by changing the word "director" to "Office."

15. 29 CFR 402.10 is corrected by changing the word "made" to "make."

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

16. The authority citation for Part 403 is revised to read as follows:

Authority: Secs. 201, 208, 301, 73 Stat. 524, 529, 530; 29 U.S.C. 431, 438, 461; Secretary's Order No. 3–84 (49 FR 20578).

§ 403.4 [Amended]

17. In 29 CFR 403.4(b)(3)(ii), the parenthetical statement "(formerly the Office of Labor-Management and Welfare-Pension Reports)" is removed.

18. 29 CFR 403.4(b)(4) is corrected by removing the comma that follows the words "in writing."

§ 403.5 [Amended]

19. 20 CFR 403.5(a) is corrected by changing the word "offices" following "corresponding principal" to "officers."

PART 404—LABOR ORGANIZATION OFFICERS AND EMPLOYEES REPORT

20. The authority citation for Part 404 is revised to read as follows:

Authority: Secs. 202, 208, 73 Stat. 525, 529; 29 U.S.C. 432, 438; Secretary's Order No. 3–84 (49 FR 20578).

§ 404.1 [Amended]

21. 29 CFR 404.1(b) is corrected by changing the word "of" following "executive board" to "or."

PART 405—EMPLOYER REPORTS

22. The authority citation for Part 405 is revised to read as follows:

Authority: Secs. 203, 208, 73 Stat. 526, 529; 29 U.S.C. 433, 438; Secretary's Order No. 3–84 (49 FR 20578).

PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS

23. The authority citation for Part 406 is revised to read as follows:

Authority: Secs. 203, 207, 208, 73 Stat. 526, 529; 29 U.S.C. 433, 437, 438; Secretary's Order No. 3–84 (49 FR 20578).

§§ 406.3 and 406.4 [Amended]

24. In 29 CFR 406.3 and 406.4, the word "said" is removed.

PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS

25. The authority citation for Part 408 is revised to read as follows:

Authority: Secs. 201, 208, 301, 73 Stat. 524, 529, 530; 29 U.S.C. 431, 438, 461; Secretary's Order No. 3–84 (49 FR 20578).

PART 409—REPORTS BY SURETY COMPANIES

26. The authority citation for Part 409 is revised to read as follows:

Authority: Sec. 211, 79 Stat. 888; 29 U.S.C. 441; Secretary's Order No. 3–84 (49 FR 20578).

§ 409.2 [Amended]

27. In 29 CFR 409.2, the words "Form LMSA S–1" are changed to "Form S–1."

§ 409.3 [Amended]

28. In 29 CFR 409.3, paragraph (b) is removed and the paragraph designation for paragraph (a) is removed.

PART 417—PROCEDURE FOR REMOVAL OF LOCAL LABOR ORGANIZATION OFFICERS

29. The authority citation for Part 417 is revised to read as follows:

Authority: Secs. 401, 402, 73 Stat. 533, 534; 29 U.S.C. 481, 482; Secretary's Order No. 3–84 (49 FR 20578).

30. 29 CFR 417.2(e)(3) is corrected by removing the comma that precedes the words "adequate opportunity."

31. 29 CFR 417.2(e)(4) is corrected by changing the word "bodies" to "body's."

32. 29 CFR 417.2 is amended by a. removing paragraphs (a) through (d) and by redesignating paragraphs (e) through (i) as paragraphs (b) through (f), respectively, and b. adding paragraph (a) to read as follows:

§ 417.2 [Amended]

(a) "Director" means the Director, Office of Elections, Trusteeships and International Union Audits within the Office of Labor-Management Standards.

* * * * *

§ 417.4 [Amended]

33. In 29 CFR 417.4(a), the word "investigate" is removed and the words "cause an investigation to be conducted of" are added in its place.

34. 29 CFR 417.4(a) is corrected by changing the last word, "proceeding," to "proceedings."

35. 29 CFR 417.7 is revised to read as follows:

§ 417.7 Transcript.

An official reporter shall make the only official transcript of the proceedings. Copies of the official transcript shall be made available upon request addressed to the Assistant Secretary in accordance with the provisions of 29 CFR 70.62(c).

36. 29 CFR 417.21 is revised to read as follows:

§ 417.21 Transcript.

It shall be within the discretion of the Assistant Secretary to require an official reporter to make an official transcript of the hearings. In the event he does so require, copies of the official transcript shall be made available upon request addressed to the Assistant Secretary in accordance with the provisions of 29 CFR 70.62(c).

§ 417.24 [Amended]

37. 29 CFR 417.24 is corrected by changing the word "and" that follows "conduct of the hearing" to "or."

PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

38. The authority citation for Part 451 is revised to read as follows:

Authority: Secs. 3, 208, 401, 78 Stat. 520, 529, 532; 29 U.S.C. 402, 438, 481; Secretary's Order No. 3–84 (49 FR 20578).

39. In 29 CFR 451.3(a)(4), the parenthetical statement is revised to read as follows:

§ 451. 3 [Amended]

(a) * * *

(4) Organizations composed of Federal government employees that meet the definition of "labor organization" in the Civil Service Reform Act or the Foreign Service Act are subject to the standards of conduct requirements of those Acts, 5 U.S.C. 7120 and 22 U.S.C. 4117, respectively. The regulations implementing the standards of conduct requirements are contained in Parts 457–459 of this title.

* * * * *

40. In 29 CFR 451.3(a)(4), the words "national or international labor organization" are changed to "national, international or intermediate labor organization".

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

41. The authority citation for Part 452 is revised to read as follows:

Authority: Secs. 401, 402, 73 Stat. 532, 534; 29 U.S.C. 481, 482; Secretary's Order No. 3–84 (49 FR 20578).

42. In 29 CFR 452.5, the text for footnote 6 is revised to read as follows:

[6] *Dunlop* v. *Bachowski*, 421 U.S. 560, 570 (1975), citing *Wirtz* v. *Glass Bottle Blowers*, 389 U.S. 463, 472 (1968) and *Schonfeld* v. *Wirtz*, 285 F. Supp. 705, 707–708 (1966).

43. 29 CFR 452.9 is revised to read as follows:

§ 452.9 Prohibition against certain persons holding office; Section 504.

Among the safeguards for labor organizations provided in Title V is a prohibition against the holding of office by certain classes of persons.[10] This provision makes it a crime for any person willfully to serve in certain positions, including as an elected officer

of a labor organization, for a period of three to thirteen years after conviction or imprisonment for the commission of specified offenses, including violation of Titles II or III of the Act, or conspiracy or attempt to commit such offenses. It is likewise a crime for any labor organization or officer knowingly to permit such a person to serve in such positions. Persons subject to the prohibition applicable to convicted criminals may serve if their citizenship rights have been fully restored after being taken away by reason of the conviction, or if, following the procedures set forth in the Act, it is determined that their service would not be contrary to the purposes of the Act.

44. In 29 CFR 452.9, the text of footnote 10 is revised to read as follows:

[10] Act, sec. 504(a) (29 U.S.C. 504), as amended by the Comprehensive Crime Control Act of 1984, Pub. L. 98-473, secs. 229, 235, 803 and 804. See text at footnote 23 for a list of the disabling crimes.

§ 452.12 [Amended]

45. In 29 CFR 452.12, the words "an international or national labor organization" are changed to "a national, international or intermediate labor organization."

46. In 29 CFR 452.12, the text of footnote 13 is revised to read as follows:

[13] Most labor organizations composed of Federal Government employees are subject to the standards of conduct provisions of the Civil Service Reform Act, 5 U.S.C. 7120, or the Foreign Service Act, 22 U.S.C. 4117. The regulations implementing those statutory provisions are contained in Parts 457–459 of this title.

47. 29 CFR 452.12 is corrected by changing the word "is" that follows "United States Government," to "its."

§ 452.34 [Amended]

48. 29 CFR 452–34 is amended by (a) removing the words "certain individuals" and adding in their place "individuals convicted of certain crimes," and (b) removing the words "beyond 5 years" in the last sentence.

49. In 29 CFR 452.34, the text of footnote 23 is revised to read as follows:

[23] The disabling crimes set forth in the Act, sec. 504(a), as amended by sec. 803 of the Comprehensive Crime Control Act of 1984, Pub. L. 98-473, (29 U.S.C. 504) are robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, any felony involving abuse or misuse of a position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element."

§ 452.38 [Amended]

50. 29 CFR 452–38(a) is corrected by changing the word "of" between "number" and "percentage" in the last sentence to "or."

§ 452.71 [Amended]

51. 29 CFR 452.71 is corrected by changing the comma between the words "Act" and "Thus" to a period.

§ 452.138 [Amended]

52. 29 CFR 452.138 is amended by adding the following at the end of the text of footnote 61: "See also *Furniture Store Drivers Local 82* v. *Crowley*, 104 S.Ct. 2557 (1984)."

PART 453—GENERAL STATEMENT CONCERNING THE BONDING REQUIREMENTS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

53. The authority citation for Part 453 is revised to read as follows:

Authority: Sec. 502, 73 Stat. 536; 29 U.S.C. 502; Secretary's Order No. 3–84 (49 FR 20578).

§ 453.6 [Amended]

54. 29 CFR 453.6(b) is corrected by changing the word "shown" that follows "Labor organization" to "shows."

§ 453.20 [Amended]

55. 29 CFR 453.20 is amended as folllows:

(a) "April 30" is changed to "June 30."

(b) "May or June" is changed to "July."

(c) "between May 1 and April 30" is changed to "between July 1 and June 30."

SUBCHAPTER B—STANDARDS OF CONDUCT

56. A new Subchapter B, entitled "Standards of Conduct," is added to Chapter IV.

57. Part 207 of Chapter II is transferred to new Subchapter B of Chapter IV and redesignated as Part 457.

58. Part 208 of Chapter II is transferred to new Subchapter B of Chapter IV and redesignated as Part 458.

59. Part 209 of Chapter II is transferred to new Subchapter B of Chapter IV and redesignated as Part 459.

60. In newly redesignated Part 458, all references to Part 208 and sections within Part 208 are changed to refer to Part 458 and sections within Part 458.

61. In newly redesignated Part 459, all references to Part 209 and to sections within Part 209 are changed to refer to Part 459 and sections within Part 459.

62. In newly redesignated Parts 458 and 459, all references to "this chapter" are changed to "this subchapter."

63. In newly redesignated Parts 458 and 459, all references to "Regional Administrator" are changed to "Area Administrator."

64. In newly redesignated Parts 458 and 459, all references to "region" are changed to "area."

65. In newly redesignated Parts 458 and 459, all references to the "Civil Service Reform Act," "CSRA," and "Act" are changed to "CSRA or FSA" except that the first reference to "Act" in 29 CFR 458.91(b) and the reference to "Act" in 458.91(c) are changed to "CSRA, FSA or this part."

66. Part 457 is revised to read as follows:

SUBCHAPTER B—STANDARDS OF CONDUCT

PART 457—GENERAL

Subpart A—Purpose and Scope

Sec.
457.1 Purpose and Scope.

Subpart B—Meaning of Terms as Used in This Subchapter

457.10 CSRA; FSA; LMRDA.
457.11 Agency, employee, labor organization, dues, Department, activity.
457.12 Authority; Board.
457.13 Assistant Secretary.
457.14 Standards of conduct for labor organizations.
457.15 Area Administrator.
457.16 Director.
457.17 Administrative Law Judge.
457.18 Chief Administrative Law Judge.
457.19 Party.
457.20 Intervenor.

Authority: 5 U.S.C. 7120, 7134; 22 U.S.C. 4117.

Subpart A—Purpose and Scope

§ 457.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement 5 U.S.C. 7120 and 22 U.S.C. 4117, which relate to the standards of conduct for labor organizations in the federal sector set forth in Title VII of the Civil Service Reform Act of 1978 and Chapter 10 of the Foreign Service Act of 1980. They prescribe procedures and basic principles which the Assistant Secretary of Labor will utilize in effectuating the standards of conduct required of labor organizations composed of federal government employees that are covered by these Acts. (Regulations implementing the other provisions of Title VII of the Civil Service Reform Act are issued by the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations

Authority, and the Federal Service Impasses Panel in Title 5 of the Code of Federal Regulations. Regulations implementing the other provisions of Chapter 10 of the Foreign Service Act are issued by the Foreign Service Labor Relations Board, the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Foreign Service Impasse Disputes Panel in Title 22 of the Code of Federal Regulations.)

Subpart B—Meaning of Terms as Used in This Chapter

§ 457.10 CSRA; FSA; LMRDA.

"CSRA" means the Civil Service Reform Act of 1978; "FSA" means the Foreign Service Act of 1980; "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended.

§ 457.11 Agency, employee, labor organization, dues, Department, activity.

"Agency," "employee," "labor organization," and "dues," when used in connection with the CSRA, have the meanings set forth in 5 U.S.C. 7103. "Employee," "labor organization," and "dues," when used in connection with the FSA, have the meanings set forth in 22 U.S.C. 4102; "Department," when used in connection with the FSA, means the Department of State, except that with reference to the exercise of functions under the FSA with respect to another agency authorized to utilize the Foreign Service personnel system, such term means that other agency. "Activity" means any facility, organizational entity, geographical subdivision or combination thereof of an agency.

§ 457.12 Authority; Board.

"Authority" means the Federal Labor Relations Authority as described in the CSRA, 5 U.S.C. 7104 and 7105; "Board" means the Foreign Service Labor Relations Board as described in the FSA, 22 U.S.C. 4106(a).

§ 457.13 Assistant Secretary.

"Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Standards.[1]

[1] Pursuant to Secretary of Labor's Order 3-84 dated May 3, 1984 (49 FR 20578), the Assistant Secretary for Labor-Management Standards (head of the Office of Labor-Management Standards) has the responsibility and authority under the standards of conduct provisions of the CSRA and the FSA and the implementing regulations that were formerly held by the Assistant Secretary for Labor-Management Relations, a position which has been abolished.

§ 457.14 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in the CSRA, 5 U.S.C. 7120 and the FSA, 22 U.S.C. 4117, and amplified in Part 458 of this subchapter.

§ 457.15 Area Administrator.

"Area Administrator" means the Administrator of an area office within an area of the Office of Labor-Management Standards, with geographical boundaries as fixed by the Assistant Secretary.

§ 457.16 Director.

"Director" means the Director of the Office of Elections, Trusteeships and International Union Audits within the Office of Labor-Management Standards of the Department of Labor.

§ 457.17 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 5 U.S.C. 7120 or 22 U.S.C. 4117 as implemented by Part 458 of this subchapter and such other matters as may be assigned.

§ 457.18 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210.

§ 457.19 Party.

"Party" means any person, employee, group of employees, labor organization, Department, activity or agency: (a) Filing a complaint, petition, request, or application; (b) named in a complaint, petition, request, or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

§ 457.20 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

PART 458—STANDARDS OF CONDUCT

67. The authority citation for Part 458 is revised to read as follows:

Authority: 5 U.S.C. 7105, 7111, 7120, 7134, 22 U.S.C. 4107, 4111, 4117.

§ 458.2 [Amended]

68. 29 CFR 458.2(a)(2) is corrected by removing the comma following the words "his views."

69. 29 CFR 458.2(d) is corrected by changing the spelling of the word "constitutent" to "constituent."

70. 29 CFR 458.2(d) is amended by changing the words "any activity or agency" to "an agency, Department or activity."

