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Thursday
August 22, 1985

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Banks, Banking
Federal Reserve System

Excise Taxes
Internal Revenue Service

Fisheries
National Oceanic and Atmospheric Administration

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Marketing Agreements
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Milk Marketing Orders
Agricultural Marketing Service

Radio
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Surface Mining
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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 713

[Amdt. 3]

Feed Grain, Rice, Cotton, and Wheat Programs for the 1985 Crop Year

Correction

In FR Doc. 85-15020, beginning on page 25691, in the issue of Friday, June 21, 1985, make the following correction:

On page 25695, first column, § 713.104(d)(2), the eleventh line should read "computed from the date of issuance of the payment to the date such payment is".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Modification of the Procedural and Operational Details of the Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rules.

SUMMARY: The Department of Agriculture (USDA) has decided to leave in effect two interim final rules which modify the procedural and operational details of the Raisin Diversion Program (RDP). The first rule establishes procedures to give raisin producers a chance to submit diversion applications after the December 20 deadline date, but only if the producers agree to remove vines. This additional period would be available only in those years when the tonnage of approved applications is less than the total tonnage declared eligible for diversion by the Raisin Administrative Committee (Committee). The second rule would add a final date of June 1 for diversion to give the Committee adequate time to verify diverted acreage; allow the Committee to collect liquidated damages from producers who fail to divert and deny them the opportunity to participate in future diversion programs to encourage successful applicants to follow through with their commitments to divert; and allow producers 10 days to agree with any program changes or withdraw from the RDP. These refinements were recommended by the Committee, which works with the USDA in administering the marketing order for California raisins.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) This action finalizes modifications in the raisin diversion program procedures issued by the Department on April 23, and June 3, 1985; (2) final approval of these changes is necessary to maintain 1985 program continuity; and (3) delaying the effective date would serve no useful purpose.

This action finalizes two interim final rules which amended § 989.156 of Subpart—Administrative Rules and Regulations (7 CFR 989.102—989.176; 50 FR 3879) to improve efficency of the RDP in the areas of administration, program flexibility, and program compliance. This subpart is operative pursuant to the marketing agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The first interim final rule was issued on April 23, 1985, and published in the **Federal Register** on April 29, 1985 (50 FR 16693). Interested persons were given until May 29, 1985, to submit comments. One comment was received. The rule added a new paragraph(s) to § 989.156 establishing procedures to give raisin producers an additional period, beyond the December 20 deadline, to submit diversion applications. The tonnage available during the reoffer period is limited to the difference between the tonnage on approved applications submitted by the December 20 deadline and the total tonnage declared eligible for diversion. Producers have until an announced date not later than May 1 to submit such applications and these are approved on a first-come, first-served basis.

Moreover, less than a total production unit may be approved for diversion during the reoffer period. This will provide an incentive for more producers to participate in the program and promote the use of vine removal which is the most direct and most effective way of accomplishing the diversion program objectives. The determination of the tonnage allowed for acreage removed for less than the total production unit is computed by multiplying the tonnage produced and verified on the entire unit by the radio of the acreage removed divided by the acreage contained in the total production unit. After verification of the tonnage on the production unit has been completed and the application approved, the producer would notify the Committee when vine removal is to occur so the Committee can observe the removal. If the removal is not observed, no diversion certificate would be issued by the Committee.

The second interim final rule was issued on June 3, 1985, and published in the **Federal Register** on June 7, 1985 (50 FR 23895). Comments were invited until July 8, 1985. No comments were received. That rule revised § 989.156 in three areas. One change establishes June 1 as the final date that approved applicants can divert their acreage, thus qualifying for a diversion certificate.

This change is included in § 989.156(h) and is necessary to give the Committee adequate time to verify diverted acreage.

A second change is in § 989.156(q) and would allow the Committee to collect liquidated damages from producers who fail to divert and deny them the opportunity to participate in future diversion programs. The intent of this refinement is to encourage successful applicants to take the necessary measures to preclude grapes from being produced and harvested. Failure by large numbers of raisin producers to carry out their commitment to divert would cause serious and substantial damage to the diversion program, and impair the achievement of program goals in 1985 and future years. Hence, measures to foster compliance as necessary and incidental to effectively carry out the diversion program. Moreover, without such measures producers who intended to participate may be denied that opportunity in years when a lottery is held.

By applying to participate in a raisin diversion program, an applicant executes an agreement with the Committee acknowledging that the failure of the approved applicant to timely remove the vines or grapes will cause serious and substantial damage to the program and the raisin industry and that, in consideration of the approval of the application, such applicant will agree to pay liquidated damages and interest to the Committee, in the event of such failure to remove vines or grapes. Because it would be difficult, if not impossible, to determine a fair measure of damages not considered a penalty, the amount of such liquidated damages would be computed by multiplying the tonnage on the approved diversion application by a harvest cost determined by the Committee. Interest would be applied to liquidated damages not paid by July 1, and would be equal to the prime rate of the bank where the Committee has its reserve pool funds deposited, plus two percent. The interest charge is warranted because producers' income would be affected by producers failing to comply with the program.

There is ample precedent for a provision specifying liquidated damages in the event producers fail to follow through on their agreements with the Committee. Section 989.159(g)(2) of the administrative rules and regulations provides for liquidated damages in the event of improper disposition of offgrade raisins, other failing raisins, and raisin residual material. Moreover, liquidated damages are included in other provisions to assure compliance with other programs administered by the Secretary.

A third refinement is in § 989.156(r) and allows applicants 10 days to withdraw from the program if any change is made in the terms and conditions of the program. If the producer fails to take action to withdraw from the program, the producer would automatically agree to the changes under this action.

The comment received on the first interim final rule was from a raisin producer who requested that USDA review and consider his diversion application for vine removal. The commenter also requested that the requirements of § 989.156(s)(2) be waived for the 1985 diversion program, if the vines had not been destroyed and can be verified by Committee representatives after the fact. Paragraph (s)(2) requires producers to notify the Committee in advance of the date when the vines will be removed to allow a representative of the Committee to observe and verify the vine removal.

The producer in question requested and received a hearing before an appeals subcommittee established by the Committee pursuant to § 989.156(m) to review such matters. The producer's application was turned down on the basis that the producer had not complied with the terms and conditions of the diversion program because the Committee was unable to observe and verify the vine removal as required under § 989.156(s). The appeals procedure prescribed in § 989.156(m) provides that if a producer does not agree with the appeals subcommittee's decision, that producer may request the Committee to review the subcommittee's decision. Subsequent to the comment being submitted, the diversion application review was conducted by the Committee.

The verification of diversion is an enormous task for the Committee to perform in a short period with limited resources. Direct observation of vine removal is the most certain and efficient method particularly with these later applications. Therefore, the Department believes it would be counterproductive to waive the requirements in § 989.156(s)(2) for the 1985 diversion program.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, the comment received, and other available information, it is further found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders; Grapes, Raisins, California

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

2. In § 989.156, paragraphs (h), (q), (r), and (s) are revised to read as follows:

§ 989.156 Raisin diversion program.

* * * * *

(h) *Methods of diversion.* An approved applicant shall be required to take the necessary measures to preclude grapes from being produced and harvested on the production unit involved in the program. These measures may include spur pruning the vines, chemically removing the crop before maturity, hand removing and destroying the bunches of grapes before maturity, removing the vines, or any other method which prevents the grapes from maturing and being harvested. An approved applicant must remove the grapes within the production unit designated in their application not later than June 1 of the crop year when a raisin diversion program is implemented. Grafting vines to another varietal type does not constitute removal of the vines under the program. Any raisin producer who does not take the necessary measures to remove the vines or grapes on an approved production unit by June 1, shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of this section, may be subject to an injunctive action under the act, and may be denied the opportunity to participate in future diversion programs.

* * * * *

(q) *Liquidated damages and interest charges.* By applying to participate in a raisin diversion program, an applicant agrees that the failure of the approved applicant to timely remove the vines or grapes will cause serious and substantial damage to the program and the raisin industry and that, in consideration of the approval of the application, such applicant will pay liquidated damages and interest to the Committee, in the event of such failure to timely remove vines or grapes. Since it would be difficult, if not impossible, to

determine the amount of such liquidated damages, the following amount, which is a fair measure of damages and not a penalty, shall apply:

(1) The amount of the liquidated damages shall be computed by multiplying the tonnage on the approved diversion application (Form RAC–1000) by the harvest cost determined and announced by the Committee.

(2) Each approved applicant shall, with the respect to liquidated damages not paid by July 1, pay to the Committee interest on such unpaid liquidated damages at the rate of the prime rate of the bank in which the Committee has its reserve pool funds deposited, on the day the liquidated damages become delinquent, plus 2 percent, and further such rate of interest shall be added to the unpaid amount, monthly, until the liquidated damages plus applicable interest are paid.

(3) Liquidated damages and interest collected by the Committee pursuant to this subparagraph shall be deposited in the reserve pool fund of the reserve pool applicable to the particular diversion program and be distributed to the equity holders in that pool.