§ 458.29 [Amended]

71. 29 CFR 458.29 is amended by adding the words "or 22 U.S.C. 4117" after "5 U.S.C. 7120."

§ 458.30 [Amended]

72. 29 CFR 458.30 is amended by changing the word "title" to "chapter."

73. 29 CFR 458.36 is amended by removing the words following "provided, however, That" and adding the following:

§ 458.36 [Amended]

* * * the Assistant Secretary or such other person as he may designate may exempt a person from the prohibition against holding office or employment or may reduce the period of the prohibition where he determines that it would not be contrary to the purposes of the CSRA or the FSA and this section to permit a person barred from holding office or employment to hold such office or employment.

74. 29 CFR 458.50 is revised to read as follows:

§ 458.50 Investigations.

(a) When he believes it necessary in order to determine whether any person has violated or is about to violate any provision of §§ 458.26 through 458.30, the Director may cause an investigation to be conducted.

(b) When he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this part (other than §§ 458.2, 458.26 through 458.30 or 458.37), an Area Administrator may conduct an investigation.

(c) The authority to investigate possible violations of this part (other than §§ 458.2 or 458.37) shall not be contingent upon receipt of a complaint.

§ 458.51 [Amended]

75. 29 CFR 458.51 is amended by adding the words "the Director or" before "an Area Administrator."

76. 29 CFR 458.52 is revised to read as follows:

§ 458.52 Report of investigation.

The Director may report to interested persons concerning any matter which he

deems to be appropriate as a result of an investigation of possible violations of §§ 458.26 through 458.30. The Area Administrator may report to interested persons concerning any matter which he deems to be appropriate as a result of an investigation of possible violations of any provision of this part (other than §§ 458.2, 458.26 through 458.30 and 458.37).

§ 458.53 [Amended]

77. 29 CFR 458.53 is amended by changing "Labor-Management Services Administration" to "Office of Labor-Management Standards."

§ 458.57 [Amended]

78. 29 CFR 458.57 is amended by removing the words following "as he deems necessary" and adding ", including the positions of the parties and any offers of settlement."

§ 458.58 [Amended]

79. CFR 458.58 is amended by removing the words "after receipt of a report of the Area Administrator pursuant to § 458.57."

§ 458.65 [Amended]

80. 29 CFR 458.65(c) is corrected by removing the reference to section 458.68 and replacing it with a reference to section 458.70.

§ 458.66 Procedures for institution of enforcement proceedings.

81. 29 CFR 458.66 is revised to read as follows:

(a) Whenever it appears to the Director that a violation of any provision of §§ 458.26 through 458.30 has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the Director or his representative concerning such alleged violation.

(b) Whenever it appears to an Area Administrator that a violation of this part (other than §§ 458.2, 458.26–458.30, or 458.37) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the Area Administrator or his representative concerning such alleged violation.

(c) At any conference held pursuant to this section, the Director or Area Administrator may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Director or Area Administrator shall institute enforcement proceedings by filing a complaint with the Chief Administrative Law Judge, U.S. Department of Labor, and shall cause a copy of the complaint to be served on each respondent named therein. If an agreement is reached and the Director or Area Administrator concludes that there has not been compliance with all the terms of the agreement, he may refer the matter to the Assistant Secretary for appropriate enforcement action or file a complaint with the Chief Administrative Law Judge.

§ 458.67 [Amended]

82. 29 CFR 458.67 is amended by adding the words "or Area Administrator" after "the name of the Director."

§ 458.72 [Amended]

83. 29 CFR 458.72(c) is amended by removing the last sentence.

§ 458.73 [Amended]

84. 29 CFR 458.73(a)(1) is corrected by changing the spelling of the word "issues" to "issues."

§ 458.76 [Amended]

85. 29 CFR 458.76(k) is amended by adding the words "of Labor" following "Department."

86. 29 CFR 458.79 is amended by removing the words "other standards of conduct matters" and adding "§§ 458.26–458.30,".

87. 29 CFR 458.79 is further amended by adding the following at the end of the section:

§ 458.79 [Amended]

* * * In a hearing concerning an alleged violation of other standards of conduct matters, the Area Administrator shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 458.92 [Amended]

88. 29 CFR 458.92 is amended by adding "or the Foreign Service Labor Relations Board" after "Federal Labor Relations Authority."

PART 459—MISCELLANEOUS

89. The authority citation for Part 459 is revised to read as follows:

Authority: 5 U.S.C. 7120, 7134, 22 U.S.C. 4117.

Dated: July 25, 1985.

Ronald J. St. Cyr,

Acting Assistant Secretary for Labor-Management Standards.

Dated: July 25, 1985.

Stephen I. Schlossberg,

Deputy Under Secretary for Labor-Management Relations and Cooperative Programs.

[FR Doc. 85–18310 Filed 7–31–85; 8:45 am]

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Part IV

Federal Emergency Management Agency

48 CFR Ch. 44
Acquisition Regulation, Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

48 CFR Ch. 44

FEMA Acquisition Regulation (FEMAAR)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule will amend the Federal Emergency Management Agency Acquisition Regulation (FEMAAR). The revisions are intended to update the FEMAAR as a result of the Competition in Contracting Act of 1984, Pub. L. 98–369, of changes in the Federal Acquisition Regulations (FAR), and to more fully comply with the directive of FAR to exclude matters from agency regulations which are covered in FAR. A detailed listing of all changes is given below under the section entitled **SUPPLEMENTARY INFORMATION.** Due to the above made changes, the FEMAAR, as amended, is printed in full text.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph A. Pegnato, Chief, Policy and Evaluation Division, Office of Acquisition Management, Federal Emergency Management Agency, 500 C Street SW, Washington, D.C. 20472, Telephone (202) 646–3743.

SUPPLEMENTARY INFORMATION: A proposed rule was published on May 2, 1985 at 50 FR 18802 with comments due June 3, 1985. No comments were received. Minor corrections have been made as listed below under the section entitled **SUPPLEMENTARY INFORMATION.**

Background

Since the initial issuance of the Federal Acquisition Regulation (FAR), six Federal Acquisition Circulars (FAC) have been issued. Due to regulatory and statutory changes, as implemented in FAC–1 through FAC–6, and upon further agency review of the interim FEMAAR as published in 49 FR 12646, March 29, 1984, the FEMAAR is amended as set forth below. The changes that have been made in the material brought forward from the interim FEMAAR can be categorized correctly as required by statute and regulation, editorial, made in the interest clarity, brevity, and consistency. Other portions of the interim FEMAAR have been made unnecessary by material written into the FAR and by incorporation into agency internal procedures.

The parts affected by the final rule are as follows: Table of Content changes. Section 4401.601 General, changed. Subpart 4401.7 Determinations and Findings, new subpart. Section 4401.707–70, new section. Section 4402.100, Definitions, changed. Section 4405.206, Synopsis of subcontract opportunities, changed. Section 4405.502 Authority, changed. Subchapter B—Competition and Acquisition Planning, title change. Part 4406 Competition Requirements, new part. Subpart 4406.5 Competition Advocate, new subpart. Section 4406.501 Requirement, new section. Section 4409.406–3 Procedures, changed. Section 4409.407–3 Procedures, changed. Part 4414—Sealed Bidding, title change. Subpart 4414.2—Solicitation of Bids, subpart deleted. Section 4414.407 Award, section deleted. Section 4414.407–8 Protests against award, section deleted. Subpart 4415.1—General Requirements for Negotiation, subpart deleted. Subpart 4415.3 Determinations and Findings to Justify Negotiation, subpart deleted. Section 4415.406–5 Part IV—Representations and Instruction, deleted. Section 4415.413–72 Disposition of unsuccessful proposals, changed. Subpart 4415.6—Source Selection, subpart deleted. Section 4415.1003 Negotiated procurement protests, deleted. Part 4417—Special Contracting Methods, Part added. Subpart 4417.70 General, subpart added. Section 4417.7001 Preference for local contractors, section moved and changed from 4415.105–70, which was deleted. Section 4452.215–70 Preference for local contractors in Presidentially declared major disasters and emergencies, renumbered to be 4452.217–70.

Additionally, minor corrections made to this final rule are as follows: In § 4401–7002–1, in the second sentence, the words "support of" are corrected to read "support or"; in § 4405.502, the citation "44 CFR 2.72(e)" is corrected to read "44 CFR 2.72(a)"; in § 4415.413–72(a), the following phrase is deleted, "At the end of six months it may be destroyed."; in § 4417.7001(c), "Pub. L. 93–288(k)" is corrected to read "Pub. L. 93–288".

Procedural Requirements

Review Under Executive Order 12291

Procurement rules are normally exempt from review under Executive Order 12291, entitled "Federal Regulations," based on a determination, that they generally relate only to the management of an agency function and do not have any major economic impact. The Office of Management and Budget (OMB), has decided, however, that agency implementations of the Competition in Contracting Act of 1984, Pub. L. 98–369, warrant review. Accordingly, this final rule was submitted for review in accordance with Executive Order 12291 and OMB Circular 85–6.

Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. FEMA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

National Environmental Policy Act

As this rule deals with administrative matters, it is categorically excluded from FEMA regulation 44 CFR Part 10 providing for preparation of environmental documents.

List of Subjects in 48 CFR Ch. 44

Government procurement.

For the reasons set forth in the preamble, Title 48 of the Code of Federal Regulations is amended by revising Ch. 44 to read as set forth below:

CHAPTER 44—FEDERAL EMERGENCY MANAGEMENT AGENCY

SUBCHAPTER A—GENERAL

PART 4401—FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ACQUISITION REGULATION SYSTEM

Sec.

Authority: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

4401.000 Scope of part.

This part sets forth policies and procedures concerning the Federal Emergency Management Agency Acquisition Regulation (FEMAAR) System.

Subpart 4401.1—Purpose, Authority, Issuance

4401.101 Purpose.

FEMAAR is a supplement to the Federal Acquisition Regulation (FAR) and is established for the codification and publication of uniform policies and procedures for acquisitions by FEMA.

4401.103 Applicability.

This regulation applies to all acquisitions within FEMA, but not to placement or administration of cooperative agreements or grants.

4401.104 Issuance.

4401.104–1 Publication and code arrangement.

(a) The FEMAAR is published in (1) the daily issue of the **Federal Register** and (2) cumulated form in the Code of Federal Regulations (CFR).

(b) The FEMAAR is issued as Chapter 44 of Title 48, CFR.

4401.104–3 Copies.

Copies of the FEMAAR in **Federal Register** and CFR form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Agency offices may request copies of the FEMAAR from the Policy and Evaluation Division, Office of Acquisition Management.

Subpart 4401.3—Agency Acquisition Regulations

4401.301 Policy.

Policies, procedures, and guidance of an internal nature may be issued through internal FEMA issuances such as manuals, standard operating procedures, directives or instructions.

4401.303 Codification and public participation.

If subject matter in FAR requires no implementation, the FEMAAR will not contain a corresponding part, subpart, section, or subsection number. FAR subject matter governs.

Subpart 4401.4—Deviations from the FAR

4401.403 Individual deviations.

The Director, Office of Acquisition Management, must authorize individual deviations in advance. Requests for authorization must:

(a) Cite the specific parts of the FAR or FEMAAR from which it is desired to deviate;

(b) Describe the deviation fully;

(c) Indicate the circumstances which require the deviation;

(d) Give reasons supporting the action requested; and

(e) Give reasons why the action is in the best interest of the Government.

4401.404 Class deviations.

The Director, Office of Acquisition Management, must authorize class deviations in advance.

4401.405 Deviations pertaining to treaties and executive agreements.

The Director, Office of Acquisition Management, is the central control point for all deviations including those pertaining to treaties and executive agreements.

Subpart 4401.6—Contracting Authority and Responsibilities

4401.600–70 Scope of subpart.

This subpart deals with the placement of contracting authority and responsibility within the agency, the selection and designation of contracting officers, and the authority of contracting officers.

4401.601 General.

The Director, Office of Acquisition Management, is designated the head of contracting activities and FEMA's procurement executive. The Director, Office of Acquisition Management, shall establish policy throughout the agency; monitor the overall effectiveness and efficiency of the agency's contracting offices; establish controls to assure compliance with laws, regulations, and procedures; and delegate contracting officer authority. The Director, Office of Acquisition Management, shall exercise the authority delegated under 44 CFR 2.67 FEMA Organization, Functions and Delegations.

4401.603 Selection, appointment, and termination of appointment.

4401.603–2 Selection.

In the areas of experience, training, and education, the following shall be required unless contracting authority is limited to a simplified purchase procedures. Waiver of any of these criteria shall be in writing:

(a) An individual contracting officer or an individual appointed to a position having contracting officer authority shall have a minimum of two years experience performing contracting, procurement, or purchasing functions in a Government or commercial contracting office. Additionally, where a contracting officer will work in a specialized field, experience in the field shall be a criterion for the appointment.

(b) An individual contracting officer or an individual appointed to a position having contracting officer authority shall have the equivalent of a bachelor's degree from an accedited college or institution with major studies in business administration, law, accounting, or related fields. The appointing official may waive this requirement when a candidate is otherwise qualified by virtue of extensive contract-related experience and training, business acumen, judgment, character, reputation, and ethics.

(c) An individual contracting officer or an individual appointed to a position having contracting authority shall have successfully completed training courses in both Government basic procurement and Government contract administration, each of not less than 80 class hours. Incumbents not meeting the special training requirements shall be given 24 months to meet the minimum qualification standards.

4401.603–3 Appointment.

Except for disaster-related activities and unusual circumstances as determined by the head of the contracting activity, it is policy to delegate contracting officer authority to individuals rather than to positions. The head of the contracting activity is the appointing authority. Except where the delegation of authority specifically includes the authority for further redelegation, no other delegations or redelegations may be made. Delegations of contracting officer authority shall include a clear statement of such authority and its responsibilities and limitations.

Subpart 4401.7—Determinations and Findings

4401.707-70 Signature authority.

The head of the contracting activity shall sign all class Determination and Findings (D & F's) not otherwise reserved to the agency head.

Subpart 4401.70—Procurement Contracts Versus Assistance Instruments

4401.7000 Scope of subpart.

This subpart describes the situations appropriate for the use of procurement contracts, grants, or cooperative agreements and provides examples of each.

4401.7001 Procurement contracts.

4401.7000-1 Situations for use.

Procurement contracts are to be used whenever the principal purpose of the instrument is acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government.

4401.7001-2 Examples.

Procurement contracts normally will be used when the principal purpose of the relationship is:

(a) Evaluation (including research if an evaluation character) of the performance of Government program, projects, or grantee activity initiated by FEMA.

(b) Projects funded by administrative funds.

(c) Technical assistance rendered on behalf of the Government to any third party including those receiving grants or cooperative agreements.

(d) Surveys, studies, and research which provide specific information desired by the Government for its direct activities or for dissemination to the public.

(e) Consulting or professional services of all kinds if provided to the Government or, on behalf of the Government, to any third party.

(f) Planning for Government use.

(g) Conferences conducted in behalf of the Government.

(h) Production of publications or audiovisual materials required primarily for the conduct of the direct operations of the Government.

(i) Design or development of items for Government use or pursuant to agency definition or specifications.

(j) Generation of management information or other data for Government use.

4401.7002 Assistance.

Assistance may take the form of either grants or cooperative agreements and include:

(a) General financial assistance (stimulation or support) to eligible recipients under specific legislation authorizing such assistance.

(b) Financial assistance (stimulation or support) to a specific program activity eligible for such assistance under specific legislation authorizing such assistance.

4401.7002-1 Grants.

Grants are to be used whenever the principal purpose of the relationship is to transfer money, property, services, or anything else of value to a recipient to accomplish a public purpose. The support or stimulation to be accomplished by this transfer must be authorized by Federal statute and substantial involvement is not anticipated.

4401.7002-2 Cooperative agreements.

Cooperative agreements are to be used whenever the principal purpose of the relationship is the transfer of money, property, service, or anything else of value to recipients to accomplish a public purpose. The support or stimulation to be accomplished by this transfer must be authorized by Federal statute and substantial involvement is anticipated.

4401.7002-3 Examples of unsubstantial involvement.

Involvement is not substantial and a grant is the proper instrument when the following types of involvement are planned:

(a) Approval of recipient plans prior to award.

(b) Normal Federal stewardship such as site visits, performance reporting, financial reporting, and audits to ensure that objectives, terms, and conditions of the grants are met.

(c) Unanticipated involvement to correct definicies in project or financial performance from the terms of the grants.

(d) General statutory requirements understood in advance of the award such as civil rights, environmental protection, and provision for the handicapped.

(e) Review of performance after completion.

(f) General administrative requirements, such as those included in OMB Circulars A-21, A-95, A-110, and A-102.

4401.7002-4 Examples of substantial involvement.

Involvement is substantial and a cooperative agreement is the proper instrument when the following types of involvement are planned:

(a) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the cooperative agreement.

(b) Agency and recipient collaboration or joint participation in the performance of the assisted activities.

(c) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation and other management processes, coupled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

(d) General administrative requirements beyond those included in OMB Circulars A-102 and A-110.

PART 4402—DEFINITION OF WORDS AND TERMS

Subpart 4402.1—Definitions

4402.100 Definitions.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Director" means the Director of the Federal Emergency Management Agency.

"Interagency agreement" means an agreement between two or more agencies, bureaus, or departments of the Federal Government by which supplies, services, or property are provided to, or obtained from, one or more agencies, bureaus, or departments of the Federal Government. Funds are transferred between the parties as consideration for the supplies, services, or property.

"Memorandum of Understanding" means an agreement between two or more agencies, bureaus, or departments of the Federal Government or other entity. Funds are not transferred between the parties.

"Program office" means any office which generates requests for procurement actions.

"Project officer" means the program office representative cognizant over the technical aspects of a given procurement action.

(40 U.S.C. 486(c), Reorganization Plan No. 3 of 1978.)

PART 4403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 4403.1—Safeguards

Sec.
4403.101–2 Solicitation and acceptance of gratuities by Government personnel.
4403.101–3 Agency regulations.
4403.103 Independent pricing.
4403.103–2 Evaluating the certification.

Subpart 4403.2—Contractor Gratuities to Government Personnel

4403.203 Reporting suspected violations of the Gratuities clause.
4403.204 Treatment of violations.

Subpart 4403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

4403.602 Exceptions.

Authority: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

Subpart 4403.1—Safeguards

4403.101–2 Solicitation and acceptance of gratuities by Government personnel.

Exceptions to the prohibition against soliciting or accepting gratuities are explained in 44 CFR Part 3, Subpart B.

4403.101–3 Agency regulations.

FEMA "Standards and Conduct" are published in 44 CFR Part 3. They include requirements for financial disclosure.

4403.103 Independent pricing.

4403.103–2 Evaluating the certification.

The Director, Office of Acquisition Management, is authorized to make the determination described in FAR 3.103–2(b)(2).

Subpart 4403.2—Contractor Gratuities to Government Personnel

4403.203 Reporting suspected violations of the Gratuities clause.

Suspected violations shall be reported in the FEMA Office of the Inspector General. A report shall include all facts and circumstances relevant to the case.

4403.204 Treatment of violations.

Following review and any necessary investigation, the Inspector General shall make recommendations to the Director or a designee. If action is to be taken against a contractor, the contractor shall be given the opportunity for a hearing in accordance with FAR 3.204(b).

Subpart 4403.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

4403.602 Exceptions.

The Director, Office of Acquisition Management, may authorize an exception to the policy in FAR 3.601, based on facts and circumstances provided by the program office.

PART 4405—PUBLICIZING CONTRACT ACTIONS

Sec.
4405.001 Policy.

Subpart 4405.2—Synopsis of Proposed Contracts

4405.206 Synopsis of subcontract opportunities.

Subpart 4405.5—Paid Advertisements

4405.502 Authority.

Authority: 40 U.S.C. 486(c); Reorganizational Plan No. 3 of 1978.

4405.001 Policy.

The agency shall continually search for and develop information on sources (including small businesses owned and controlled by one or more socially or economically disadvantaged individuals) competent to provide supplies or services. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be used for this purpose. The search should include a review of data or brochures furnished by sources seeking to do business with the agency. It also should include program personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider seeking other sources by publication of proposed procurements.

Subpart 4405.2—Synopsis of Proposed Contracts

4405.206 Synopsis of subcontract opportunities.

Unless it is not in the Government's interest, the contracting officer shall make the solicitation source list available to firms requesting it for subcontracting opportunities on contracts exceeding the small purchase threshold.

Subpart 4405.5—Paid Advertisement

4405.502 Authority.

In accordance with 44 CFR 2.72(a) authority to approve publication of paid advertisement in newspapers has been delegated to the Director, Office of Administrative Support.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 4406—COMPETITION REQUIREMENTS

Subpart 44065—Competition Advocate

4406.501 Requirement.

The Chief, Policy and Planning Division, Office of Acquisition Management is designated FEMA's Competition Advocate.

(40 U.S.C. 486(c), Reorganization Plan No. 3 of 1978).

PART 4408—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 4408.8—Acquisition of Printing and Related Supplies

4408.802 Policy.

Contracting officers shall obtain approval from the Director, Office of Administrative Support, FEMA's central printing authority before contracting for printing.

(40 USC. 486(c), Reorganization Plan No. 3 of 1978.)

PART 4409—CONTRACTOR QUALIFICATIONS

Subpart 4409.4—Debarment, Suspension, and Ineligibility

Sec.
4409.404 Consolidated list of debarred, suspended, and ineligible contractors.
4409.406 Debarment.
4409.406–1 General.
4409.406–3 Procedures.
4409.407 Suspension.
4409.407–1 General.
4409.407–3 Procedures.

Authority: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

Subpart 4409.4—Debarment, Suspension, and Ineligibility

4409.404 Consolidated list of debarred, suspended, and ineligible contractors.

The Director, Office of Acquisition Management, will notify GSA, maintain records, establish procedures, and direct inquiries as required by FAR 9.404(c).

4409.406 Debarment.

4409.406–1 General.

The Executive Administrator shall be the debarring official.

4409.406–3 Procedures.

(a) Determination to debar or take other action concerning a firm or individual for a cause listed in FAR 9.406–2 shall be made by the Executive Administrator. Whenever cause for debarment becomes known to any

contracting officer, the matter shall be submitted, with recommendations of the Director, Office of Acquisition Management, via the Office of General Counsel, to the Executive Administrator for appropriate action. The documented file of the case will be included in the submission.

(b) If the Executive Administrator concurs in the proposed debarment, a notice of proposal to debar shall be issued by the Executive Administrator or designee.

(c) The Executive Administrator or designee shall conduct any hearings requested in connection with debarment proceedings. The firm or individual shall have the opportunity to appear with witnesses and counsel to present facts or circumstances showing cause why such firm or individual should not be debarred. If the firm or individual elects not to appear, or if the firm or individual does not respond within 30 days from receipt of the written notice, the reviewing authority will make the decision based on the facts on record and such additional evidence as may be furnished by the parties involved. After consideration of the facts, the reviewing authority shall notify the firm or individual of the final decision.

(d) Appeals may be taken within 30 days after receipt by the firm or individual of a decision to debar. Appeals shall be filed with the Director, FEMA, who shall make a decision based on the record. The Director's decision shall be final.

4409.407 Suspension.

4409.407-1 General.

The Executive Administrator shall be the suspending official.

4409.407-3 Procedures.

(a) Any contracting officer may recommend suspension of bidders. These recommendations shall be accompanied by the documented file in the case and be submitted through the Director, Office of Acquisition Management, via the Office of General Counsel, to the Executive Administrator. The Executive Administrator shall issue the notice of suspension.

(b) The Director, Office of Acquisition Management, shall develop and maintain suspension procedures.

PART 4412—CONTRACT DELIVERY OR PERFORMANCE

Subpart 4412.3—Priorities, Allocations, and Allotments

4412.303 Procedures.

Rejected rated orders or ACM orders shall be sent to the Department of Commerce through the head of the contracting activity.

(40 U.S.C. 486(c), Reorganization Plan No. 3 of 1978.)

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 4414—SEALED BIDDING

Subpart 4414.4—Opening of Bids and Award of Contract

Authority: 40 U.S.C. 486(c), Reorganization Plan No. 3 of 1978.

Subpart 4414.4—Opening of Bids and Award of Contract

4414.401 Receipt and safeguarding of bids.

(a) Envelopes or other outer coverings containing identified bids shall be stamped or otherwise marked to show the office of receipt, the time of day received, and the date. The individual receiving the bids shall then initial under the marking.

(b) A copy of the envelope or other covering bearing the documentation of a bid that was opened by mistake shall be retained in the file.

4414.402 Opening of bids.

The contracting officer, or duly authorized representative, shall be designated as the bid opening officer.

4414.406 Mistakes in bids.

4414.406-3 Other mistakes disclosed before award.

The Director, Office of Acquisition Management, is delegated the authority to make the determinations concerning mistakes in bid other than obvious clerical errors discovered prior to award. Each such determination shall be approved by the Office of General Counsel prior to notification of the bidder.

PART 4415—CONTRACTING BY NEGOTIATION

Subpart 4415.4—Solicitation and Receipt of Proposals and Quotations

Subpart 4415.5—Unsolicited Proposals

Subpart 4415.8—Price Negotiation

Subpart 4415.10—Preaward, Award and Postaward Notifications, Protests, and Mistakes

Authority: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

Subpart 4415.4—Solicitation and Receipt of Proposals and Quotations

4415.413 Disclosure and use of information before award.

4415.413-2 Alternate II.

These alternate FAR procedures may be used if approved in writing by the head of the contracting activity.

4415.413-70 Policy.

It is FEMA policy to use information contained in proposals only for evaluation purposes unless information (a) is generally available to the public, (b) is already the property of the Government, (c) is already available to the Government with unrestricted use rights, or (d) is or has been made available to the Government without restriction.

4415.413-71 Release of information during the solicitation phase.

No information shall be released during the solicitation phase, except as follows: Each solicitation for a negotiated acquisition shall name an individual in the contracting office to respond to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions whether of a procedural or substantive nature shall be directed to that individual. No one else shall exchange comments with offerors or potential offerors. Questions requiring clarification of substantive portions of the solicitation shall be answered by amendment of the solicitation. A copy of the amendment shall be sent to each recipient of the solicitation.

4415.413-72 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) All but one copy of each unsuccessful proposal shall be destroyed as soon as practicable after contract award. The one remaining copy

of each shall be retained in the official contract file.

(b) Unsuccessful proposals shall not be used for purposes other than internal reference unless (1) written permission has been obtained from the offeror or (2) the proposal expressly states that unrestricted use is given to the Government regardless of its success in the competition.

Subpart 4415.5—Unsolicited Proposals

4415.500 Scope of subpart.

This subpart sets forth procedures for controlling the receipt, evaluation, and timely disposition of unsolicited proposals.

4415.502 Policy.

4415.502-70 Cost sharing.

FEMA's Appropriation Act requires the contractor to cost share if a research contract results from an unsolicited proposal. This requirement may be waived only when it would not be equitable for the Government to require cost sharing. To waive, (a) the offeror must certify in writing to the contracting officer that it has no commercial, production, educational, or service activities on which to use the results of the research and that it has no means of recovering any cost on such projects; and (b) the contracting officer must make a written determination that there is no measurable gain to the performing organization and no mutuality of interest. This determination shall be placed in the contract file.

4415.506 Agency procedures.

(a) The Office of Acquisition Management is the point of contact for the receipt, acknowledgment, and handling of unsolicited proposals. Unsolicited proposals and requests for additional information regarding their preparation shall be submitted to: Federal Emergency Management Agency, Office of Acquisition Management, Policy & Evaluation Division, 500 C Street SW, Room 728, Washington, D.C. 20472.

(b) Unsolicited proposals shall be submitted in an original and five copies at least six months in advance of the date the offeror desires to begin work so that there will be enough time to evaluate the proposal and negotiate a contract.

4415.506-1 Receipt and initial review.

The Office of Acquisition Management shall acknowledge an unsolicited proposal. Simultaneously, copies of the proposal shall be sent to the appropriate program offices for evaluation.

Subpart 4415.8—Price Negotiation

4415.803 General.

When all efforts to get a contractor to agree to a reasonable price or fee have failed, the contracting officer shall refer the matter to the head of the contracting activity.

Subpart 4415.10—Preaward, Award and Postaward Notifications, Protests, and Mistakes

4415.1003 Debriefing of unsuccessful offerors.

Any unsuccessful offeror may write for a debriefing within two months after contract award. The contracting officer shall provide the debriefing.

PART 4416—TYPES OF CONTRACTS

Subpart 4416.3—Cost-Reimbursement Contracts

Sec.
4416.303 Cost-sharing contracts.

Subpart 4416.6—Time-and-Materials, Labor—Hour, and Letter Contracts

4416.603 Letter contracts.
4416.603-3 Limitations.

Authority: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

Subpart 4416.3—Cost-Reimbursement Contracts

4416.303 Cost-sharing contracts.

(a) This subsection sets forth basis guidelines governing cost-sharing contract.

(b)(1) Cost sharing with non-Federal organizations shall be encouraged in contracts for basic or applied research in which both parties have considerable interest.

(2) Contracting officers shall assure themselves of the following in determining contract type:

(i) The research effort has more than minor relevance to the non-Federal activities of the performing organization and is not primarily a service to the Government.

(ii) The performing organization has adequate non-Federal sources of funds from which to make a cash contribution.

(iii) The performing organization is engaged primarily in production or other service activities, as opposed to research and development, and is in a favorable position to make a cost contribution.

(iv) The principal purpose of the contract is research.

(v) Payment of the full cost of the project is not necessarily in order to obtain the services of the particular organization.

(3) FEMA's Appropriation Act requires cost sharing by the contractor under research contracts resulting from unsolicited proposals. See 4415.502-70.

(c) Guidelines for determining the amount of cost sharing.

(1) For educational institutions and other not-for-profit or non-profit organizations, cost sharing may vary from 1 to 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic-year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(2) The amount of cost participation by commercial or industrial organizations may vary from 1 percent or less to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise, or competitive position, and the value of such enhancement to the performing organization. Recognize, however, that organizations predominately engaged in research and development with little other activity may not be able to derive a monetary benefit from the research under Federal agreements.

(3) A fee will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing normal fees on the research. However, if the research is expected to be of major value to the performing organization and if cost sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee rather than sharing the costs of the project.

(4) Each cost-sharing contract negotiated shall contain the clause in 4452.216-70.