(r) *Notification.* If any changes are made in the terms and conditions of the diversion program after a producer's application has been approved, the Committee will notify the producer of such changes and the producer will be given 10 calendar days to agree to the revised terms, or to withdraw from the program. Failure of the producer to notify the Committee in writing of its intention to withdraw from the program within 10 calendar days from the date of the Committee's notice will constitute agreement to the revised terms and conditions.

(s) *Additional opportunity for vine removal.* (1) The Committee may announce a date later than that provided in § 989.156(b), by which producers, who agree to remove the vines on a production unit, or portion thereof may file an application to participate in a raisin diversion program. The announced date shall be not later than May 1, except this date may be extended 30 days for the 1985 calendar year. The diversion certificates will be issued only for the production units or portions thereof from which the vines are removed. The total tonnage available to such applicants shall not exceed the tonnage determined by deducting the tonnage approved for applications received on or before December 20 from the total tonnage announced as eligible by the Committee for diversion. Applications shall be considered and approved on a first-come, first-served, basis and shall not be given preference over the tonnage approved for applications received on or before December 20. The vines shall be removed from the production units or portion thereof for which such applications are approved not later than June 1, except this date may be extended 30 days for the 1985 calendar year.

(2) Producers who agree to remove the vines pursuant to this paragraph shall notify the Committee in advance of the date when such vines will be removed in order to allow a representative of the Committee to observe and verify such vine removal.

(3) The determination of the tonnage allowed for acreage removed for less than a total production unit would be computed by multiplying the previous year's tonnage produced and verified on the entire unit by the ratio of the acreage removed divided by the acreage contained in the total production unit.

Dated: August 16, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 20128 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y. Docket No. R–0549]

Bank Holding Companies and Change in Bank Control; Application Required for Relocation of Subsidiary Bank to Another State

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation sets forth the Board's view that a bank holding company may not, without the Board's prior approval under section 3 of the Bank Holding Company Act and compliance with the interstate banking restrictions of the Act, relocate a subsidiary bank from the holding company's home state to another state.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: James V. Mattingly, Deputy General Counsel (202/452–3430), Pamela G. Nardolilli, Attorney (202/452–3289), Legal Division, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202/452–3244), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding Companies, Reporting and recordkeeping requirements.

For the reasons stated above, the Board amends 12 CFR Part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority for Part 225 remains as follows:

Authority: 12 U.S.C. 1841 *et seq.* and 12 U.S.C. 1817(j).

2. Section 225.114 to read as follows:

§ 225.144 Application Required for the Relocation of a Subsidiary Bank to Another State.

(a) The Board has recently considered whether a bank holding company may relocate one of its subsidiary banks, pursuant to the approval of the Comptroller of the Currency under 12 U.S.C. 30, from the holding company's home state [1] to another state without the approval of the Board under section 3 of the Bank Holding Company Act ("BHC Act") and without compliance with the interstate banking provisions of the Douglas Amendment to the BHC Act. (12 U.S.C. 1842 (a) and (d)). After a review of the terms and purposes of the BHC Act, the Board concludes that the relocation of a subsidiary bank of a bank holding company from the holding company's home state to another state requires the Board's prior approval under the BHC Act and is subject to the interstate banking provisions of the Douglas Amendment to the BHC Act. The retention by a bank holding company of control of a bank after its relocation outside of the holding company's home state, while simultaneously controlling a bank in its home state, creates a multi-state bank holding company, and, in the Board's view, is inconsistent with, and constitutes an evasion of, the terms and intent of the BHC Act that a bank holding company not expand its banking operations outside its home state without the express approval of the other state.

(b) The BCH Act establishes a comprehensive federal framework governing the operations and acquisitions of bank holding companies. Section 3(a) of the BHC Act provides that a bank holding company must obtain the approval of the Board, under specified competitive, financial, managerial and convenience and need factors before acquiring control of a

bank. 12 U.S.C. 1842(a). The Douglas Amendment provides that the Board may not approve any application under section 3 that would allow a bank holding company to acquire control of or any interest in a bank located outside of the holding company's home state, unless the acquisition is specifically authorized by the state in which the bank to be acquired is located.

(c) The Douglas Amendment was adopted to prevent the creation or expansion of interstate banking networks through acquisition by a bank holding company of control of a bank located outside of the holding company's home state, without the explicit approval of the state in which the bank is located. (*See Florida Dep't of Banking* v. *Board of Governors*, 760 F.2d 1135, 1141 (11th Cir. 1985); *Credit and Commerce American Holdings, N.V.*, 65 Federal Reserve Bulletin 254, 255–56 (1979)). Under the terms of the BHC Act, the Board's authority to grant approval to a bank holding company to control a bank is limited to banks located within the holding company's home state or in states that have specifically authorized the acquisition. The Board has no authority to grant approval to a bank holding company to control a bank outside of the holding company's home state, without appropriate state statutory authorization. Thus, a bank holding company's authority to control a bank, which derives from the Board's approval under the BHC Act for the acquisition of the bank, must necessarily be limited by, and cannot be broader than, the Board's authority to grant approval for the acquisition in the first place. In other words, a bank holding company's authority to continue to control a bank acquired pursuant to the terms of the BHC Act is subject to the limitation of the BHC Act that the bank remain located in the state specified in its application to the Board to acquire the bank. A change in the location of the bank to a place outside of the holding company's home state constitutes a material change in an essential predicate for the Board's approval for the acquisition of the bank, transforming the proposal from one that the Board could approve to one that the Board did not and could not have lawfully approved.

(d) Accordingly, the Board believes that a bank holding company's authority to continue to control a bank is limited by the requirements of the Douglas Amendment such that the bank must remain in the state in which it was located at the time the Board granted approval for its acquisition and that a bank holding company may not, without the Board's prior approval under the BHC Act and compliance with the state authorization provisions of the Douglas Amendment, take action that would cause it to control a bank outside of its home state.

(e) The Board believes that this interpretation of the Act is not only consistent with the terms of the BHC Act, but is necessary in order to give effect to the Congressional intent underlying the Douglas Amendment to maintain state control over the acquisition of banks within their borders. As the legislative history of the Douglas Amendment indicates, prior to the enactment of the BHC Act, the acquisition and control of banks by bank holding companies was not regulated, and thus bank holding companies could establish networks of subsidiary banks in numerous states, while their subsidiary banks were limited by the McFadden Act and state law to branching in a single state. (102 Cong. Rec. 6858 (1956); H.R. No. 609, 84th Cong., 1st Sess. 3–4 (1955)). The United States Supreme Court has stated that the Douglas Amendment was enacted for the express purpose of eliminating this "loophole" in order to maintain "local, community-based control over banking. (*Northeast Bancorp, Inc.* v. *Board of Governors*, 105 S. Ct. 2545, 2553 (1985)).

(f) In the debate surrounding the enactment of the amendment, Senator Douglas described the amendment as intended "to prevent bank holding companies from expanding across State lines, unless the States give them explicit permission to do so," and that the "immediate practical effect [of the Amendment] would be to bar the expansion of bank holding companies across State lines." [2] The Senator stated that his proposal was "a logical continuation of the McFadden Act, which tried to prevent the Federal power from being used to permit national banks to expand across State lines in a way contrary to State policy . . . ." *Id.* and that it would "carry over into the field of holding companies the same provisions which already apply for branch banking under the McFadden Act . . . ." (102 *Cong. Rec.* 6858 (1956)).

(g) The principle of the McFadden Act, as applied to bank holding companies, requires that a bank holding company may not establish a subsidiary bank outside of its home state, unless authorized by the host state. While Congress has phrased the Douglas Amendment in terms of the application requirements of the BHC Act, it is clear that Congress was concerned with the substance of preventing further interstate expansion through the bank holding company device without express state authorization.

(h) In the Board's view, an interpretation of the BHC Act that would allow a bank holding company to acquire a bank in its home state and, without further approval under the BHC Act, relocate that bank to another state would nullify the stated purpose of the Douglas Amendment to ensure that the holding company form is not used to evade state restrictions against interstate banking. (*Northeast Bancorp*, 105 S. Ct. at 2550–52). Using the relocation device, a multi-bank holding company could expand into the adjoining state by relocating the main office of a subsidiary national bank located within thirty miles of a state border, while retaining control of its other subsidiary banks in its home state, regardless of whether the adjoining state has consented to entry by out-of-state bank holding companies.