Subpart 4416.6—Time-and-Materials, Labor-Hour, and Letter Contracts

4416.603 Letter contracts.

4416.603-3 Limitations.

A letter contract may be used only if the head of the contracting activity executes a determination and finding that no other contract type is suitable.

PART 4417—SPECIAL CONTRACTING METHODS

Subpart 4417.70—General

4417.7001 Preference for local contractors.

(a) This subsection establishes policies relating to local contractor preference to receive contract awards resulting from competitive solicitations under a Presidentially declared major disaster or emergency operation.

(b) The geographic areas to which local contractor preference shall apply are those affected by the Presidentially declared disaster and designated in the **Federal Register** by the Associate Director, State and Local Programs and Support, or his designee. Geographical areas shall be identified by county or other political subdivision.

(c) Pursuant to the provisions of Pub. L. 93-288, the provisions set forth in 4452.217-70 shall be included in each competitive solicitation for disaster relief response.

(d) If the contracting officer determines it to be in the best interest of the Government, the provision set forth in 4452.217-70 need not be included in solicitations. Such determination shall be documented in the contract file with a findings and determination signed by the contracting officer and approved by the head of the contracting activity.

(e) If the contracting officer makes the determination of paragraph (d) above, local participation may be encouraged by:

(1) Setting the procurement aside for labor surplus area if the disaster area has been established as a labor surplus area;

(2) Advertising only in the local disaster area; and/or

(3) Dividing large requirements into several smaller requirements.

(40 U.S.C. 486(c) Reorganization Plan No. 3 of 1978.)

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 4419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 4419.2—Policies

4419.201 General policy.

(a) The Director, Office of Equal Opportunity, is also the Director, Office of Small and Disadvantaged Business Utilization.

(b) The Chief, Policy and Evaluation Division, Office of Acquisition Management, is the small business technical advisor.

(c) Each contracting officer is a small and disadvantaged business utilization specialist.

(40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978)

PART 4424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 4424.2—Freedom of Information Act

4424.202 Policy.

FEMA's Freedom of Information Act policy is codified at 44 CFR 5.

(40 U.S.C. 486(c). Reorganization Plan No. 3 of 1978.)

Subchapter E—General Contracting Requirements

PART 4429—TAXES

Subpart 4429.1—General

4429.101 Resolving tax problems.

(a) The Office of General Counsel is responsible, with FEMA, for handling all tax problems. It also is responsible for asking the Department of Justice for representation of intervention in proceedings concerning taxes.

(b) The contracting officer shall request, in writing, the assistance of the Office of General Counsel in resolving a tax problem. The request shall detail the problem and include supporting information.

The Office of General Counsel shall inform the contracting officer of the disposition of the tax problem and the contracting officer will tell the contractor.

(40 U.S.C. 486(c). Reorganization Plan No. 3 of 1978.)

PART 4432—CONTRACT FINANCING

Subpart 4432.4—Advance Payments

4432.402 General.

The head of the contracting activity has responsibility and authority to make findings and determinations and to approve or disapprove contract terms.

(40 U.S.C. 486(c). Reorganization Plan No. 3 of 1978.)

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 4435—RESEARCH AND DEVELOPMENT CONTRACTING

4435.003 Policy.

Cost-sharing policy for research and development contracts is stated in 4415.502-70.

(40 U.S.C. 486(c). Reorganization Plan No. of 1978.)

PART 4436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 4436.6—Architect-Engineer Services

Sec.
4436.602-2 Evaluation boards.
4436.602-4 Selection authority.

Authority: 40 U.S.C. 486(c). Reorganization Plan No. 3 of 1978.

Subpart 4436.6—Architect-Engineer Services

436.602-2 Evaluation boards.

(a) Each architect-engineer evaluation board, permanent or ad hoc, shall have at least five voting members and one alternate. These will be Federal employees. A majority of the voting members will be from the program office.

(b) During the selection process, a board member or advisor may have, or appear to have, a conflict of interest regarding a firm in the competition. Immediately upon becoming aware of a potential conflict or an appearance of a conflict, the member or advisor shall notify the board chairperson who shall, in turn, inform the Office of General Counsel. The Office of General Counsel shall make a final determination on the conflict issue.

(c) The evaluation board is to be insulated from outside pressures. Information concerning board deliberations shall be divulged only to persons having a need-to-know.

4436.602-4 Selection authority.

(a) Heads of program offices which may require architect-engineer services are designated as selection authorities for acquisition of architect-engineer services.

(b) A determination shall be sent to the contracting officer listing the selected firms in order of preference.

PART 4450—EXTRAORDINARY CONTRACTUAL ACTIONS

Subpart 4450.2—Delegation of and Limitations on Exercise of Authority

4440.201 Delegation of authority.
4450.202 Contract adjustment boards.

Authority: 50 U.S.C. 1431-1435; E.O. 10789; E.O. 12148.

Subpart 4450.2—Delegation of and Limitations on Exercise of Authority

4450.201 Delegation of authority.

All authority granted by 48 CFR 50.101 may be exercised by the Director of the Federal Emergency Management Agency. Such authority to approve, authorize, and direct appropriate action under this Part and to make all

appropriate determinations and findings which do not obligate the United States in excess of $50,000 are delegated to the Director, Office of Acquisition Management. Such authority to approve, and direct appropriate action under this Part and to make all appropriate determinations and findings which may obligate the United States in excess of $50,000 are delegated to the FEMA Contract Adjustment Board. The limitations contained in 48 CFR 50.201 and 50.202 apply.

4450.202 Contract adjustment boards.

As cases arise under the Act, the Director of FEMA may appoint, as needed, a FEMA Contract Adjustment Board consisting of one senior staff member, not otherwise involved with the action under consideration, from each of the following offices:

(a) Acquisition Management, who shall act as Chairperson

(b) General Counsel

(c) Comptroller.

SUBCHAPTER H—CLAUSES AND FORMS

PART 4452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 4452.2—Texts of Provisions and Clauses

Sec.

Authority: 40 U.S.C. 486(c), Reorganization Plan No. 3 of 1978.

Subpart 4452.2—Texts of Provisions and Clauses

4452.217–70 Preference for Local Contractors in Presidentially Declared Major Disasters or Emergencies.

Pursuant to the provisions of Pub. L. 93–288 and 4415.105–71, the following provisions shall be included in each competitive solicitation for on-site disaster relief response:

Preference for Local Contractors (APR 1984)

In awarding any contract pursuant to this solicitation, the Government shall give preference to local organizations, firms, and individuals residing or doing business primarily in the geographic area identified as the disaster area.

The contracting officer reserves the right to request offerors to furnish documentation to demonstrate eligibility for local contractor preference. To be eligible, the offeror shall have been residing (in the case of individuals) or doing the major portion of its business (in the case of business entities) in the disaster area.

An offeror for which eligibility is established (local offeror) shall be permitted to meet the lowest price received from an otherwise eligible non-local offeror, provided that the proposed price from the local offeror does not exceed 130 percent of the price of the non-local offeror. The lowest priced local offeror within 130 percent of the lowest non-local offeror shall have the first chance to meet the non-local price. If the local offeror meets the lowest non-local price and is determined to be responsible, award shall be made. If the non-local offer is not met, the next lowest local offeror within 130 percent shall have the chance to meet the lowest non-local price. This process shall continue until award is made to a local offeror within the 130 percent requirement or the supply of local offerors is exhausted and award made to the lowest non-local offeror.

(End of Clause)

4452.227–70 Reproduction of Reports.

Include the following clause in the contract when the product is a report, data or other written material.

Reproduction of Reports (APR 1984)

Reproduction of reports, data, or other written material, if required herein, is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is to be determined by multiplying pages times copies. A production unit is one sheet, size 8½×11 inches or less, printed on one side only, and in one color. All copy preparation to produce camera-ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils, masters, and plates which are to be used on single-unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10¾ by 14¼ inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera-ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data, or other written material.

(End of Clause)

4452.227–71 Coordination of Federal Reporting Requirements.

The following clause shall be included in contracts when appropriate:

Coordination of Federal Reporting Services (APR 1984)

In the event that it is a contractual requirement to collect information from 10 or more public respondents, the provisions of 44 U.S.C. Chapter 35 (Coordination of Federal Reporting Requirements), shall apply to this contract. The contractor shall obtain through the project Officer the required office of Management and Budget clearance before making public contacts for the collection of data or expending any funds for such collection. The authority to proceed with the collection of data from public respondents and the expenditure of funds therefore shall be in writing signed by the Contracting Officer.

(End of Clause)

4452.227–72 Publication.

The following clause shall be used in all contracts under which it is anticipated that a report will be a product.

Publication (APR 1984)

(a) Definition. For the purpose of this clause "publication" includes (1) any document containing information intended for public consumption or (2) the act of, or any act which may result in, disclosing information to the public.

(b) General. The results of the research and development and studies conducted under this contract are to be made available to the public through dedication, assignment to the Government, or other such means as the Director of the Federal Emergency Management Agency shall determine.

(c) Reports furnished the Government. All intermediate and final reports of the research and development and studies conducted hereunder shall indicate on the cover or other initial page that the research and development and studies forming the basis for the report were conducted pursuant to a contract with the Federal Emergency Management Agency. Such reports are official Government property and may not be published or reproduced (in toto, in verbatim excerpt, or in a form approximating either of these) as an unofficial paper or article. The contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish such reports in whole or in part in a non-Government publication only in accordance with this paragraph (c) and paragraph (e)(1) of this clause.

(d) Publication by Government. The Government shall have full right to publish all information, data, and findings developed as a result of the research and development and studies conducted hereunder.

(e) Publication by contractor on technical personnel.

(1) Publication in whole or in part of contractor's reports furnished the Government. Unless such reports have been placed in the public domain by Government publication, the contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish a report furnished the Government, in toto or in verbatim excerpt, but consistent with paragraph (c) of this clause may not secure copyright therein, subject to the following conditions and the conditions in paragraph (e)(4) and paragraph (f).

(i) During the first six months after submission of the full final report, if written permission to publish is obtained from the contracting officer.

(ii) After six months following submission of the full report, and if paragraph (e)(3) is inapplicable, if a foreword or footnote in the non-Government publication indicates the source of the verbatim material.

(2) Publication, except vebatim excerpts, concerning or based in whole or in part on results of research and development and studies hereunder. The contractor or technical personnel may issue a publication concerning or based in whole or in part on the results of the research and development and studies conducted under this contract and may secure copyright therein, but in so publishing is not authorized thereby to inhibit the unrestricted right of the Director of the Federal Emergency Management Agency to disclose or publish, in such manner as he may deem to be in the public interest, the results of such research and development and studies to the following conditions and the requirement in paragraph (e)(4):

(i) During the first six months after submission of the full final report, and if paragraph (e)(3) is inapplicable, if written waiver of the waiting period is obtained from the contracting officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, subject to Government exercise of an option that the publication contain a foreword or initial footnote substantially as follows:

The (research) (development) (studies) forming (part of) the basis for this publication were conducted pursuant to a contract with the Federal Emergency Management Agency. The substance of such (research) (development) (studies) is dedicated to the public. The author and publisher are solely responsible for the accuracy of statements or interpretations contained therein.

(3) General conditions if FEMA determines that contractor's final report contains patentable subject matter developed in contract performance. If the contracting officer determines that the contractor's full final report contains patenteble subject matter developed in the performance of this contract and so notifies the contractor in writing prior to six months from date of submission of such report, no publication of verbatim excerpts from contractor's reports or publication concerning or based in whole or in part on the results of the research and development and studies hereunder shall be made without the written consent of the contracting officer.

(4) Copies of contractor and technical personnel publications to be furnished the Government. The contractor or technical personnel will furnish the contracting officer six copies of any publications which are based in whole or in part on the results of the research and development and studies conducted under this contract.

(f) Administratively confidential information. The contractor shall not publish or otherwise disclose, except to the Government and except matters of public record any information or data obtained hereunder from private individuals, organizations, or public agencies in a publication whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(g) Inclusion of provisions in contractor's agreements. The contractor shall include provisions appropriate to effectuate the purposes of this clause in all contracts of employment with persons who perform any part of the research or development or study under this contract and in any consultant's agreements or subcontracts involving research or development or study thereunder.

(End of Clause)

4452.239-70 Rights in Technical Data and Computer Software.

The following clause shall be used whenever technical data or computer software is involved, unless unlimited data rights are being procured.

Rights in Data

(a) Definitions (1) Technical data means recorded information regardless of form or characteristics of a scientific or technical nature. It may for example document research, experimental, developmental or engineering work or be usable or used to defind a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications standards, process sheets, manuals, technical reports, catalog item identifications and related information and computer software documentation. Technical data does not include computer software or financial, administrative, cost or pricing, and management data or other information incidental to contract administration.

(2) Computer means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations, for example: a device that operates on discrete data by performing arithmetic and logic processes on these data, or a device that operates on analog data by performing physical processes on the data.

(3) Computer software means computer programs and computer data bases.

(4) Computer program means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compliers, interpreters, data management systems, utility programs, sort-merge programs and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysts programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

(5) Computer data base means a collection of data in a form capable of being processed and operated on by a computer.

(6) Computer software documentation means technical data including, computer listing and printouts in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) Unlimited rights means to use, duplicate, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(8) Limited rights means rights to use, duplicate, or disclose technical data in whole or in part, by order for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government except for: (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release of disclosure, or (ii) release to a foreign government as the interest of the United States may require, only for such information or evaluation within such Government or for emergency repair or overhaul work by or for such Government under the conditions of (i) above.

(9) Restricted rights apply only to computer software and include, as a minimum, the right to: (i) Use computer software with the computer for which or with which it was acquired including use at any Government installation to which the computer may be transferred by the Government, (ii) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative, (iii) Copy computer programs for safekeeping [archives] or backup purposes, (iv) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights, and (v) Treat computer software bearing a copyright notice as a published copyrighted work, and in addition, any other specific rights not inconsistent therewith listed or described in this contract or described in a license or agreement made a part of this contract.

(b) Government right.

(1) Unlimited rights. The Government shall have unlimited rights in: (i) Technical data and computer software resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in this or any other Government contract or subcontract, (ii)

Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract, (iii) Computer data bases, prepared under Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain, (iv) Technical data necessary to enable manufacture of end items, components, and modifications, or to enable the performance of processes, when the items, components, modifications, or processes have been, or are being developed under this or any other Government contract or subcontract in which experimental, developmental, or research work is or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense [but see (2)(ii) below], (v) Technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software, (vi) Technical data pertaining to end items, components, or processes, prepared or required to be delivered under this or any other Government contract or subcontract for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements ("form, fit, and function" data, e.g., specification control drawings catalog sheets, envelope drawings, etc.), (vii) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance, or training purposes, (viii) Technical data or computer software which is in the public domain, or has been or is normally furnished without restriction by the contractor or subcontractor, and (ix) Technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined on the basis or subparagraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) Limited rights. The Government shall have limited rights in: (i) Technical data listed or described in an agreement incorporated into the schedule of this contract which the parties have agreed will be furnished with limited rights and, (ii) Technical data pertaining to items, components, or processes developed at private expense, and computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in (b)(1) (i), (v), (viii) and (ix); provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2)(i) and (ii) above are identified (for example, by circling, underscoring, or a note), that the piece of data is marked with the legend below in which is inserted:

(A) The number of the contract under which the technical data is to be delivered,

(B) The name of the contractor and any subcontrator by whom the technical data was generated, and

(C) An explanation of the method used to identify limited rights data.

Limited Rights Legend

Contract No.———————————

Contractor———————————

Explanation of Limited Rights Identification Method Used ———————

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above contractor, be either (a) used, released, or disclosed in whole or in part outside the Government; (b) used in whole or in part by the Government for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software; or (c) used by a party other than the Government except for (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or (ii) release to a foreign government as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) Restricted rights. The Government shall have restricted rights in computer software, listed or described in a license or agreement made a part of this contract, which parties have agreed will be furnished with restricted rights provided however notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights in (a)(9) (i) through (v). Such restricted rights are of no effect unless the computer software is marked by the contractor with the following legend:

RESTRICTED RIGHTS LEGEND USE, DUPLICATION, OR DISCLOSURE IS SUBJECT TO RESTRICTIONS STATED IN CONTRACT NO. ——— WITH ——— (Name of Contractor) ———

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the contractor to apply a restricted rights legend to such computer software shall relieve the Government of Liability with respect to such unmarked software.

(4) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to any data or computer software which the contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this paragraph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) Material covered by copyright. (1) In addition to the rights granted under the provisions of (b) above, the contractor agrees to and does hereby grant to the Government a royalty-free nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all technical data, except computer software documentation bearing a copyright notice and furnished in support of restricted rights computer software, and unlimited rights computer software prepared or required to be delivered under the contract now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyright matter in the manner described in (c)(1) above, unless the written approval of the contracting officer is obtained.

(3) The contractor shall report to the Government (or higher-tier contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the contractor with respect to any technical data or computer software delivered hereunder.

(d) Removal of unauthorized markings. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder if:

(1) The contractor fails to respond within 60 days to a written inquiry by the Government concerning the propriety of the markings, or

(2) The contractor's response fails to substantatê within 60 days after written notice, the propriety of limited rights, markings by clear and convincing evidence or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case, the Government shall give written notice to the contractor of the action taken.

(e) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Limitation on charges for data and computer software. The contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the contractor for charges for the use of technical data or computer software on account of such a contract. The contractor further recognizes

that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the contractor with respect to any such charges not so excluded.

(g) Acquisition of data and computer software from subcontractors.

(1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the contractor shall use this same clause in the subcontract without alteration and no other clause shall be used to enlarge or diminish the Government's or the contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime contractor.

(3) The contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire technical data or computer software from their subcontractors for themselves.

(End of Clause)

4452.239-71 Rights in Technical Data—Specific Acquisition.

Use of following clause when unlimited data rights are being procured.

Rights in Data—Specific Acquisition (APR 1984)

(a) Definition. Technical data means recorded information regardless of form or characteristic of a scientific or technical nature. It may, for example, document research, experimental, developmental, or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost or pricing, and management data, or other information incidental to contract administration.

(b) Government Rights. The Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others do so, all or any part of the technical data data delivered by the contractor to the Government under this contract.

(c) Material Covered by Copyright.

(1) In addition to the rights granted under the provisions of (b) above, the contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do do, all technical data required to be delivered under the contract now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the contracting officer is obtained.

(3) The contractor shall report to the Government (or higher-tier contractor) promptly and in reasonable written detail, each notice or claim of copyright infringement received by the contractor with respect to any technical data delivered hereunder.

(d) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) Limitation on charges for data and computer software. The contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the contractor for charges for the use of technical data or computer software on account of such a contract. The contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to the paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the contractor with respect to any such charges not so excluded.

[End of Clause)

Louis O. Giuffrida,

Director.

[FR Doc. 85-18209 Filed 7-31-85; 8:45 am]

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Federal Register

Thursday
August 1, 1985

Part V

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2820-4]

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for nonmetallic mineral processing plants were proposed in the **Federal Register** on August 31, 1983 (48 FR 39566). This action promulgates standards of performance for nonmetallic mineral processing plants. These standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that nonmetallic mineral processing plants cause, or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed nonmetallic mineral processing plants to achieve emission levels that reflect the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: August 1, 1985. Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard (NSPS) is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Nonmetallic Mineral Processing Plants—Background Information for Promulgated Standards" (EPA-450/3-83-001b). The BID contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments; (2) a summary of the changes made to the standards since proposal; and (3) the final Environmental Impact Statement which summarizes the impacts of the standards.

Docket. Docket number OAQPS-78-11, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Mr. William Harnett, (919) 541-5578, concerning regulatory decisions, and Mr. Kenneth R. Durkee or Mr. James A. Eddinger, (919) 541-5596, concerning technical aspects of the industry and control technologies. The address for the above parties is: Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

The Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> . . . application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to new, modified, and reconstructed facilities at plants that process any of the following 18 nonmetallic minerals: crushed and broken stone, sand and gravel, clay, rock salt, gypsum, sodium compounds, pumice, gilsonite, talc and pyrophyllite, boron, barite, fluorspar, feldspar, diatomite, perlite, vermiculite, mica, and kyanite. The affected facilities are each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Common clay plants and pumice plants with capacities of 9 megagrams per hour (Mg/h) [10 tons per hour (tons/h)] or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less are exempt from the standards. All nonmetallic mineral processing equipment at lime plants, power plants, steel mills, and other source categories not already covered by standards of performance for those categories is covered by the standards. Equipment used to process nonmetallic minerals at asphalt concrete plants and Portland cement plants will be covered by these standards unless such equipment is already covered by other standards of performance or follows equipment subject to other standards of performance.

It is believed that the addition of new process lines at new or existing plants is the most likely way facilities would become affected by the standards. The EPA's information shows that replacement or modification of individual pieces of equipment at existing plants is not a common practice, and EPA believes that replacement will remain uncommon. Therefore, EPA did not calculate the impacts of controlling replacement of existing pieces of equipment with new equipment. While EPA believes replacement of an individual affected facility in an existing process line is unlikely, EPA recognizes that if such replacements do occur, the costs of retrofitting controls could be large. Therefore, EPA has provided an exemption for certain replacements which is consistent with the environmental and economic analyses performed. Under the final standards the replacement of an existing facility with a new facility of equal of smaller size and having the same function is exempt from compliance with the emissions limits of these standards. The replacement exemption will not apply in the case that all affected facilities in a production line are replaced with new facilities. In such a case, all new affected facilities will be subject to the stack and fugitive emissions limits contained in the regulation. The EPA's analyses show that control of an entire production line is feasible. In order to qualify for the exemption, an owner or operator replacing an existing facility with a new facility of equal or smaller size must report this to EPA and to the State, if the State has been granted NSPS authority. The type and size of the existing and new facilities, a description of the control system for the existing facility and the age of the existing facility must also be reported to the EPA Office of Air Quality Planning and Standards. This information will be used during the 4-year review of the standards to assess the frequency and characteristics of such replacements and the need for continuation of the exemption.

The standards are based on emission levels achievable using well designed and operated baghouse control or wet dust suppression techniques. Both systems are BDT. The promulgated standards limit both fugitive and stack emissions of particulate matter from affected facilities. Fugitive emissions are emissions not collected by a capture system. Fugitive emission are limited to 10 percent opacity for all affected facilities with the following exception: fugitive emissions from crushers at which capture systems are not used are limited to 15 percent opacity. The standards for stack emissions, which are emissions collected by a capture system, limit the concentration of particulate matter to 0.05 gram per dry standard cubic meter (g/dscm) [0.02 grain per dry standard cubic foot (gr/dscf)] and 7 percent opacity.

The stack opacity standard does not apply to affected facilities that use wet scrubbers to control emissions. Instead, an owner or operator of an affected facility using a wet scrubber for controlling emissions is required to install a monitoring device to continuously measure the liquid flow rate to the scrubber and a device to measure the pressure drop across the scrubber. An operator of a wet scrubber is also required to record the pressure drop and flow rate daily and to report semiannually the occasions when the measurements of these parameters differ by more than ±30 percent from those measurements recorded during the last performance test.

If affected facilities are enclosed in a building for the purpose of controlling emissions, there must be no visible fugitive emissions from the building and emissions from building vents must meet the stack emissions standards of 0.05 g/dscm and 7 percent opacity; or individual affected facilities inside the building must meet the emission limits required for each affected facility (i.e., fugitive opacity of 15 percent for crushers at which capture systems are not used and 10 percent for all other affected facilities). "Vents" are defined as openings through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions, from one or more affected facilities.

Reference Methods 1, 2, 3, and 5 or 17 will be used to determine compliance with the stack concentration standard. Reference Method 9 will be used to measure the opacity of stack emissions, the opacity of process fugitive emissions, and the opacity of emissions from building vents. Reference Method 22 will be used to measure the visible fugitive emissions from buildings enclosing affected facilities.

Summary of Environmental, Energy, and Economic Impacts

Environmental Impact

Emissions reductions were estimated by comparing emissions from affected facilities at new and expanded plants under the proposed standards versus emissions which would be allowed by typical State process weight regulations. The method of calculating emissions reductions is described in the BID for the proposed standards.

By the fifth year following proposal, the promulgated standards are estimated to reduce the total amount of particulate matter emissions into the atmosphere by 41,000 megagrams per year (Mg/yr) [45,000 tons per year (tons/yr)]. This reduction is 90 percent greater than that achievable with a typical State process weight regulation.

With the use of dry collection techniques (baghouses) to achieve the standards, no water discharge is generated. Therefore, there would be no adverse water pollution impact from the standards. Where wet dust suppression is used to meet the standards, there would be no significant water discharge because most of the water adheres to the material being processed until it evaporates.

The solid waste impact of the standards would be very small. When dry collection techniques are used, about 1.4 Mg (1.5 tons) of solid waste are collected for every 250 Mg (276 tons) of material processed. In many cases, this material can be recycled back into the process, sold, or used for a variety of purposes. Where no market exists for the collected material, it is typically disposed of in a mine or in an isolated location in a quarry. No Subsequent air pollution problems should develop, provided the waste pile is protected from wind erosion. Information on control techniques for waste piles is included in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" (EPA 450/3–82–014) available from the EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Where wet dust suppression is used to meet the standards, no solid waste disposal problem would result from implementing the standards.

Energy Impact

The incremental energy requirements of the standards have been estimated by comparing the energy required for the use of baghouses to control particulate matter emissions to the energy required for no control system. The estimates indicate a greater impact than would actually occur because it is expected that less energy-consuming wet dust suppression systems would be used in many cases to achieve the standards. In addition, many new plants would use baghouses or combinations of baghouses and water spray controls to meet existing State regulations, and the full cost of control would not be attributable to the NSPS.

The energy required to control all new nonmetallic mineral processing plants constructed by the fifth year after proposal to the level of the promulgated standards would be about 430 terajoules per year (1.2 terajoules per day), indicating a minor impact on national electrical energy demand. This would be about a 15 percent increase over the amount of energy that would otherwise be required to meet the industry's projected capacity additions without controls. The increased energy consumption for typical plants that would result from the promulgated standards would range from about 5 percent for a 136 Mg/h (150 tons/h) plant having both crushing and grinding operations to about 20 percent for a 9 Mg/h (10 tons/h) plant having only a crushing operation.

Economic Impact

The costs and economic impacts associated with the promulgated standards are considered to be reasonable. The estimated impacts are based on a comparison of baghouse use to a no-control case. Less expensive wet dust suppression systems may be used in many cases to achieve the standards. Also, many new plants would use baghouses or a combination of baghouses and water sprays to meet existing State regulations. Thus, the actual economic impact of the standards would be expected to be considerably less than the estimates summarized below.

The impact of the standards on an individual plant was evaluated by developing a discounted cash flow (DCF) analysis for each new model plant size. DCF is an investment decision analysis that shows the economic feasibility of a planned capital investment project over the life of the project. The results of the analysis indicate that the costs associated with implementing the promulgated standards would not preclude construction of most new nonmetallic mineral processing plants that would be built in the absence of the standards.

However, the DCF analysis indicated that the incremental costs associated with baghouse control may preclude the construction of new pumice plants and common clay plants with capacities of 9 Mg/h (10 tons/h) or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less. For this reason, these plants are exempt from the standards. Representatives of the crushed stone and sand and gravel industries have indicated that few, if any, fixed plants smaller than 23 Mg/h (25 tons/h) and portable plants smaller than 136 Mg/h (150 tons/h) would be built in the future. Nevertheless, these exemptions are provided for those few plants that may be built.

All of the dollar figures presented below are in 1979 dollars. Figures that were reported in 1976 dollars in the economic impact analysis in the BID for the proposed standards have been converted to 1979 dollars for comparison purposes. The capital costs for baghouse control systems for plants having only a crushing operation would range from $70,000 for a 9 Mg/h (10 tons/h) plant to $396,000 for a 544 Mg/h (600 tons/h) plant or from 12 to 9 percent of the plant's total capital costs. Total annualized costs would range from $17,000 to $105,000 per year. For plants having both crushing and grinding operations, capital costs would range from $109,000 for a 9 Mg/h (10 tons/h) plant to $219,000 for a 136 Mg/h (150 tons/h) plant or from 16 to 6 percent, respectively, of the plant's total capital costs. For these plants, annualized costs would range from $25,000 to $53,000 per year. For portable crushing plants, capital costs would range from $88,000 for a 68 Mg/h (75 tons/h) plant to $260,000 for an 816 Mg/h (900 tons/h) plant or from 22 to 15 percent, respectively, of the plant's total capital costs. Annualized costs would range from $34,000 to $105,000 per year. The total additional capital cost to install baghouses on all new plants would be about $125 million for the first 5 years the standards are in effect. The nationwide annualized cost of control at plants covered by the standards would increase by $34 million in the fifth year following proposal of the standards. For each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product.

The environmental, energy, and economic impacts are discussed in greater detail in the two BID's for the standards: (1) "Nonmetallic Mineral Processing Plants—Background Information for Proposed Standards" (EPA–450/3–83–001a), and (2) "Nonmetallic Mineral Processing Plants—Background Information for Promulgated Standards" (EPA–450/3–83–001b).

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (40 FR 34454, August 11, 1975; and 43 FR 26797, June 22, 1978) of meetings of the National Air Pollution Control Techniques Advisory Committee to discuss the standards for nonmetallic mineral processing plants recommended for proposal. These meetings were held on September 3–4, 1975 and July 11–12, 1978. The meetings were open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal. The proposed standards were published in the **Federal Register** on August 31, 1983 (48 FR 39566). The preamble to the proposed standards discussed the availability of the BID, "Nonmetallic Mineral Processing Plants—Background Information for Proposed Standards" (EPA–450/3–83–001a), which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. It was stated in the **Federal Register** that a public hearing would be held, if requested, to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards. A public hearing was not requested or held. The public comment period was from August 31 to November 14, 1983. Fifty-two comment letters were received concerning issues relative to the proposed standards of performance for nonmetallic mineral processing plants. The comments have been carefully considered and, where determined to be appropriate by the administrator, changes have been made in the proposed standard.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry, trade associations, State and local air pollution control agencies, and Senators and Members of Congress. A detailed discussion of these comments and responses can be found in the BID, which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses in the BID serve as the basis for the revisions which have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The comments have been divided into the following areas: Need for Regulation of Source Category, Selection of Industries Included in Source Category, Definition of Affected Facility, Control Technology, Economic Impact, Selection of Emission Limits, Test Methods and Monitoring, and Miscellaneous.