(i) The Board has found no evidence that Congress intended section 30, which governs the relocation of the main office of a national bank, to create an exception to the provisions of the Douglas Amendment. Section 30 was enacted in 1886, and provided that a national bank may change its place of operations to any other place within the same state, not more than thirty miles distant, with the approval of the Comptroller of the Currency and shareholders. 24 Stat. 18. The Comptroller had interpreted this provision as not requiring the Comptroller's approval if the bank's place of operations was only moved within the city in which it was located. (S. Rep. No. 121, 85th Cong., 1st Sess. 17 (1957)). In 1959, Congress overturned this interpretation by amending section 30 to subject all changes of location by a national bank to the Comptroller's approval. *Id.*

(j) The amended section 30 does not contain the language in the previous version limiting changes in office location to within the state where the bank is located. The omission of this provision is not explained in the legislative history. There is, however, no indication in the relevant history that Congress affirmatively intended that the amendment to section 30, which was part of a package of technical amendments to the federal banking laws, create a specific exception to the

[2] 102 Cong. Rec. 6859–60 (1956). *Accord.* (Remarks of Senator Bennett) (the Douglas Amendment constitutes "a flat, unequivocal prohibition against bank holding companies crossing State lines . . . a blanket prohibition which can only be lifted by specific affirmative action by the States. . . .")

provisions or general policy of the Douglas Amendment—adopted three years earlier—against the establishment of new interstate bank holding companies without the consent of the states involved. The Board cannot attribute to a technical amendment, in the absence of compelling legislative history, any intention to abandon one of the central policies behind the enactment of the BHC Act in 1956.

(k) Finally, the Board believes that the relocation by a bank holding company of a subsidiary bank from the holding company's home state to another state, while continuing to retain a bank in its home state, would constitute an evasion of the Douglas Amendment that would warrant, if not require, the exercise by the Board of its authority under section 5(b) of the BHC Act to take necessary action to carry out the purposes and prevent evasions of the Act. 12 U.S.C. 1844(b).

Board of Governors of the Federal Reserve System, August 16, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-20030 Filed 8-21-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-4; Amdt. 39-5122]

Airworthiness Directives; Marvel-Schebler Products Division

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revocation of Airworthiness Directive.

SUMMARY: Airworthiness Directive (AD) 66-05-04 required replacing metal floats in Marvel-Schebler carburetors with composite floats. The FAA has determined that the AD does not adequately correct the condition for which it was intended. Therefore, AD 66-05-04 is being revoked.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Robinette, Atlanta Aircraft Certification Office, ACE-140A, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to revoke AD 66-05-04 was published in the Federal Register on April 15, 1985 (50 FR 14717). The proposal resulted from a determination that the AD is no longer applicable. This determination was based upon the finding that composite floats are not compatible with certain low lead fuels. The floats become saturated by the fuel and sink in the carburetor float bowl. Facet Aerospace Products Company (current manufacturer of Marvel-Schebler Products) has discontinued the manufacture of the composite floats in favor of a redesigned metal float. The redesigned metal floats are the only replacement floats now available. Facet Aerospace Products Company Service Bulletin No. A1-84A refers to this subject.

Interested persons have been afforded an opportunity to participate in the making of this amendment. The comment period closed June 12, 1985. Three comments were received.

All three commenters concurred with the proposal; however, one was concerned with the possibility of someone using the original metal floats or the replacement composite ones and suggested a new AD to require frequent periodic inspections of original metal floats and replacement composite floats until the installation of the new redesigned metal floats. The problems associated with the original metal floats and the composite floats are such that a catastrophic failure is highly unlikely. A pilot will be able to detect impaired performance before a float problem of this nature reaches a dangerous level; therefore, safety would not be jeopardized. In addition, the expense involved in frequent inspections would have a significant adverse economic impact on owners/operators and would not appreciably affect safety. Based on the preceding, it is felt that a new AD is not justified. Therefore, in accordance with the agency's policy of eliminating unnecessary regulations when possible, AD 66-05-04 will be revoked.

Conclusion

The FAA has determined that this revocation is an action which will have no cost for any aircraft. 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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal; and (4) 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

Engines, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the FAR as follows:

PART 39—[AMENDED]

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 revoking the following AD:

AD 66-05-04 Amdt. 39-189 effective.

Issued in Burlington, Massachusetts, on August 9, 1985.

Robert E. Whittington,

Director, New England.

[FR Doc. 85-20025 Filed 8-21-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 810

Mass Transit and Special Use Highway Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on mass transit and special use highway projects to incorporate statutory changes mandated by the Federal-Aid Highway Act of 1981 and the Surface Transportation Assistance Act of 1982. Revisions are also made to update references to other regulations or statutes and to reflect administrative changes. The revisions provide the basic criteria for determining whether mass transit and special use highway projects are eligible for Federal-aid funding under 23 U.S.C. 137, 142, and 149.

DATE: These final amendments are effective on September 23, 1985.

For additional information, see **"SUPPLEMENTARY INFORMATION."**

FOR FURTHER INFORMATION CONTACT: James Carney, Office of Engineering, 202-426-0450 or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: On April 26, 1984, FHWA published an NPRM (49 FR 17968) proposing to amend the regulations on mass transit and special use highway projects. The amendments were to incorporate statutory changes and minor administrative provisions.

There were 51 comments in response to the NPRM. Of these, 45 were from individual motorcyclists or motorcycle associations presenting views on § 810.104(e). The rest of the comments were from State Departments of Transportation, city governments and a public transit authority. All these comments and concerns were considered in the development of the final rule as set forth below.

Discussion of Comments

Section 810.6 Prerequisites for Projects Authorized by 23 U.S.C. 137, 142 or 149.

One commenter questioned the proposed change to Section 810.6(a) which added the phrase "or serving" to projects which are required to be based on the planning process described in 23 CFR Part 450. As the commenter noted, this change would require that a project financed with secondary funds would have to be based on the urban transportation planning process because the project was found to serve the urbanized area. A project such as a fringe parking lot outside the urbanized area boundary would have to go through the urban planning process. The FHWA agrees that this requirement extends beyond the intent of applicable legislation and regulations and has removed this provision. However, projects under this final rule are for the primary purpose of improving urban transportation and, therefore, except as otherwise provided by 23 CFR 450.202(a) they should be coordinated with local urbanized area authorities which may be affected, to the extent necessary, to insure compatibility with the Urban Transportation Plan. A requirement to this effect has been added to the language of § 810.6(b).

Section 810.102 Eligible projects.

Two other commenters expressed desires for more guidance and discussion regarding eligible projects in § 810.102. The guidance would explain in more detail both eligibility of specific work and the types of projects which would be eligible. The purpose of this regulation is to describe in rather general terms the types of projects eligible for Federal-aid highway funding under sections 137, 142, and 149 of Title 23, U.S.C. It would be inappropriate to discuss at length the specific parameters of work eligibility considering the number and diverse types of projects which could be subject to this regulation.

In order to explain more fully how to determine what class of funds might be used for projects eligible under this section, paragraph (c) of § 810.106 has been modified. The modification provides that there is flexibility in the class of funds used (primary, secondary, and urban system funds) depending on the system on which the project is located or the system that substantially benefits from the project. For Interstate funds to be used, the Interstate System must be the system that substantially benefits from the project.

In order to meet the test of "system that substantially benefits," the project must be reasonably related to and in the proximity of roads and streets on that system. In this regard urban system funds may be used for such a project which is physically located outside an urbanized area provided the project is located on or in close proximity to a Federal-aid system route and can be shown to substantially benefit the urban system inside the urbanized area.

Section 810.104 Applicability of other provisions.

Of the 51 comments responding to the NPRM, 45 were from motorcyclists or motorcycle organizations presenting an almost singular view regarding § 810.104(e). Their view is that all carpool/HOV lanes should be made available to motorcycles. They support this view with statements that motorcycles are very fuel efficient, are safer vehicles, and would be safer if allowed to use carpool lanes. Many of their views do not pertain to the language of § 810.104(e), but rather that FHWA has not taken the action intended by the legislation. Some questioned the validity of the State's certification that motorcycle use of carpool lanes would create a safety hazard. They cited as an example the fact that the State of Washington had opened HOV lanes to motorcycles and there were no resulting safety problems. In response to these comments, FHWA has reviewed its position regarding the implementation of section 163 of the 1982 STAA. The provisions are viewed as prospective only and they apply to approval by FHWA of new projects to construct, reconstruct or resurface carpool lanes or sections of a highway which have carpool lanes within the project terminal. The provisions would not apply to engineering or study projects as some of the commenters suggested. Based on this review, FHWA proposes no change in the language of § 810.104(e) as proposed

In reference to comments on the validity of the State's certification, FHWA expects that the States would base such certifications on valid assumptions and evaluations of the safety issues involved as necessary to support the certification. The FHWA does not have authority to go behind a State's certification or to argue the validity of the evaluations used to support it.

The FHWA appreciates the desires of motorcyclists to use carpool lanes for their own safety. The introduction of motorcycles to existing HOV facilities is a matter for determination by each State Highway Agency subject to the State's finding that such use will be safe and will not adversely affect the integrity of the HOV facility.

Section 810.106 Approval of fringe and transportation corridor parking facilities.

One commenter raised a question about the use of the word "proximate" in § 810.106(a)(2). As it relates to fringe parking facilities, proximate is intended to mean "close". The land for the parking facility need not abut the Federal-aid highway, but would have to be close enough to be obviously related and provide reasonably direct access to the highway.

One commenter suggested lifting the requirement in § 810.106(a)(4) that fees at parking facilities be limited to the cost of maintenance and operation (including cost of shuttle service). Lifting this requirement would permit facility operators to price the parking at market rates for some users and give preferential rates to parkers who transfer to mass transportation. The FHWA has little flexibility in this area because the law is specific in this regard. Fees may not exceed the cost of operation and maintenance. This language stems from the basic tenent of Federal-aid highway laws which provides that projects financed with Federal-aid funds must be free of tolls.

Section 810.212 Use to be without charge.

One other commenter presented a conflict between the provisions of § 810.212 and State statutes in that use of lands for publicly-owned transit facilities shall be without charge. The State statutes have been interpreted to require the State to receive payment for the use of land purchased for highway purposes. The effect of the conflict between the State statutes and § 810.212 is to preclude the State from entertaining any use of highway right-of-way by public mass transit.

The FHWA does not have much latitude because 23 U.S.C. 142(g) provides for the use to be without charge. The problem in one State would not seem to warrant extending the regulation beyond the law.

Section 810.304 Submission of projects.

Section 105(d) of the 1982 STAA requires that each State use 40 percent of its apportionment of Federal-aid urban system funds for work to reconstruct, rehabilitate, resurface and restore existing highway facilities (4R). The requirement is applicable to funds apportioned for FY 1984, 1985 and 1986 unless the State certifies to the Secretary of the Department of Transportation that the percentage is in excess of the 4R needs, in which case those funds also may be used for eligible FAUS purposes, including nonhighway public mass transit projects.

These requirements are monitored on a statewide basis which will afford some flexibility in meeting the minimum 40 percent and are not a direct burden on any particular urban area. For example an individual urbanized area could use less than 40 percent of its urban system funds for 4R work if the other areas and the State obligated sufficient funds to accomplish the minimum percentage.

The intent of the provision in § 810.304(b) is to have the State assess the effect of the proposed use of urban system funds for a nonhighway public mass transit project on the ability of the State to meet the 40 percent requirement before the transfer is made.

The FHWA has determined that this document is neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. The FHWA has also determined that the change reflected in this action will have only minimal economic impact. The proposed revisions are more in the nature of technical and terminology amendments and are generally incorporating statutory requirements. Accordingly, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 810

Grant Program—transportation, Highways and roads, Mass transportation, Parking.

In consideration of the foregoing, the FHWA hereby amends Title 23, Code of Federal Regulations, by revising Part 810 to read as set forth below.

Issued on: August 14, 1985.

Lester P. Lamm,

Deputy Administrator.

PART 810—MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Subpart A—General

Sec.

810.2 Purpose.
810.4 Definitions.
810.6 Prerequisites for project authorized by 23 U.S.C. 137, 142, or 149.
810.8 Coordination.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

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Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

810.200 Purpose.
810.202 Applicability.
810.204 Application by mass transit authority.
810.206 Review by the State Highway Agency.
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Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

810.300 Purpose.
810.302 Eligible projects.
810.304 Submission of projects.
810.306 Reservation of funds.
810.308 Approval of urban system nonhighway public mass transit projects.
810.310 Applicability of other provisions.

Authority: 23 U.S.C. 137, 142, 149 and 315; sec. 4 of Pub. L. 97-134, 95 Stat. 1699; secs. 118, 120, and 163 of Pub. L. 97-424, 96 Stat. 2097; 49 CFR 1.48(b) and 1.51(f).

Subpart A—General

§ 810.2 Purpose.

The purpose of this regulation is to implement sections 137, 142, and 149 of title 23, U.S.C.

§ 810.4 Definitions.

(a) Except as otherwise provided terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

(b) The following terms, where used in the regulations in this subpart have the following meanings:

(1) Exclusive or preferential high occupancy vehicle, truck, or emergency vehicle lanes-one or more lanes of a highway facility or an entire highway facility where high occupancy vehicles, trucks or emergency vehicles or any combination thereof, are given, at all times or at any regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of mixed highway traffic. Carpool lane(s)—is any high occupancy vehicle lane which allows use by carpools.

(2) Fringe and transportation corridor parking facilities—those facilities which are intended to be used for the temporary storage of vehicles and which are located and designed so as to facilitate the safe and convenient transfer of persons traveling in such vehicles to and from high occupancy vehicles and/or public mass transportation systems including rail. The term "parking facilities" includes but is not limited to access roads, buildings, structures, equipment, improvements and interests in land.

(3) High occupancy vehicle—a bus or other motorized passenger vehicle such as a carpool or vanpool vehicle used for ridesharing purposes and occupied by a specified minimum number of persons.

(4) Highway traffic control devices—traffic control devices as defined by the currently approved "Manual on Uniform Traffic Control Devices for Streets and Highways." [1]

(5) Metropolitan Planning Organization—that organization designated as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as required by 23 U.S.C. 104(f)(3), and capable of meeting the requirements of sections 3(e)(1), 5(1), 8 (a) and (c) and 9(e)(3)(G) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1602(e)(1), 1604(1), 1607 (a) and (c) and 1607a(e)(3)(G). This organization shall be the forum for cooperative transportation decisionmaking.

(6) Nonhighway public mass transit project—a project to develop or improve public mass transit facilities or equipment. A project need not be physically located or operated on a route designated as part of the Federal-aid urban system, but must be included in and related to a program for the development or improvement of an urban public mass transit system which includes the purchase and rehabilitation of passenger buses and rolling stock for fixed rail facilities, and the purchase, construction, reconstruction or improvement of fixed rail passenger operating facilities. Such projects may also include the construction, reconstruction or rehabilitation of

[1] The MUTCD is incorporated by reference at 23 CFR 625.3.

passenger loading and unloading facilities for either bus or rail passengers.

(7) Passenger loading areas and facilities (including shelters)—areas and facilities located at or near passenger loading points for safety, protection, comfort, or convenience of high occupancy vehicle passengers. The term "areas and facilities" includes but is not limited to access roads, buildings, structures, equipment, improvements, and interest in land.

(8) Responsible local officials—(i) In areas under 50,000 population, the principal elected officials of general purpose local governments; or (ii) In urbanized areas, the principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization.

§ 810.6 Prerequisites for projects authorized by 23 U.S.C. 137, 142, or 149.

(a) Projects in an urbanized area must be based on a continuing comprehensive transportation planning process, carried on in accordance with 23 U.S.C. 134 as prescribed in 23 CFR Part 450, Subpart A and included in the transportation improvement program required by 23 CFR Part 450, Subpart B.

(b) Except as otherwise provided by 23 CFR 450.202, projects under this subpart located outside the urbanized area boundaries should be coordinated with the appropriate local officials of the urbanized area as necessary to insure compatibility with the area's urban transportation plan.

(c) All proposed projects must be included in a program of projects approved pursuant to 23 CFR Part 630, Subart A (Federal-Aid Program Approval and Authorization).

§ 810.8 Coordination.

The Federal Highway Administrator and the Urban Mass Transportation Administrator shall coordinate with each other on any projects involving public mass transit to facilitate project selection, approval and completion.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

§ 810.100 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 137, 142(a)(1), 142(b), and 149, which authorize various highway public mass transportation improvements and special use highway facilities as Federal-aid highway projects.

§ 810.102 Eligible projects.

Under this subpart the Federal Highway Administrator may approve on any Federal-aid system projects which facilitate the use of high occupancy vehicles and public mass transportation systems so as to increase the traffic capacity of the Federal-aid system for the movement of persons. Eligible projects include:

(a) Construction of exclusive or preferential high occupancy vehicle, truck, or emergency vehicle lanes, except the construction of exclusive or preferential lanes limited to use by emergency vehicles can be approved only on the Federal-aid Interstate System;

(b) Highway traffic control devices;

(c) Passenger loading areas and facilities (including shelters) that are on or serve a Federal-aid system; and

(d) Construction or designation of fringe and transportation corridor parking facilities. For parking facilities located in the central business district the Federal-aid project must be limited to space reserved exclusively for the parking of high occupancy vehicles used for carpools or vanpools.

§ 810.104 Applicability of other provisions.

(a) Projects authorized under § 810.102 shall be deemed to be highway projects for all purposes of Title 23, U.S.C., and shall be subject to all regulations of Title 23, CFR.

(b) Projects approved under this subpart on the Federal-aid Interstate System for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle lanes are excepted from the minimum four-lane requirement of 23 U.S.C. 109(b).

(c) Exclusive or preferential lanes on the Interstate System, including approaches and directly related facilities, can be constructed with Interstate construction funds only if they were approved in the 1981 Interstate Cost Estimate.

(d) The Federal proportional share of a project approved under this subpart shall be as provided in 23 U.S.C. 120 for the class of funds involved. The Federal share for Interstate substitution projects is 85 percent except for signalization projects which may be 100 percent as provided by 23 U.S.C. 120(d). The provisions of section 120(d) Title 23 U.S.C. may also be applied to regularly funded projects under Section 810.102 of this subpart as follows:

(1) Signalization projects.

(2) Passenger loading area and facilities which principally serve carpools and vanpools.

(3) Fringe and transportation corridor parking facilities or portions thereof which are reserved exclusively for use by carpool and vanpool passengers and vehicles.