Need for Regulation of Source Category

Several commenters questioned the EPA's determination that nonmetallic mineral processing plants are sources of emissions that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. Many of these commenters stated that nonmetallic mineral processing plants are insignificant sources of fugitive particulate emissions when compared to other sources of these emissions. Some commenters also stated that they are not aware of any documented cases of anyone being harmed by the dust from the crushing and processing of limestone. Several commenters felt this industry is not a significant source of emissions into the ambient air because the emissions do not leave the plant boundaries. Commenters also questioned the EPA's estimate that the standards could reduce total particulate emissions by 41,000 megagrams/yr (45,000 tons/yr). They believed this estimate was too high. For these reasons, the commenters believed standards of performance should not be promulgated for nonmetallic mineral processing plants.

The EPA has determined that nonmetallic mineral processing plants as a category contribute significantly to particulate matter air pollution, and that such pollution may reasonably be anticipated to endanger public health and welfare. The EPA has also determined that a reduction in particulate emissions can be achieved by application of best demonstrated technology. Under Section 111 of the Clean Air Act, EPA is, therefore, required to promulgate standards of performance for this source category.

Nonmetallic mineral processing plants were ranked 13th out of 59 major source categories on the EPA's priority list of source categories (44 FR 49225, August 21, 1979). This list was promulgated under section 111(f) of the Clean Air

Act. Source categories were included on the list if, in the Administrator's judgment, they cause, or significantly contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Source categories were ranked in order of priority according to (1) quantity of emissions, (2) potential impact on health and welfare, and (3) mobility and competitive nature of the source category.

Nonmetallic mineral industries were included on the NSPS priority list due to potentially significant emissions of particulate matter. Particulate matter is a criteria pollutant which has been determined to be an air pollutant which may endanger public health and welfare and for which a national ambient air quality standard (NAAQS) has been promulgated. (Limestone dust and other dusts emitted by the nonmetallic mineral industry are types of particulate matter.) The Administrator's determination that particulate emissions may endanger public health and welfare is documented in "Air Quality Criteria for Particulate Matter and Sulfur Oxides" (EPA–600/8–82–029a).

The EPA examined control technologies and identified BDT for certain facilities at nonmetallic mineral processing plants. Economic analyses have shown that the costs and economic impacts of applying BDT in accordance with the proposed and promulgated standards are reasonable. The magnitude of emissions reductions which would result from the standards was estimated in the background document for the proposed standards.

This estimate was made by EPA using the best available data and reasonable assumptions. Baseline emissions (those which would occur in the absence of an NSPS) were estimated by assuming that new and expanded plants would comply with typical State process weight regulations. These were compared with emissions estimated to occur if new and expanded plants were controlled to the level required by the proposed NSPS. By this method of estimation, the emissions reduction achievable under the proposed NSPS was found to be 41,000 Mg/yr (45,000 tons/yr). This is a reduction of 90 percent over baseline emissions. The EPA recognizes that there are uncertainties in this emissions reduction estimate. Variability in current control levels and variability in processes and emissions occurring at individual plants within each industry and among the 18 nonmetallic mineral industries lead to uncertainty in emissions estimates. Furthermore, economic predictions of the growth of the industries are always uncertain. However, the estimates are based on reasonable assumptions and are adequate for decision-making purposes.

Selection of Industries Included in Source Category

Several commenters expressed concern over the following statement in the preamble to the proposed standards: "The 18 minerals covered by the proposed standards were selected on the basis of production tonnage rather than on the basis of any health or welfare considerations as compared to the other minerals." They believed this selection methodology violates the intent and scope of the Clean Air Act. Some believed that the goal of the Clean Air Act is improved air quality through reduction of total suspended particulates but that the EPA's approach leads to control of relatively small point sources of particulate emissions while missing major area sources. Others said that EPA must base regulation of specific industries on health and welfare considerations rather than on size.

The statement the commenters quoted concerning the selection of industries to be covered was an explanation of how EPA selected the particular 18 minerals to be covered by the NSPS from all the nonmetallic minerals that exist. The statement was not intended to provide any rationale for developing an NSPS for nonmetallic mineral processing plants. The reasons for developing an NSPS for the nonmetallic mineral source category were discussed in the previous response.

For the purposes of standards development, EPA had to define which industries within the nonmetallic mineral industry source category would be regulated. Since similar grinding and crushing processes occur at most nonmetallic mineral industries, it is assumed that potential particulate emissions will be roughly proportional to production tonnage. Therefore, the largest sources of emissions will be controlled by regulating the industries which produce the largest volumes of nonmetallic minerals. Since the largest emissions reductions can be achieved by regulating the largest nonmetallic mineral industries, the 18 largest have been selected for inclusion in the NSPS. These 18 categories are based upon Bureau of Mines classifications and are the largest mined production segments of the nonmetallic mineral industry which have crushing and grinding operations, excluding coal, phosphate rock and asbestos. Crushing and grinding of coal and phosphate rock are covered under NSPS for coal preparation plants and phosphate rock plants. Processing of asbestos is regulated under the national emission standard for hazardous air pollutants (NESHAP) developed for asbestos.

Selection of Affected Facility

Fourteen commenters objected to the designation of each piece of equipment at a processing plant as an affected facility. They believed that the entire plant should be designated as the affected facility. The commenters stated that control systems are designed for the entire processing plant, not for each piece of equipment. Therefore, retrofitting individual pieces of equipment at existing plants could entail either replacing existing multiple facility control technology completely or installing a separate control device for each piece of equipment as it is replaced. The commenters reasoned that the former would mean the entire plant, including existing facilities, would be meeting the standards and the latter would lead to an inefficient control technology design with each piece having its own control device. The commenters believed that it was not the EPA's intent to have either situation occur. The commenters also stated that nonmetallic mineral processing plants are not similar to other manufacturing operations regulated under section 111 because they are designed as an integrated unit. They pointed out that a broken crusher, screen, or conveyor belt can render an entire production plant inoperative. They recommended that the entire plant be designated as the affected facility. One commenter felt that since crushers, grinding mills, screening operations, bucket elevators, belt conveyors, and storage bins are part of an integral unit, they should be considered one affected facility. He felt that since bagging operations and truck and railcar loading stations can operate independently of the rest of the plant, they could be considered separate affected facilities. Five commenters believed that Congress intended to protect and enhance air quality by controlling new plants as they are built and old plants when they are substantially rebuilt. They felt that designating the entire plant as the affected facility is more consistent with this intent. The commenters felt that specific pieces of equipment within a plant that are replaced without causing any increase in emissions should not be subject to the NSPS if such replacements fall under the 50 percent fixed capital cost threshold as outlined in the reconstruction provisions.

One commenter suggested another alternative of having EPA provide a

waiver for plants that can show technical and cost reasons for designating the entire plant as the affected facility.

One commenter asked that replacement of a worn-out piece of equipment with a new piece of equipment of the same type and with the same capacity be exempt from coverage. The commenter called this type of replacement common. Another commenter requested clarification of whether total replacement of an individual piece of equipment is exempt from the NSPS. Another commenter stated that these replacements were made on a regular and relatively routine basis.

It is the EPA's interpretation that these comments fall essentially into two subject areas: (1) Should the affected facility be defined more broadly than proposed (i.e., the whole plant instead of each piece of equipment)? (2) Is it reasonable to subject owners or operators to the standards if they are replacing an existing piece of equipment with another piece of equipment of equal or smaller size? In summary, EPA has concluded that the narrow definition should be retained. However, the Agency agrees that the replacement of an existing piece of equipment with another piece of equipment of equal or smaller size should be excluded from coverage in this case due to special characteristics of this source category. The rationale for these conclusions is discussed in the remaining paragraphs of this response.

Broad Versus Narrow Definition Of Affected Facility. In accordance with its congressional mandate to set performance standards based on best systems of continuous emission reduction considering cost, EPA reviewed all operations associated with the mining and processing of nometallic minerals for possible coverage by the NSPS. Those facilities now listed as affected and covered by the NSPS represent those for which EPA had adequately demonstrated control techniques which can be applied at reasonable cost.

As discussed in the proposal preamble, the choice of the affected facility is based on the Agency's interpretation of Section 111 of the Act and judicial construction of its meaning. [The most important case is *ASARCO, Inc.* v. *EPA*, 578 F.2d 319 (D.C. Cir. 1978).] Under section 111, the NSPS must apply to "new sources;" "source" is defined as any building, structure, facility, or installation which emits or may emit any air pollutant" (Section 111(a)(3)). Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that might be viewed as "sources." The EPA, therefore, uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

Since the purpose of section 111 is to minimize emissions by application of BDT (considering cost, health and environmental effects, and energy requirements) at all new, modified, and reconstructed sources, there is a presumption that a narrower designation of the affected facility is proper. In order to promulgate the broader designation, EPA would have to find that it would achieve greater total emission reductions or equivalent total reductions with significant other benefits such as reduced costs, energy consumption or other environmental impacts. In determining the appropriate designation of affected facilities for this NSPS, EPA considered the cost, environmental, energy, and economic impacts associated with the narrow designation as it was proposed (i.e., each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station) and determined them to be reasonable. For all new processing plants expected to be constructed in the first 5 years after proposal of the NSPS, cost and economic impact analyses were prepared which analyzed the NSPS impacts on the economic feasibility of new plants. Where the analysis showed that the cost of control equipment had unreasonable impacts on the economic feasibility of a particular size of new plant, an exemption from compliance with this NSPS was given (e.g., 25 ton per hour stationary crushed stone plants, see § 60.670).

For existing facilities within the nonmetallic mineral industry, the EPA's information about the industry indicated that there would be few modifications and reconstructions. Modifications were not expected to occur because of the industry's operating characteristics. For example, changes to the equipment are not typically made for processing different types of raw materials because the equipment is designed to process different materials and changing raw materials would, therefore, not constitute a modification [40 CFR 60.14(e)(4)]. In fact, the only plausible case the Agency found in which emissions would be increased from an existing facility was the case of increasing operating hours, a case which is specifically exempt from coverage through modification provisions [40 CFR 60.14(e)(3)]

Similarly, reconstruction in its usual sense was not expected to occur frequently. While parts of affected facilities (narrow definition) are replaced, these replacements are regular, routine maintenance activities, such as replacement of ore contact surfaces and other nondepreciable items. These routine replacements are performed to keep existing equipment operational. Because of these maintenance activities, the equipment has a long operational life and neither reconstructions nor replacements are expected to be frequent. Based on information available to the Agency, the EPA's judgment is that total replacements, if they occurred, would most likely consist of replacing existing equipment with larger capacity equipment for purposes of increasing production capacity or changing product specifications.

After considering processes using existing equipment and additions and changes which might be made to them, EPA concluded that the most likely change to occur would be the addition of completely new production lines of equipment with equipment designed for increase production or changes in product specifications. Based on the cost and economic impact analyses prepared, EPA concluded that it was economically reasonable to control new production lines.

Expansions of plant capacity typically occur with the addition of a new crushing or grinding line, which may include one or more of each of the facilities listed above. With the entire plant designated as the affected facility (broader designation), the addition of a new crushing or grinding line would cause the entire plant to be covered by the standards. This could cause significant cost, economic and energy impacts because of retrofitting control equipment on the existing pieces of equipment. Under the narrow designation of affected facility, the standards would cover only the new equipment used to expand the plant. Because the economic impact analysis showed it was reasonable to control the new equipment and because of the potential for unreasonable impacts associated with the broader designation, it was concluded that the narrow designation of affected facility was appropriate and reasonable.

Replacement Of Equipment With Similar Equipment Of Equal Or Smaller Size—Contrary to the information developed by EPA, representatives of several major trade groups have commented that replacements of equipment with new equipment of the

same size do occur. In fact, one association said that replacements, including replacements of existing pieces of equipment with similar pieces of equipment of equal size occur on a regular and relatively routine basis.

The EPA requested specific data on the frequency of replacement of equipment with equipment of the same or smaller size from these industry representatives but received nothing more definitive. However, the nature of this industry may make this type of information difficult to obtain. There are over 10,000 existing sand and gravel and crushed stone plants in the U.S. Because there are so many producers, so widely dispersed, it is difficult for either the industry or EPA to gather comprehensive information needed to fully quantify the equipment replacement practices at all of these plants. However, EPA agrees that the replacement practices cited by the industry are certainly possible. The EPA's analyses show that control of an entire new production line is reasonable, but to the extent that replacement of individual facilities within a production line does occur where controls are in place, separate control of each individual piece of equipment may impose unreasonable costs.

Therefore, to resolve this issue, EPA has included an exemption from compliance with the particulate emission limits of the standards for replacement of existing equipment with similar equipment of equal or smaller size. However, if every facility in a production line is replaced with a new facility, all new facilities will have to comply with the stack and fugitive emission limits contained in § 60.672 of the regulation. If all facilities in a production line are replaced over a period of time, every facility will become subject to the emission limits at the time the last of the existing facilities in the line is replaced with a new facility. The facilities in the production line would become affected regardless of the length of time over which replacement occurred. A production line is defined as all affected facilities (crushers, grinding mills, screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck and railcar loading stations) that are connected together either directly or by a conveying system.

Although industry commenters have said that replacement of individual facilities is common, EPA has no data that would indicate that it is a widespread practice. Moreover, the EPA's growth and environmental impact projections were not based on such replacements. Therefore, EPA expects no significant impact on emission reductions which could be achieved under the standards. The EPA will, however, reassess this exemption in 4 years during the review of the standards.

Recordkeeping provisions have been added to the final standards to allow the Agency to obtain statistics on the number and type of such replacements which occur. Compliance with § 60.676 of the standards requires an owner or operator replacing an existing facility with a new facility of equal or smaller size to report the following information to the Regional EPA Office or to the State if they have been delegated NSPS authority and also to the EPA Office of Air Quality Planning and Standards: (1) The type and sizes of the existing and new facilities, (2) a description of the emissions control system on the existing facility, and (3) the age of the existing facility. The EPA is authorized to collect information such as this for the purposes of standards development under Section 114 of the Clear Air Act. During the 4-year review, EPA will use the collected information to reconsider the need for this exemption and, if appropriate, analyze the impacts of requiring such replacements to comply with the emission limits.

Control Technology

Some commenters perceived that the proposed standards did not allow for the enclosure of affected facilities in buildings. One said that processing equipment at brick plants is normally enclosed in buildings. Under the proposed standards, they said, emissions measurements would have to be taken at each piece of equipment inside a building, and facilities could be found in violation even if emissions did not escape the building. They concluded that in this situation, EPA would be regulating workplace rather than ambient air emissions. They requested that emissions measurements be taken outside such buildings to determine compliance.

The EPA met with the commenter in order to better understand this comment. The commenter brought photographs of one brick plant in which the crushing and grinding equipment appeared to be controlled very effectively with fabric filters. Both the process equipment and the control systems were located inside of buildings. Exhaust ducts from the control equipment exited through the buildings. However, fugitive emissions were not in evidence in the photographs taken inside the buildings, nor were they seen exiting from the buildings. The EPA also visited three brick plants operated by two companies. The trip reports are in the docket. In general, emissions from crushing and grinding operations are well controlled. Although the sides of buildings housing these operations were open and conditions during the visits were windy, no visible emissions were observed exiting from the buildings at two of the three plants. At the third plant, visible emissions from a hammermill were observed escaping from one side of a building.