(e) As required by section 163 of the Surface Transportation Assistance Act of 1982, approval of Federal-aid highway funding for a physical construction or resurfacing project having a carpool lane(s) within the project limits may not be granted unless the project allows the use of the carpool lane(s) by motorcycles or it is certified by the State that such use will create a safety hazard. This requirement does not apply to high occupancy vehicle lanes which exclude carpools or to carpool lanes constructed by the State without the use of Federal-aid Highway funds. The issue of the extent of utilization of these facilities including those constructed prior to January 6, 1982 with Federal-aid Highway funds is a matter for individual determination by the State Highway Agency.

§ 810.106 Approval of fringe and transportation corridor parking facilities.

(a) In approving fringe and transportation corridor parking facilities, the Federal Highway Administrator:

(1) Shall make a determination that the proposed parking facility will benefit the Federal-aid systems by improving its traffic capacity for the movement of persons;

(2) May approve acquisition of land proximate to the right-of-way of a Federal-aid highway;

(3) May approve construction of publicly-owned parking facilities on land within the right-of-way of any Federal-aid highway, including the use of the airspace above and below the established gradeline of the highway pavement, and on land, acquired with or without Federal-aid funds which is not within the right-of-way of any Federal-aid highway but which was acquired in accordance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (84 Stat. 1894, 42 U.S.C. 4601 *et seq.*);

(4) May permit the charging of fees for the use of the facility, except that the rate of the fee shall not be in excess of that required for maintenance and operation and the cost of providing shuttle service to and from the facility (including compensation to any person for operating such facility and for providing such shuttle service);

(5) Shall determine that the State, or the political subdivision thereof, where the project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility.

(6) Shall receive assurance from the State that the facility will remain in

public ownershp as long as the facility is needed and that any change in ownership shall have prior FHWA approval;

(7) Shall enter into an agreement with the State, political subdivision, agency, or instrumentality governing the financing, maintenance, and operation of the parking facility; and

(8) Shall approve design standards for constructing the facility as developed in cooperation with the State highway agency.

(b) A State political subdivision, agency, or instrumentality thereof may contract with any person to operate any parking facility constructed under this section.

(c) In authorizing projects involving fringe and transportation corridor parking facilities, the class of Federal-aid funds (primary, secondary, or urban system) used for projects under this subpart may be either funds designated for the Federal-aid system on which the facility is located or the Federal-aid system substantially benefited. For Interstate funds to be used for such eligible projects the Federal-aid Interstate system must be the system which substantially benefits. The benefiting system is that system which would have otherwise carried the high occupancy vehicle or rail passengers to their destination. Interstate construction funds may be used only where the parking facility was approved in the 1981 Interstate Cost Estimate and is constructed in conjunction with a high occupancy vehicle lane approved in the 1981 Interstate Cost Estimate.

§ 810.108 Designation of existing facilities.

(a) In accordance with the provisions of 23 CFR 810.102, the Federal Highway Administrator may approve on any Federal-aid system the work necessary to designate existing parking facilities (such as at shopping centers or other public or private locations) for fringe and transportation corridor parking.

(1) Eligible activities include the acquisition of or the initial and renewal costs for leasing existing parking space, signing of and modifications to existing facilities, trail blazer signs, and passenger loading areas and facilities.

(2) The approval criteria in 23 CFR 810.106 (a)(1), (4), (5), (7) and (8) apply to these parking facilities.

(b) In accordance with the provisions of 23 CFR 810.102, the Federal Highway Administrator may approve on any Federal-aid system the work necessary to designate existing highway lanes as high occupancy vehicle lanes.

(1) Eligible activities include preliminary engineering, signing, pavement marking, traffic control devices, minor physical modifications and initial inspection or monitoring of use.

(2) Such improvements may be approved on any public road if they facilitate more efficient use of any Federal-aid highway.

(c) Interstate construction funds may be used only where the proposed projects were approved in the 1981 Interstate Cost Estimate.

Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

§ 810.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize a State to make available to a publicly-owned mass transit authority existing highway rights-of-way for rail or other non-highway public mass transit facilities.

§ 810.202 Applicability.

(a) The provisions of this subpart are applicable to the rights-of-way of all Federal-aid highways in which Federal-aid highway funds have participated or will participate in any part of the cost of the highway.

(b) The provisions of this subpart do not preclude acquisition of rights-of-way for use involving mass transit facilities under the provisions of Subparts B and D of this part. Rights-of-way made available under this subpart may be used in combination with rights-of-way acquired under Subparts B and D of this part.

§ 810.204 Application by mass transit authority.

A publicly-owned mass transit authority desiring to utilize land existing within the publicly acquired right-of-way of any Federal-aid highway for a rail or other nonhighway public mass transit facility may submit an application therefor to the State highway agency.

§ 810.206 Review by the State Highway Agency.

The State highway agency, after reviewing the application, may request the Federal Highway Administrator to authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility. A request shall be accompanied by evidence that utilization of the land for the proposed purposes will not impair future highway improvements or the safety of highway users.

§ 810.208 Action by the Federal Highway Administrator.

The Federal Highway Administrator may authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility, if it is determined that:

(a) The evidence submitted by the State highway agency under Section 810.206 is satisfactory;

(b) The public interest will be served thereby; and

(c) The proposed action in urbanized areas is based on a continuing, comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134 as described under 23 CFR Part 450, Subpart A.

§ 810.210 Authorization for use and occupancy by mass transit.

(a) Upon being authorized by the Federal Highway Administrator, the State shall enter into a written agreement with the publicly-owned mass transit authority relating to the use and occupancy of highway right-of-way subject to the following conditions:

(1) That any significant revision in the design, construction, or use of the facility for which the land was made available shall receive prior review and approval by the State highway agency.

(2) The use of the lands made available to the publicly-owned mass transit authority shall not be transferred to another party without the prior approval of the State highway agency.

(3) That, if the publicly-owned mass transit authority fails within a reasonable or agreed time to use the land for the purpose for which it was made available, or if it abandons the land or the facility developed, such use shall terminate. Any abandoned facility developed or under development by the publicly-owned mass transit authority which was financed all or in part with Federal funds shall be disposed of in a manner prescribed by OMB Circular A-102, Attachment N. The land shall revert to the State for its original intended highway purpose.

(b) A copy of the use and occupancy agreement and any modification under paragraphs (a) (1), (2), and (3) of this section shall be forwarded to the Federal Highway Administrator.

§ 810.212 Use to be without charge.

The use and occupancy of the lands made available by the State to the publicly-owned transit authority shall be without charge. Costs incidental to making the lands available for mass transit shall be borne by the publicly-owned mass transit authority.

Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

§ 810.300 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 142(a)(2), which allows the Urban Mass Transportation Administrator, by delegation of the Secretary, to approve nonhighway public mass transit projects as Federal-aid urban system projects.

§ 810.302 Eligible projects.

(a) Eligible projects are those defined as nonhighway public mass transit projects in Section 810.4 of this part subject to the limitations in paragraph (b) of this section.

(b) All projects under this subpart for the construction, reconstruction, or improvement of fixed rail facilities shall be located within the urban boundaries established under 23 U.S.C. 101(a).

§ 810.304 Submission of projects.

(a) An application for an urban system nonhighway public mass transit project shall be developed by a public body as defined under the UMTA Discretionary Capital Assistance Program and shall be prepared in accordance with procedures for the same Discretionary Capital Assistance program.

(b) The application shall be submitted concurrently to the State highway agency and to the UMTA Administrator. The State highway agency, if it concurs, shall submit a request to the FHWA Administrator for a reservation of apportioned Federal-aid urban system funds. The State shall include in its submission advice that such reservation of funds will not impair its ability to comply with the provisions of section 105(d) of Pub. L. 97–424 (if a State certifies it does not need forty percent of its Federal-aid urban system funds for 4R work, and the Secretary accepts such certification, the State may spend that unneeded amount for other eligible FAUS purpose, including nonhighway public mass transit projects).

§ 810.306 Reservation of funds.

(a) The FHWA Administrator shall review the State request, determine whether sufficient Federal-aid urban system funds are available, and notify the State highway agency and the UMTA Administrator of the reservation of funds.

(b) The apportioned funds reserved for the proposed project under paragraph (a) of this section shall remain available for obligation unless the FHWA Administrator is notified that the application has been disapproved by the UMTA Administrator, or unless the responsible local officials in whose jurisdiction the project is to be located and the State highway agency jointly request the withdrawal of the project application.

§ 810.308 Approval of urban system nonhighway public mass transit projects.

(a) An urban system public mass transit project may be approved by the UMTA Administrator when it is determined that:

(1) The application and project are in accordance with the current UMTA procedures relating to discretionary capital assistance grants; and

(2) Notification has been received from the FHWA Administrator that sufficient apportioned Federal-aid urban system funds are available to finance the Federal share of the cost of the proposed project.

(b) Approval of the plans, specifications, and estimates of a nonhighway public mass transit project shall be deemed to occur on the date the UMTA Administrator approves the project application. This approval which is subject to the availability of obligation authority at the time of approval, will obligate the United States to pay its proportional share of the cost of the project.

(c) Upon approval of an urban system nonhighway public mass transit project, the UMTA Administrator will execute a grant contract covering implementation of the project.

§ 810.310 Applicability of other provisions.

The Federal proportional share of the cost of an urban system nonhighway public mass transit project approved under this subpart shall be equal to the Federal share which would have been paid if the project were a highway project as determined under 23 U.S.C. 120(a).

[FR Doc. 85–20078 Filed 8–21–85; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 3

[CGD 85–052]

Mobile Marine Inspection Zone and Captain of the Port Zone Boundary Realignment

AGENCY: Coast Guard, DOT.

ACTION: final rule.

SUMMARY: This rule adds a 5-mile section of the Tennessee-Tombigbee Waterway, south of the Bay Springs Lock and Dam, to the Mobile, Alabama Marine Inspection Zone and Captain of the Port Zone. This section is located within the Eighth Coast Guard District boundary, but is not currently included in any Marine Inspection Zone or Captain of the Port Zone. This rule corrects the discrepancy by adding this section to the adjacent Marine Inspection Zone and Captain of the Port Zone in the Eighth Coast Guard District.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael V. Franchini, Project Manager, Office of Marine Environment and Systems, telephone 202–426–9578. Normal working hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Since these amendments are matters relating to agency organization, they are exempt from the notice of proposed rulemaking requirements in 5 U.S.C. 553(b)(3)(A), and since these amendments are not substantive, they may be made effective in less than 30 days after publication in the **Federal Register** under 5 U.S.C. 553(d)(3).

Drafting Information

The principal persons involved in drafting this proposed rulemaking are Lieutenant Michael V. Franchini, Project Manager, of the Office of Marine Environment and Systems, and Lieutenant David M. Shippert, Project Counsel, of the Office of Chief Counsel.

Discussion

When 33 CFR 3.40–10 was promulgated on September 5, 1974 (39 FR 32131) the Tennessee-Tombigbee Waterway did not exist. In a final rule on January 16, 1978 (43 FR 2372) the Eighth Coast Guard District boundary was revised to include the proposed canal section of the waterway, which begins, going south, at the Bay Springs Lock and Dam. However, the revision did not include the northernmost 5 miles of the canal section in a Marine Inspection Zone or Captain of the Port Zone. The discrepancy was discovered by personnel at the Mobile Marine Inspection and Captain of the Port Office in November 1984 before the waterway opened.

Regulatory Evaluation

This final rule is exempt from the provisions of Executive Order 12291 since it pertains to matters of agency organization as provided in section 1(a)(3) of the Order. However, it is noted that this final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT

regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. Coast Guard marine safety activities in the area do not change. This 5-mile section of the waterway is assigned to a Marine Inspection and Captain of the Port Office, so that personnel from that office can respond and can plan to respond if any marine casualties occur there. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 3

Marine safety, Organization and functions (government agencies).

PART 3—[AMENDED]

In consideration of the preceding, Subchapter A, Chapter I, Title 33 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 3 is revised to read as set forth below and the authority citations following individual sections within the Part are removed.

Authority: 5 U.S.C. 552; 14 U.S.C. 92, 93, 632, 633; 49 U.S.C. 108; 49 CFR 1.45, 1.46.

2. By revising § 3.40–10(b) to read as follows:

§ 3.40–10 Mobile Marine Inspection Zone and Captain of the Port Zone

* * * * *

(b) The boundary of the Mobile Marine Inspection Zone and Captain of the Port Zone starts at the Florida coast 83°50' W. longitude; thence due north to 30°15' N. latitude, 83°50' W. longitude; thence due west to 30°15' N. latitude, 84°45' W. longitude; thence due north to the southern bank of the Jim Woodruff Reservoir at 84°45' W. longitude; thence northeasterly along the eastern bank of the Jim Woodruff Reservoir and northerly along the eastern bank of the Flint River to 32°20' N. latitude, 84°02' W. longitude; thence northwesterly to the intersection of the Georgia-Alabama boundary at 32°53' N. latitude; thence northerly along the Georgia-Alabama boundary to 34° N. latitude; thence due west to the Alabama-Mississippi boundary at 34°N. latitude; thence northerly along the Alabama-Mississippi boundary to the southern boundary of Tishomingo County, Mississippi; thence westerly along the southern boundaries of Tishomingo and Prentiss Counties, Mississippi, including that area of the Tennessee-Tombigbee Waterway south of the Bay Springs Lock and Dam; thence southerly and westerly along the eastern and southern boundaries of Lee and Chickasaw Counties, Mississippi to 89° W. longitude; thence due south to the southeastern bank of the Pearl River at 89° W. longitude; thence southwesterly along the southeastern bank of the Pearl River; thence southwesterly along the eastern bank of the Ross Barnett Reservoir; thence southerly along the eastern bank of the Pearl River to the sea.

Dated: August 14, 1985.

Peter J. Rots,

Commodore, U.S. Coast Guard, Chief, Office of Marine Environment and System.

[FR Doc. 85–20099 Filed 8–21–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD2 85–38]

Special Local Regulations; Gallipolis 2nd Annual Regatta

August 19, 1985.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Mile 269.0 to 270.0, OHIO RIVER. The "GALLIPOLIS 2nd ANNUAL REGATTA", an approved marine event, will be held on August 24 and 25, 1985, at GALLIPOLIS, OHIO. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations will be effective from 9:00 a.m. on August 24, and terminate at 6:00 p.m. on August 25, 1985.

FOR FURTHER INFORMATION CONTACT: Lcdr. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Ohio River between miles 269.0 and 270.0 during the "GALLIPOLIS 2nd ANNUAL REGATTA", August 24 and 25, 1985. This event will consist of outboard hydroplane and runabout boat races, which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was not received until July 15, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, project officer, Boating Technical Branch, and Lt. R.E. Kilroy, USCG, project attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. In Part 100, a new temporary § 100.35–0238 is added, to read as follows:

§ 100.35–0238 Ohio River, mile 269.0 through 270.0.

(a) *Regulated Area:* The area between Mile 269.0 and 270.0 Ohio River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 9:00 a.m. on August 24, and 6:00 p.m. on August 25, 1985. All times listed are local time. These times represent a

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

(b) *Special Local Regulations:* The Coast Guard will maintain a Patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "COAST GUARD PATROL COMMANDER". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

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

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

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

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

(g) This § 100.35–0238 will be effective from 9:00 a.m. on August 24, and terminate at 6:00 p.m. on August 25, 1985. (local time).

Dated: August 12, 1985.

R.J. Collins,

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

[FR Doc. 85–20101 Filed 8–21–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD3 85–54]

Special Local Regulations; Scorpion 100 Powerboat Race, Long Island, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Scorpion 100 power boat race. This event is sponsored by the South Bay Performance Association of East Patchogue, New York. The event will be held on September 7, 1985 off the south shore of Long Island between Fire Island Inlet and Jones Inlet, New York. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATE: This regulation becomes effective on September 7, 1985 from 10:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. A determination was not made until July 26, 1985 that this marine event required a special local regulation and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Scorpion 100 is a powerboat race sponsored by the South Bay Performance Association in conjunction with Race Headquarters of Freeport, New York. The race is to be held on a rectangular course 8.5 nautical miles long by .5 nautical miles wide, whose northern-most boundary runs parallel to, and three quarters of a nautical mile south of the south shore of Long Island, New York between Fire Island Inlet and Jones Inlet. This regatta will be held on September 7, 1985. Arpoximately 40 offshore racing vessels ranging in size from 20 feet to 40 feet are expected to participate in the event. The sponsor is providing 20 vessels in conjunction with Coast Guard and local authorities to patrol this event. Spectator craft which may number up to 200 will be required to remain south of a line formed by the patrol vessels which will be in position just south of the race course. In order to provide for the safety of life and property of both participants and spectators, the Coast Guard will restrict vessel movement in the regulated area.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–319 to read as follows:

§ 100.35–319 Scopion 100, New York.

(a) *Regulated area.* Atlantic Ocean, between Fire Island Inlet and Jones Inlet in the area bounded by the following points: Starting at Latitude 40 degrees 36.5 minutes North; Longitude 73 degrees 21.5 minutes West (1.3 nautical miles south of Cedar Island Beach and 1.5 nautical miles west of Fire Island Inlet). Thence west 8.5 nautical miles remaining three quarters of a nautical mile south of Tobay and Jones Beaches to Latitude 40 degrees 34.3 minutes North; Longitude 73 degrees 32.4 minutes West. Thence south southeast 167 degrees True to Latitude 40 degrees 33.75 minutes North; Longitude 73 degrees 32.3 minutes West. Thence east northeast 075 degrees True to Latitude 40 degrees 36.0 minutes North; Longitude 73 degrees 21.3 minutes West. Thence to the starting point.

(b) *Effective period.* This regulation will be effective from 10:00 a.m. to 2:00 p.m. on September 7, 1985.