The EPA agrees with the commenter that the intent of section 111 is to limit emissions to the ambient air. The EPA also agrees that in some cases enclosure of affected facilities in buildings is equivalent to BDT. For these reasons, EPA has expanded §§ 60.672 and 60.675 of the promulgated standards to add emissions limits and methods of determining compliance which apply if affected facilities are enclosed by a building. Under the final standards, affected facilities inside an unvented building will be determined to be in compliance if there are no visible fugitive emissions from the building as determined by EPA Method 22. If the building is vented and there are no visible fugitive emissions, and the emissions from the vent meet the stack particulate standards of 0.05 g/dscm and 7 percent opacity, the affected facilities inside the building will be determined to be in compliance. A vent is defined as an opening through which there is mechanically induced airflow for the purpose of exhausting from a building air carrying particulate matter emissions from one or more affected facilities. If there are no fugitive emissions from the building and any vent from the building meets the emission limits, then the emissions control is equivalent to that achieved using BDT.

However, if emissions from the building exceed the "no visible emissions" fugitive standard or the stack standards, opacity must be measured at each affected facility inside the building, and the applicable standards (i.e., 15 percent fugitive opacity for crushers without capture systems and 10 percent opacity for all other facilities) must be met by each affected facility. These provisions allow buildings to be used as control devices and compliance measurements to be taken outside the building if the building can meet a "no visible emissions" fugitive standard and the applicable stack emissions standards.

When measuring compliance with the standards, Method 22 shall be used to

measure visible emissions from buildings. The minimum total observation period for each building shall be 75 minutes, and each side of the building and the roof shall be observed for at least 15 minutes. If any visible fugitive emissions are seen leaving the building, regardless of whether these emissions are generated by an affected facility, opacity measurements will be conducted at each affected facility inside the building using Method 9. In this case, each affected facility must meet the applicable fugitive opacity limits in order to be determined to be in compliance.

Economic Impact

Several commenters questioned the EPA's conclusion that requiring baghouse control on portable plants is reasonable. They stated that each time a facility was relocated, the operator would have to modify the control system. They did not believe the costs associated with this activity were included in the cost estimates. Some commenters also questioned why EPA exempted portable plants of 150 tons/h or less from the regulation. They believed portable plants of up to 300 tons/h should have been exempted.

The EPA's analyses show that it is reasonable for portable plants with capacities of over 150 tons/h to be covered by the standards. The EPA modeled portable plants with two different plant configurations and two control options to account for variability in portable plants. The two types of configurations are straight-line and L-shaped. Control Option 1 assumed one baghouse is used to control the entire portable plant if the plant's capacity is 270 Mg/h (300 tons/h) or less. For larger plants, it was assumed that the primary crusher would be ducted to one baghouse and all other pieces of equipment would be ducted to a second baghouse. Option 2 assumed the following sources are controlled by individual baghouses: primary crusher, secondary crusher and associated screen, tertiary crusher and associated screen, and final screen. For both options, emissions from conveyor transfer points are assumed to be hooded and ducted to the baghouse system.

Plants were assumed to move an average of 4 moves per year between quarries or 24 moves per year within a quarry. This is believed to be an unusually large or worst case estimate of the number of moves typically made by portable plants and would lead to overestimation of control costs in most cases. It is believed the plant would usually be set up in a similar configuration in order to minimize moving and set-up costs and to avoid modification of process equipment. The costs of dismantling, moving, and reassembling the control system were estimated to be between $8,500 and $16,000 per move (EPA–450/3–83–011a). These costs were included in the DCF analysis used to predict the profitability of portable plants with and without an NSPS. The estimated costs of moving include costs of minor modifications in the duct work. Thus, the costs of moving portable plants have been included in the EPA's ecomonmic analyses; and it has been determined that the costs of controls required by the standards are reasonable.

The EPA's DCF analysis indicates that for portable crushed stone and sand and gravel plants, controls required by the standards would make investment in portable plants of 150 tons per hour economically infeasible, but for plants larger than 150 tons per hour the analysis, does not indicate clear economic feasibility or infeasibility. In the DCF analysis, the feasibility of individual investments was judged by whether or not the internal rate of return is greater than the cost of equity (and thus economically feasible) or less than the cost of equity (and thus economically infeasible). For the stationary plant DCF analysis a cost of equity of 11.8 percent was assumed. For the portable plant DCF analysis a range from 12 to 15 percent was assumed for the cost of equity.

However, in order to avoid the understatement of the adverse economic consequences that would affect the industry members, several "worst-case" (i.e., from the industry point-of-view) assumptions have been made by the DCF analysis. Among the assumptions are: NSPS costs are calculated from an uncontrolled baseline (i.e., there are no SIP costs); the plant is operated as a separate business entity; cost pass-through is limited by competition from existing plants in the same area; the plant will operate only 1,600 hours per year (vs. 2,000 hours per year for a stationary plant); a small crane and flatbed truck will be needed to move the portable plant baghouse; and baghouses will be used as opposed to wet dust suppression systems which cost significantly less.

The cutoff point was set at 150 tons/h because the economic analysis shows that even if the worst-case assumptions noted are relaxed, the economic viability of portable plants of this and smaller sizes remains in doubt. On the other hand, for plants larger than 150 tons/h, the benefits of "economies of scale" increase the profitability of these plants so that NSPS costs are significantly less burdensome. Finally, it should be noted that although the economic analysis presented in the BID for the proposed standards does not show clear economic feasibility or infeasibility of the 300 tons/h portable plant with NSPS controls, it is highly unlikely that all worst-case assumptions would hold true for such a plant. In reality, if only one or two of the worst-case assumptions are relaxed, the plant is shown to be economically feasible. For these reasons, portable sand and gravel plants and crushed stone plants of 150 tons/h or smaller are exempt from the standards, but larger sized plants are covered by the standards.

In addition to the exemption for portable plants with capacities of 150 tons/h or less, exemptions have also been provided for stationary sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less and for common clay plants and pumice plants with capacities of 9 Mg/h (10 tons/h) or less. These exemptions were also based on the results of DCF analyses.

The determination of plant capacity will be based on the rated capacity of initial crushers that are part of the plant. An initial crusher is any crusher into which nonmetallic minerals can be fed without prior crushing in the plant. If a plant has only one initial crusher, the plant capacity will be considered equal to the rated capacity of the initial crusher (in tons/h). If the plant has two or more initial crushers, their rated capacities shall be added together to determine plant capacity. Production lines are composed of initial crushing and screening operations, which may be followed by secondary crushing, grinding, and screening operations. A variety of sizes of crushed products may be produced by the same line, since material may be screened and sold as product at various points in the production line. Thus, some of the output of the initial crusher may become product without passing through secondary crushers. For this reason initial crushing equipment will be used to determine the capacity of the plant.

Selection of Emission Limits

Several commenters stated that the 7 percent opacity limit for emissions discharged from a stack unless a wet scrubbing device is used is too low. Commenters suggested the limit be raised to 10 or 15 percent. Most of the commenters stated that the human eye is not calibrated well enough to distinguish between 5, 7, and 10 percent

opacity. Because observers are trained to read in 5 percent increments, they felt the limit set should be divisible by 5. Several commenters stated that EPA Reference Method 9 is only an estimation technique accurate to plus or minus 7.5 percent opacity. They questioned whether a 7 percent limit can be consistently and reliably enforced using this method. On the other hand, one commenter felt that the limit was not entirely unreasonable because a properly maintained baghouse for nonmetallic mineral processing will almost always show less than 5 percent opacity. Another commenter stated the appropriateness of the standards is confirmed through statements from persons proposing new nonmetallic mineral processing plants in San Diego County.

The EPA's opacity limit for stack emissions is well supported by test data summarized in the BID for the proposed standards. Test data from 25 baghouse controlled facilities demonstrate the achievability of the 7 percent stack opacity standard. At 21 baghouses, the maximum 6-minute average opacity was 0 percent; at 3 baghouses, the 6-minute average was 1 percent; and at 1 baghouse, it was 6 percent. The commenters did not submit any data to show they could not meet the standard, nor has EPA found a reason to raise the standard.

Opacity results from Method 9 tests represent the average of 24 readings over a 6-minute period. While each reading is recorded as an increment of 5 percent opacity, the average of all the readings can be any value. The NSPS is based on 6-minute averages and, therefore, is not limited to an increment of 5 percent opacity.

Contrary to the commenters' suggestions, Method 9 does not require that the maximum 7.5 percent positive error discussed in the section entitled *Certification Requirements* be taken into account for enforcement purposes. The only portion of Method 9 addressing the enforcement issue is the introductory section. That section requires that the accuracy of the method be considered for enforcement purposes, and describes the precision obtained for a single run by one observer. The introduction does not suggest an *average* positive error of 7.5 percent.

Several commenters objected to the opacity limits of 10 and 15 percent for fugitive sources. Commenters felt that there limits could not be consistently met. One commenter stated that impact crushers will easily exceed the 15 percent limit during startup periods or during periods when there is a break of material feeding in. Other commenters suggested an opacity limit of 15 to 20 percent be set for the entire plant. One additional commenter requested the limits be 30 percent for crushers and 20 percent for all other sources. Another stated that the results of emission tests supplied by the National Lime Association show that a 10 percent limit for fugitive sources is not technologically feasible. On the other hand, one commenter stated that the proposed standards would help the State of Colorado control these sources by decreasing the allowable opacity from 20 percent. None of the commenters provided opacity data to support their comments.

The EPA's test data show that affected facilities can meet a 10 percent fugitive emissions standard (15 percent for crushers at which capture systems were not used). The EPA measured opacity of fugitives escaping from hoods and enclosures of capture systems at 53 affected facilities at 13 different types of plants. Seven plants processed nonmetallic minerals and six processed metallic minerals. The 6-minute average opacity at 35 of the 53 facilities was 0 percent. Only 2 facilities exceed 5 percent opacity at any time, and all could meet the 10 percent opacity limit.

Fugitive emissions were also tested at four crushed stone and one sand and gravel plant using wet suppression, and at another plant using wet suppression to control some operations. Two plants were portable. The plants were selected with the aid of industry representatives. At all process equipment (except crushers) being operated under normal conditions for which the wet dust suppression system was properly designed and operated, emissions were below 5 percent opacity. At crushers operated under the same conditions, emissions were below 15 percent opacity. Based on these data, plants using wet suppression should be able to meet the fugitive opacity standards of 10 percent for all affected facilities, except crushers where capture systems are not used. The standard for such crushers is 15 percent. If a plant cannot meet these standards using wet suppression, baghouses can be used.

Test Methods and Monitoring

Some commenters stated that when pieces of processing equipment are located next to each other, it would be impossible to ascertain how much dust is coming from each piece of equipment or to state with certainty that each piece meets the required level. The commenters questioned the enforceability of opacity standards for individual pieces of equipment.

The EPA believes situations where opacity of emissions from individual affected facilities cannot be read will be rare; however, provisions have been added to § 60.675(c) of the regulation clarifying how compliance will be determined if emissions from two or more facilities interfere.

Section 60.675(c) of the proposed and final standards contains stipulations to be followed for using Method 9 to read fugitive emissions. These stipulations emphasize correct positioning of the observer to minimize interference from other emission sources. Following these stipulations, EPA found during its testing program that situations where fugitive opacity could not be measured due to emissions from other pieces of equipment occur very rarely. And they occur only when wet dust suppression is used as a control technique, not when emissions are collected by a capture system. Furthermore, EPA anticipates that the majority of facilities affected by the standards will be at new plants or capacity expansions at existing plants. In these cases, owners may choose to design and locate facilities so that emissions from different facilities do not continuously interfere and opacity of emissions from each facility can be measured.

However, since it is possible that there may be cases where emissions from two or more facilities continuously interfere, provisions have been added to § 60.675(c) clarifying the use of Method 9 in such cases. Under these provisions, if the opacity of emissions from a single affected facility cannot be measured due to the continuous interference of emissions from other facilities, then plants may take one of two courses of action: (1) The equipment may be moved or a physical barrier or ductwork may be installed to separate emissions from each facility; or (2) if the opacity of the combined emission stream from the interfering facilities meets the highest opacity standard applicable to any of the affected facilities contributing to the emissions, then the facilities will be determined to be in compliance. For example, if emissions from a screen and a crusher controlled by wet dust suppression continuously interfere, the owner or operator could meet the standards by showing that combined emissions from the two facilities meet the 15 percent fugitive opacity standard applicable to the crusher, or he could separate the equipment or the emissions from the 2 facilities and meet the opacity limits for each (10 percent for the screen and 15 for the crusher). Under the standards, the owner or operator

would also have the option of capturing emissions, ducting them to a control device and meeting the applicable stack and fugitive emissions standards. The economic analyses for the proposed standards assumed emissions from all affected facilities would be captured and ducted to baghouses; and under this assumption the costs of control were found to be reasonable. However, EPA believes offering the other options to show compliance may allow some plants to comply using a less costly method such as wet dust suppression.

Commenters disagreed with the monitoring requirements proposed for wet scrubbers. One commenter stated that while he did not oppose the replacement of an opacity standard with monitoring of operating parameters, he suggested that a range, rather than one set of numbers, be selected during the initial performance test. He said this approach would allow for slight variations in processing conditions such as outside temperature, clay content, and particle size. Another commenter stated that maintaining a given pressure drop and flow rate is no guarantee that a scrubber is achieving the desired efficiency. He also said that under the proposed standards pressure drops and water flows could vary widely and emission rates could soar, but as long as measurements were recorded, the scrubber would be in compliance.

The EPA has made additions to § 60.676 of the proposed standards which address these comments. The section details requirements for periodically recording and reporting scrubber operating parameters.

The EPA has provided for routine variations in operating parameters but by a different method than that suggested by the first commenter. The owner or operator is required in the final standards to record and report the liquid flow rate and pressure drop at the time of the initial performance test, and these parameters are to be recorded daily thereafter [40 CFR 60.676(c)]. These daily readings need not be reported unless one or more readings vary by more than ±30 percent from the readings of the most recent performance test. If one or more readings does vary by more than ±30 percent, these daily readings must be reported semiannually. The ± percent allows for normal variations in process conditions, so selecting a range of values at the time of the initial performance test is not necessary.

In response to the comment on monitoring scrubber operating parameters, the recording and reporting of scrubber liquid flow rate and pressure drop will provide an inexpensive and easily verifiable check on the operation and maintenance of wet scrubbers. The principal factors affecting the performance of scrubbers include the pressure drop and the liquid to gas ratio. Monitoring liquid flow rate and pressure drop will allow maintenance personnel to detect and correct decreases in scrubber performance before major breakdowns occur, reducing overall control cost, and maintaining control efficiency. Routine recording and reporting will also allow EPA a check to ensure that the scrubber is maintained and operated properly, indicating that the emission limits continue to be met over time. As described above, daily readings must be recorded and they must be reported to EPA semiannually if one or more readings varies by more than ±30 percent from the readings of the most recent performance test.

Miscellaneous Comments

One commenter requested clarification as to whether the proposed standards apply to crushers and grinders that are used in combination with dryers operated by combustion or other means.

Such crushers and grinders are covered by the standards; they fall within the definitions in the proposed and promulgated standards.

Several commenters asked for clarification as to which conveying systems are subject to the standards and which are exempt. In addition, they requested clarification on which portions of the conveying systems are covered.

To clarify, belt conveyors are the designated affected facilities; however, only transfer points must comply with the emissions limits. In the preamble to the proposed regulation, it is clearly stated that conveyors, other than transfer points, are not covered by the emission limits (48 FR 39568). The proposed and promulgated standards for particulate matter emissions state that no owner or operator "shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity * * *" [40 CFR 60.672(b)]. A transfer point is defined as "a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile" (40 CFR 60.671). Thus, belt conveyors are affected facilities, but only transfer points must meet the emission limits.

Commenters requested clarification as to when the 2-year period begins for consideration for the reconstruction provisions. In addition, they were confused about whether a continuous program of component replacement is one which is proposed or initiated within a 2-year period or one where the equipment is actually installed within a 2-year period.

The 2-year period begins when reconstruction is commenced. "Commenced" is defined in the general provisions (40 CFR 60.2) as meaning that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake or complete, within a reasonable time, a continuous program of construction or modification.

There is not a single 2-year period that begins on any specified date. Rather, EPA will aggregate any continuous programs of component replacement that *begin* within any 2-year period in determining whether "[t]he fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility . . ." [40 CFR 60.15(b)(1)] (the "50 percent test.") For example, suppose that an owner or operator of an existing facility begins program A of component replacement in month 1, program B in month 40, program C in month 60, and program D in month 80, and that programs B and C, considered together, meet the 50 percent test in 40 CFR 60.15(b)(1). Since programs B and C commenced within a 2-year period (20 months apart), the 50 percent test would be satisfied (regardless of programs A and D, and regardless of when programs B and C are finished.)

Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (Section 307(d)(7)(A).

The effective date of this regulation is August 1, 1985. Section 111 of the Clean Air Act provides that standards of

performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction, reconstruction, or modification of which was commenced after the date of proposal (August 31, 1983).

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16; 44 FR 49222, August 21, 1979) that this source category contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any NSPS promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the BID for the proposed standards.

Information collection requirements associated with this regulation (those included in 40 CFR Part 60, Subpart A and Subpart 000) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 350 *et seq.* and have been assigned OMB control number 2060-0050.

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis (RIA). This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The industry-wide annualized costs in the fifth year after the standards would go into effect would be $34 million, much less than the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of less than 2 percent associated with the standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standards' effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to OMB for review as required by Executive Order 12291. Any written communications between OMB and EPA pertaining to the standards have been put in the docket.

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. In performing the economic impact analysis, EPA assumed that each plant would operate as a separate business entity and could not expect to finance the control equipment from another business activity or parent firm. In addition, no SIP control costs were assumed to be incurred in the absence of an NSPS. The results of this analysis showed that for each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product. The economic impacts associated with standards based on baghouse control techniques would not preclude the building of most new plants. However, DCF analysis indicated that the incremental costs associated with the use of baghouse control might preclude the construction of new common clay plants and pumice plants with capacities of 9 Mg/h (10 tons/h) or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (105 tons/h) or less. Therefore, these plants are exempt from the standards. Based on the economic analysis and exemptions, no plants would suffer significant economic impacts under this NSPS.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the rule will not have a significant economic impact on a substantial number of small entities because the impact of the final rule is not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Nonmetallic mineral processing plants, reporting and recordkeeping requirements, Intergovernmental relations.

Dated: July 22, 1985.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7411, 7414, and 7601(a).

2. By adding a new Subpart 000 as follows:

Subpart 000—Standards of Performance for Nonmetallic Mineral Processing Plants

Sec.

Subpart 000—Standards of Performance for Nonmetallic Mineral Processing Plants.

§ 60.670 Applicability and designation of affected facility.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, the provisions of this subpart are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station.

(b) An affected facility that is subject to the provisions of Subpart F or I or that follows in the plant process any facility subject to the provisions of Subparts F or I of this part is not subject to the provisions of this subpart.

(c) Facilities at the following plants are not subject to the provisions of this subpart:

(1) Fixed sand and gravel plants and crushed stone plants with capacities, as defined in § 60.671, of 23 megagrams per hour (25 tons per hour) or less;

(2) Portable sand and gravel plants and crushed stone plants with capacities, as defined in § 60.671, of 136 megagrams per hour (150 tons per hour) or less; and

(3) Common clay plants and pumice plants with capacities, as defined in § 60.671, of 9 megagrams per hour (10 tons per hour) or less.

(d)(1) When an existing facility is replaced by a piece of equipment of equal or smaller size, as defined in § 60.671, having the same function as the

existing facility, the new facility is exempt from the provisions of §§ 60.672, 60.674, and 60.675 except as provided for in paragraph (d)(3) of this section.

(2) An owner or operator seeking to comply with this paragraph shall comply with the reporting requirements of § 60.676 (a) and (b).

(3) An owner or operator replacing all existing facilities in a production line with new facilities does not qualify for the exemption described in paragraph (d)(1) of this section and must comply with the provisions of §§ 60.672, 60.674 and 60.675.

(e) An affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after August 31, 1983 is subject to the requirements of this part.

§ 60.671 Definitions.

All terms used in this subpart, but not specifically defined in this section, shall have the meaning given them in the Act and in Subpart A of this part.

"Bagging operation" means the mechanical process by which bags are filled with nonmetallic minerals.

"Belt conveyor" means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.

"Bucket elevator" means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.

"Building" means any frame structure with a roof.

"Capacity" means the cumulative rated capacity of all initial crushers that are part of the plant.

"Capture system" means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one or more process operations to a control device.

"Control device" means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more process operations at a nonmetallic mineral processing plant.

"Conveying system" means a device for transporting materials from one piece of equipment or location to another location within a plant. Conveying systems include but are not limited to the following: Feeders, belt conveyors, bucket elevators and pneumatic systems.

"Crusher" means a machine used to crush any nonmetallic minerals, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor.

"Enclosed truck or railcar loading station" means that portion of a nonmetallic mineral processing plant were nonmetallic minerals are loaded by an enclosed conveying system into enclosed trucks or railcars.

"Fixed plant" means any nonmetallic mineral processing plant at which the processing equipment specified in § 60.670(a) is attached by a cable, chain, turnbuckle, bolt or other means (except electrical connections) to any anchor, slab, or structure including bedrock.

"Fugitive emmission" means particulate matter that is not collected by a capture system and is released to the atmosphere at the point of generation.

"Grinding mill" means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.

"Initial crusher" means any crusher into which nonmetallic minerals can be fed without prior crushing in the plant.

"Nonmetallic mineral" means any of the following minerals or any mixture of which the majority is any of the following minerals:

(a) Crushed and Broken Stone, including Limestone, Dolomite, Granite, Traprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.

(b) Sand and Gravel.

(c) Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay.

(d) Rock Salt.

(e) Gypsum.

(f) Sodium Compounds, including Sodium Carbonate, Sodium Chloride, and Sodium Sulfate.

(g) Pumice.

(h) Gilsonite.

(i) Talc and Pyrophyllite.

(j) Boron, including Borax, Kernite, and Colemanite.

(k) Barite.

(l) Fluorospar.

(m) Feldspar.

(n) Diatomite.

(o) Perlite.

(p) Vermiculite.

(q) Mica.

(r) Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

"Nonmetallic mineral processing plant" means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility processing nonmetallic minerals except as provided in § 60.670 (b) and (c).

"Portable plant" means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit.

"Production line" means all affected facilities (crushers, grinding mills, screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck and railcar loading stations) which are directly connected or are connected together by a conveying system.

"Screening operation" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).

"Size" means the rated capacity in tons per hour of a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or railcar loading station; the total surface area of the top screen of a screening operation; the width of a conveyor belt; and the rated capacity in tons of a storage bin.

"Stack emission" means the particulate matter that is released to the atmosphere from a capture system.

"Storage bin" means a facility for storage (including surge bins) or nonmetallic minerals prior to further processing or loading.

"Transfer point" means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile.

"Truck dumping" means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one location to another. Movable vehicles include but are not limited to: trucks, front end loaders, skip hoists, and railcars.

"Vent" means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions from one or more affected facilities.

§ 60.672 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:

(1) Contain particulate matter in excess of 0.05 g/dscm; or

(2) Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device. Facilities using a wet scrubber must comply with the reporting provisions of § 60.676(c), (d), and (e).

(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity, except as provided in paragraphs (c), (d) and (e) of this section.

(c) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.

(d) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this section.

(e) If any transfer point on a conveyor belt or any other affected facility is enclosed in a building, then each enclosed affected facility must comply with the emission limits in paragraphs (a), (b) and (c) of this section, or the building enclosing the affected facility or facilities must comply with the following emission limits:

(1) No owner or operator shall cause to be discharged into the atmosphere from any building enclosing any transfer point on a conveyor belt or any other affected facility any visible fugitive emissions except emissions from a vent as defined in § 60.671.

(2) No owner or operator shall cause to be discharged into the atmosphere from any vent of any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in paragraph (a) of this section.

§ 60.673 Reconstruction.

(a) The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under § 60.15. Ore-contact surfaces are crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.

(b) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components (except components specified in paragraph (a) of this section) which are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following August 31, 1983.

§ 60.674 Monitoring of operations.

The owner or operator of any affected facility subject to the provisions of this subpart which uses a wet scrubber to control emissions shall install, calibrate, maintain and operate the following monitoring devices:

(a) A device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be certified by the manufacturer to be accurate within ±250 pascals ±1 inch water gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

(b) A device for the continuous measurement of the scrubbing liquid flow rate to the wet scrubber. The monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

§ 60.675 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.672 as follows:

(1) Method 5 or Method 17 for concentration of particulate matter and associated moisture content;

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis;

(5) Method 9 for measuring opacity from stack emissions and process fugitive emissions, and emissions from building vents;

(6) Method 22 for measurement of visible fugitive emissions when determining compliance with the standard prescribed in § 60.672(e).

(b) For Method 5, the following stipulations shall apply:

(1) The sampling probe and filter holder may be operated without heaters if the gas stream being sampled is at ambient temperature;

(2) For gas streams above ambient temperature, the sampling train shall be operated with a probe and filter temperature high enough to prevent water condensation on the filter but no higher than 121°C (250°F);

(3) The minimum sample volume shall be 1.7 dscm (60 dscf).

(c) When determining compliance with the standard prescribed under § 60.672(b) and (c), the Administrator shall adhere to the following stipulations in addition to those listed in Method 9:

(1) The minimum distance between the observer and the emission source shall be 4.57 meters (15 feet).

(2) The observer shall, when possible, select a position that minimizes interference from other fugitive emission sources (e.g., road dust). Note that the required observer position relative to the sun (Method 9, Section 2.1) must be followed.

(3) For affected facilities utilizing wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of the emissions is to be made at a point in the plume where the mist is no longer visible.

(4) If emissions from two or more facilities continuously interfere so that the opacity of fugitive emissions from an individual affected facility cannot be read, the owner or operator may show compliance with the fugitive opacity standards in § 60.672(b) and (c) by—

(i) Causing the opacity of the combined emission stream from the facilities to meet the highest fugitive opacity standard applicable to any of the individual affected facilities contributing to the emissions stream, or

(ii) Separating emissions so that the opacity of emissions from each affected facility can be read to determine compliance with the applicable fugitive opacity limits specified for each facility in § 60.672(b) and (c).

(d) When determining compliance with the standard prescribed under

§ 60.672(b) and (c), using Method 9, each performance test shall consist of a minimum of 30 sets of 24 consecutive observations recorded at 15-second intervals, as described in Method 9 at sections 2.4 and 2.5.

(e) When determining compliance with the standard prescribed under § 60.672(e), using Method 22, the minimum total observation period for each building shall be 75 minutes, and each side of the building and the roof shall be observed for a minimum of 15 minutes. Performance tests shall be conducted while all affected facilities inside the building are operating.

§ 60.676 Reporting and recordkeeping.

(a) Each owner or operator seeking to comply with § 60.670(d) shall submit to the Administrator the following information about the existing facility being replaced and the replacement piece of equipment.

(1) For a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or railcar loading station:

(i) The rated capacity in tons per hour of the exising facility being replaced and

(ii) The rated capacity in tons per hour of the replacement equipment.

(2) For a screening operation:

(i) The total surface area of the top screen of the existing screening operation being replaced and

(ii) The total surface area of the top screen of the replacement screening operation.

(3) For a conveyor belt:

(i) The width of the existing belt being replaced and

(ii) The width of the replacement conveyor belt.

(4) For a storage bin:

(i) The rated capacity in tons of the existing storage bin being replaced and

(ii) The rated capacity in tons of replacement storage bins.

(b) Each owner or operator seeking to comply with § 60.670(d) shall submit the following data to the Director of the Emission Standards and Engineering Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

(1) The information described in § 60.676(a).

(2) A description of the control device used to reduce particulate matter emissions from the existing facility and a list of all other pieces of equipment controlled by the same control device; and

(3) The estimated age of the existing facility.

(c) During the initial performance test of a wet scrubber, and daily thereafter, the owner or operator shall record the measurements of both the change in pressure of the gas stream across the scrubber and the scrubbing liquid flow rate.

(d) After the initial performance test of a wet scrubber, the owner or operator shall submit semiannual reports to the Administrator of occurrences when the measurements of the scrubber pressure loss (or gain) and liquid flow rate differ by more than ±30 percent from those measurements recorded during the most recent performance test.

(e) The reports required under paragraph (d) shall be postmarked within 30 days following end of the second and fourth calendar quarters.

(f) The owner or operator of any affected facility shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in § 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with § 60.672 (b) and (c) and reports of observations using Method 22 to demonstrate compliance with § 60.672(e).

(g) The requirements of this paragraph remain in force until and unless the Agency, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with paragraphs (a), (c), (d), (e), and (f) of this subsection, provided that they comply with requirements established by the State. Compliance with paragraph (b) of this section will still be required.

(Approved by the Office of Management and Budget under control number 2060–0050)

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FEDERAL REGISTER PAGES AND DATES, AUGUST

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 31, 1985

TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1985

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
August 1	August 16	September 3	September 16	September 30	October 30
August 2	August 19	September 3	September 16	October 1	October 31
August 5	August 20	September 4	September 19	October 4	November 4
August 6	August 21	September 5	September 20	October 7	November 4
August 7	August 22	September 6	September 23	October 7	November 5
August 8	August 23	September 9	September 23	October 7	November 6
August 9	August 26	September 9	September 23	October 8	November 7
August 12	August 27	September 11	September 26	October 11	November 12
August 13	August 28	September 12	September 27	October 15	November 12
August 14	August 29	September 13	September 30	October 15	November 12
August 15	August 30	September 16	September 30	October 15	November 13
August 16	September 3	September 16	September 30	October 15	November 14
August 19	September 3	September 18	October 3	October 18	November 18
August 20	September 4	September 19	October 4	October 21	November 18
August 21	September 5	September 20	October 7	October 21	November 19
August 22	September 6	September 23	October 7	October 21	November 20
August 23	September 9	September 23	October 7	October 22	November 21
August 26	September 10	September 25	October 10	October 25	November 25
August 27	September 11	September 26	October 11	October 28	November 25
August 28	September 12	September 27	October 15	October 28	November 26
August 29	September 13	September 30	October 15	October 28	November 27
August 30	September 16	September 30	October 15	October 29	November 29