(c) *Special local regulations.* (1) The regulated area will be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless participating in the event or authorized by the sponsor or the Coast Guard Patrol Commander.

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels must remain in the area south of a line formed by the patrol vessels which will be in position south

of the southern boundary of the race course.

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

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

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

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

(iii) $250 for any other person.

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

Dated: August 12, 1985.

P.A. Yost,

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

[FR Doc. 85-20100 Filed 8-21-85; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Part 160

[CGD 78-174]

Hybrid PFD's; Establishment of Approval Requirements

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes approval requirements for hybrid inflatable personal flotation devices (hybrid PFD's). Use of approved hybrid devices will be optional but, if carried, certain limitations will apply. Hybrid PFD's have reduced inherent buoyancy making them less bulky and more comfortable to wear. This comfort feature should result in increased wear rates and lead to a corresponding reduction in the number of drownings in boating accidents. Publication of this rule has been expedited to allow approval of individual devices in sufficient time to allow their purchase and use in the 1986 boating season. After an interim period of manufacturing and use, revisions to the rule may be made based upon experience gained.

The notice of proposed rulemaking for this rule also included carriage and operational requirements for hybrid PFD's and requirements for inflatable life jackets. These additional requirements will be finalized and published in separate rulemaking documents.

DATES:

1. *Effective date.* This interim rule becomes effective on September 1, 1985, except for §§ 160.077-25(a) and 160.077-25(e). The effective date for these sections will be published separately.

ADDRESS: A final regulatory evaluation has been included in the public docket for this rulemaking and may be inspected and copied at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard, 2100 Second Street SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Wehr, Office of Merchant Marine Safety, Attn: G-MVI-3/14, 2100 Second Street SW., Washington, D.C. 20593, (202)-426-1444.

SUPPLEMENTARY INFORMATION:

1. *Notice of Proposed Rulemaking.* A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** of May 29, 1985 (50 FR 21862 and 21878). Several corrections to this NPRM were published in the **Federal Register** of June 18, 1985 (50 FR 25274). The comment period on the proposal ended on July 15, 1985. Comments were received from a total of 19 parties.

2. *Expedited Publication.* Publication of approval requirements for hybrid devices has been expedited in order to provide manufacturers with an opportunity to obtain early approval of designs, and thus allow an opportunity for making them available to the public in the 1986 boating season. Several manufacturers have expressed an interest in obtaining early approval to take advantage of the opportunity to interest in obtaining early approval to take advantage of the opportunity to display their products in various trade shows as early as September 1985. If this final rule had not been expedited, it is probable that hybrid would not be available to the public in any significant numbers until the 1987 boating season, thus preventing early realization of the expected lifesaving benefits to be afforded by using hybrid devices.

3. *Potential for Significant Benefits.* A principal benefit in using hybrid PFD's results from having reduced bulk and a corresponding increase in wearability and comfort. Coast Guard accident statistics show that most drownings in recreational boating accidents could possibly have been prevented if the victims had been wearing a PFD instead of just having one available for use. As explained in the NPRM, because hybrid PFD's have reduced inherent buoyancy, they are less bulky, which can make significantly more comfortable to wear than other types of PFD's. Because of this comfort feature, the Coast Guard anticipates that there will be appreciable boater interest in purchasing the devices. If enough boaters do begin to wear them, a sizeable reduction in the total number of drownings in boating accidents can be expected.

In addition to the above benefit, hybrid PFD's that meet the requirements in this rule have another significant benefit that distinguishes them from other types of currently approved PFD. These devices, when inflated, float the wearer better than most other PFD's. Specifically, they can provide more buoyancy and better flotation attitude than other PFD's.

To maximize these expected benefits the Coast Guard will be initiating a public education program to inform the public of the benefits of these devices and to encourage their use.

4. *Inflatable Life Jacket Requirements.* The NPRM also proposed approval requirements for inflatable life jackets. These requirements, and the comments that address specific concerns with respect to them, are currently being analyzed and, upon completion of the analysis, a final rule will be published in separate rulemaking document. The planned publication date of the final rule for inflatable life jackets is early 1986.

5. *Carriage and Operational Requirements for Hybrid PFD's.* The NPRM also proposed carriage requirements for hybrid PFD's used on recreational boats and uninspected commercial vessels, as well as various operational requirements for their use on inspected vessels as work vests. These requirements will likewise be published in a separate rulemaking document.

The carriage requirements for hybrids, as proposed in the NPRM, provided that in order to be counted toward Coast Guard carriage requirements on recreational boats and uninspected commercial vessels, they are REQUIRED TO BE WORN when the intended wearer is not within an enclosed space and the vessel is underway. Two commenters expressed general support for the REQUIRED TO BE WORN concept, as proposed in the carriage requirements and in § 160.077-5, and two others expressed concern that the concept would make hybrids difficult to sell.

As explained in the NPRM and in the discussion of comments below the REQUIRED TO BE WORN concept has important lifesaving purposes which are

emphasized in the consumer information pamphlet required by § 160.077–29. This information should make hybrids sufficiently attractive to prospective purchasers who are concerned about the lifesaving potential afforded by various PFD's. Accordingly, the REQUIRED TO BE WORN concept has been retained in § 160.077–5, and will be included in the upcoming document for the remaining hybrid PFD requirements. The remaining requirements will be published as soon as possible so that they will be in place prior to any widespread sale and use of approved hybrid devices.

6. *Need for Interim Rule.* The approval requirements for hybrid PFD's have been labeled as an "interim" final rule. During the interim period the Coast Guard will be encouraging consumers and manufacturers of individual products to provide feedback concerning the suitability of the devices for their intended use and concerning the practicality of production and approval test requirements associated with them. Consumers and manufacturers should feel free to send comments and recommendations concerning their experiences in making and using hybrid PFD's directly to the contact person listed above.

Based upon the information obtained, this final rule may be further revised. Production experience may indicate a need for additional flexibility in production tests and inspections or a need to revise or delete individual requirements found to be unnecessarily costly when compared to the safety benefits obtained.

The Coast Guard anticipates that this final rule will retain its interim status until publication of final rules in a related rulemaking project (Docket CGD 84–068). In CGD 84–068, proposed regulations are currently being prepared to upgrade the materials requirements for all PFD's. Notice of this related rulemaking was published in the **Federal Register** of April 29, 1985, at page 17530. As a result, the materials requirements in § 160.077–11 of this final rule may be further revised to be consistent with requirements proposed and adopted in CGD 84–068. To the extent possible, however, the requirements in § 160.077–11 already include the upgraded requirements planned for CGD 84–068.

The interim period planned for this final rule will also provide the Coast Guard with an opportunity to evaluate recommendations of commenters on the NPRM concerning potential improvements that were not adopted in this rule. As explained more fully below, some commenters made various suggestions which could not be properly analyzed within the expedited time frame for publishing this rule. However, they will be considered along with the information obtained concerning the initial period of use and manufacture of hybrid devices.

7. *Request for Public Hearing.* Two requests for a public hearing were received at the end of the comment period. These requests have been denied. The written comments received during the comment period provided ample information with detailed recommendations such that providing commenters with an opportunity to followup with supplemental oral presentations at a public hearing would, in all probability, not provide any new information apart from a restatement of comments already submitted. Also, the concerns discussed by the commenters submitting the requests have already been discussed in various public meetings of the National Boating Safety Advisory Council (NBSAC). These considerations, when weighed against the benefits expected to be derived from early publication of this rule, did not demonstrate a sufficient need for having a public hearing.

8. *Request for Extension of Comment Period.* One commentator, a PFD buckle manufacturer, requested that the comment period be extended on the basis that test data is not yet available to determine whether individual materials comply with the requirements in § 160.077–11(a) (3), (5), (6), and (g)(1). These requirements deal with operating temperature range, weathering resistance, fungus resistance, and strength, respectively. These requirements essentially provide upgraded standards which describe state-of-the-art components, and with few exceptions, PFD buckles currently accepted by the Coast Guard for use in approved PFD's are known to meet these requirements. As explained below, plastic buckles will require some modification to meet the strength requirements but the strength requirements, as well as the weathering resistance requirements, have future effective dates which provide over a year to do any necessary testing or to obtain certifications of compliance with the requirements. Also, as explained below, the temperature range and fungus resistance requirements can be met by most existing components accepted by the Coast Guard for use in currently approved PFD's. Accordingly, an extension of the comment period was not considered to be necessary.

9. *Minor Revisions.* Minor revisions have been made in the final rule for the purposes of clarification and to correct clerical errors involved in publishing the NPRM.

Drafting Information

The principal persons involved in drafting this rule were: Mr. Samuel Wehr, Office of Merchant Marine Safety, and Mr. William Register, Office of the Chief Counsel.

Discussion of Comments and Revisions Made

General

Six commenters stated their general and, in some cases, specific support of the rule. Four of these commenters wrote for the sole purpose of stating their support and two commenters provided general support for the REQUIRED TO BE WORN concept proposed in § 160.077–5 and the corresponding carriage requirements. One commenter stated support for UL standard 1517 which is referenced in the rule and the provisions in the UL standard which allow for the consideration of alternative concepts. Provisions for approving alternative concepts are also included in § 160.077–33(c). Several other commenters provided detailed recommendations for modification and improvement, as discussed in more detail below.

Section 160.077–3(j), Reference Vest

One commenter suggested that the definition of "reference vest" be revised to allow construction in accordance with UL 1517, section 2.19, in lieu of the vest prescribed in § 160.077–33(j). He stated that although the UL vest has less buoyancy, it has many of the same performance characteristics as the reference vest described in § 160.077–3(j), and that front inserts in that vest cannot be constructed as prescribed in the NPRM. The UL reference vest does display certain performance characteristics that are equivalent to those displayed by the vest prescribed in this final rule but it does not display other equivalent characteristics which are critical such as those relating to turning time and percent of subjects turned. The specification has been revised to allow larger front insert envelopes.

Section 160.077–5 and § 160.077–11, REQUIRED TO BE WORN and Materials

Two commenters stated that the materials requirements are unnecessarily strict and will make hybrid PFD's much more expensive than other PFD's. One of the commenters emphasized that the materials requirements in § 160.077–11 in combination with the "REQUIRED TO BE WORN" provisions in § 160.077–5

will make the devices difficult to sell thus resulting in fewer lives saved in boating accidents.

As stated in the NPRM, the materials requirements are purposely extensive to minimize any malfunction potential. Hybrid PFD's designed without the materials required in § 160.077–11 would be slightly less expensive to produce but not significantly easier to market and could result in increased lives lost due to outright structural failures of the devices.

If devices were not "REQUIRED TO BE WORN", the number of lives lost would be increased due to resulting improper care and use of the devices. As explained in the NPRM, the REQUIRED TO BE WORN concept is intended to accomplish several basic purposes such as, (1) providing the wearer with a constant opportunity to check for continued serviceability of the device, and (2) minimizing the possibility that the device will be stowed and neglected for extended periods thus lessening wearer familiarity with use of the device and materially affecting its serviceability.

Section 160.077–11(a)(3), Temperature

This paragraph provides that, with certain exceptions, all materials used in recreational hybrid PFD's must be designed for use in all weather conditions throughout a temperature range of −22°F to +150°F (−30°C to +65°C). One commenter recommended that the lower end of this temperature range be changed from −22°F to 0°F because most currently used PFD components have only been tested to this temperature. The commenter also noted that the temperature cycling test in § 160.077–19(b)(8) already provides a check for PFD performance at −22°F and thus alleviates the need for requiring each PFD component to be designed to withstand −22°F. The proposed temperature range has been retained in the final rules. It can be expected that hybrid devices will be stowed on board vessels layed up during the winter season, or used on vessels that operate during this period, and temperatures as low as −22°F are not uncommon in the United States. Components commonly used in other currently approved PFD's have not experienced failures in use at −22°F. Also, the temperature cycling test only checks for performance of PFD inflation mechanisms. This temperature range will also be included in the upgraded requirements to be proposed for other PFD's in rulemaking docket CGD 84–068.

Section 160.077–11(a)(5) and § 160.077–11(d)(3), Weathering Resistance

The proposed rules required that each nonmetallic component be designed to retain at least 45% of its strength after being subjected to 300 hours of sunshine carbon arc weathering.

Three commenters recommended that the weathering resistance requirement apply only to external components. § 160.077–11(a)(5) has been revised to impose this requirement only on materials that are not suitably shielded from ultraviolet exposure.

Two commenters also recommended that the weathering resistance requirement be made less stringent because available materials may not be able to meet the requirement. Two commenters also recommended that compliance with this requirement be postponed until September 1988 or 1989 to provide sufficient time to make any modifications, if needed, for materials to pass the tests.

The purpose for the weathering resistance requirement in § 160.077–11(a)(5) is to provide increased materials service life. Coast Guard experience in approving PFD's has been that fabrics that only meet the 100 hour requirement in current regulations typically deteriorate more rapidly than fabrics designed to meet the more rigorous 300 hour requirement. Because of this rapid deterioration, PFD cover fabrics have been found to fail, *i.e.* tear, when using the PFD even though the fabric appears to be still serviceable. Accordingly, the 300 hour requirement has been retained in the final rule. This requirement will also be included in the rulemaking project (docket number CGD 84–068) which has been initiated to incorporate these needed improvements in the other PFD regulations.

Two additional revisions have been made to § 160.077–11(a)(5) in the final rule. First, the requirement has been revised by reducing to 40% the amount of retained strength required after testing. This revision will accommodate materials that are currently available and that are known to provide an acceptable service life. Second, a provision has been included to allow materials other than inflation chamber material to meet the current 100 hour requirement in UL Standard 1517 until that requirement is replaced with a 300 hour requirement. UL Standard 1517, Section 4.3, makes compliance with the 300 hour requirement effective for materials tested after September 1, 1989. However, the 300 hour requirement is especially important for fabric used in uncovered inflation chambers and, as provided in § 160.077–11(d)(3), this material must meet the 300 hour requirement in Method 5304.1 of Federal Test Method Standard Number 191, which does not include a postponed compliance date. There are inflation chamber materials currently available that will meet the 300 hour requirement and manufacturers also have the option of using inflation chamber material not meeting this requirement as long as it is suitably covered to shield against ultraviolet exposure.

Section 160.077–11(a)(6) and –11(a)(4), Fungus Resistance

The proposed rules, in part, required nonmetallic components to be designed to retain at least 90% of their strength after being subjected to the mildew resistance test specified by Method 5762 of Federal Test Method Standard 191. One commenter recommended that nonmetallic PFD components be required to meet the fungus resistance requirements in MIL–STD–810C "Fungus" in lieu of the proposal. A second commenter suggested that, if a material is covered when incorporated in the finished PFD, then it should be allowed to be covered in a similar manner during the testing. A third commenter noted the expense involved with Method 5762 and suggested that the fungus resistance of hybrids could be handled in the same manner as with kapok PFD's in that deterioration of components from fungus exposure is something that the user could readily detect and take appropriate action to replace the device. For the reasons stated below, Method 5762 has been retained in the final rule, but provision has been made to allow testing with the material covered if it is covered in the finished product. However, to minimize or eliminate testing costs, a manufacturer could, as provided in § 160.077–11(a)(4), obtain a material certification from the supplier or an independent laboratory.

In MIL–STD 810C, fungus resistance is determined by applying fungi directly to materials and then observing their effect on the materials over the course of time (28 days). In Method 5762, materials are buried in fungi laden soil for an extended period (12 weeks). The soil burial method typically provides more reliable testing data upon which to make a determination as to fungus resistance of material. Also, the failures of synthetic inflatable bladders due to fungus deterioration, which occurred during the study reported in CG–M–5–81 and referenced in the NPRM, had little or no mildew odor and none of the other characteristics which are present in an unserviceable kapok PFD. As a result,

observations of the user cannot be relied on to warn of an unsafe condition.

Section 160.077–11(a)(7)(ii), Corrosion Resistance

Two commenters recommended that bronze and brass PFD components be allowed in addition to 410 stainless steel and equivalent materials. Another commenter suggested that UL 1517, sections 4.4 and 4.5 be referenced to allow the use of expendable components such as gas cylinders and that, as an alternative method of determining corrosion resistance, a salt spray test be added. Section 160.077–11(a)(7)(ii) has been revised in the final rule to allow the use of expendable inflation medium cartridges and to allow the use of metal components that are able to perform their intended function, and have no visible pitting or other damage on any surface, after 720 hours of testing according to ASTM B 117. Brass and bronze of a grade suitable for use in marine applications are equivalent to at least Type 410 stainless steel as are materials that can pass the ASTM B 117 salt spray test. Cartridges do not need to have the corrosion resistance properties required by § 160.077–11(a)(7) since they are replaced periodically.

Section 160.077–11(b)(1)(iii), Flotation Material

One commenter suggested that this provision be revised to allow the use of plastic foam having a V Factor of 85 which in turn would permit use of thinner material than would be required for foam having a V Factor of 89. The commenter apparently misunderstood this provision and it has been clarified in the final rule to emphasize that foam with a lower V factor may also be used if compensated to provide equivalent buoyancy over the life of the PFD. In other words, foam with a V Factor of 85 may be used in compliance with § 160.077–11(b)(1)(iii) as long as the buoyancy of the complete PFD after a normal service life will not be less than that of a PFD made with 7.5 lb. of buoyancy using material having a V factor of 89.

Section 160.077–11(c), Fabric

Two commenters suggested that the requirements for inner liner fabric be made less stringent because these materials are not subject to the same stresses as outer envelope fabric. One of these commenters requested that allowance be made for neoprene foam/fabric laminates for use in thermal protective PFD's. The requirements for Type II PFD fabric in Subpart 160.047 provide for such materials and they have been incorporated into § 160.077–11(c).

Section 160.077–11(d)(2)(i), Inflation Chamber Materials

One Commenter questioned the need for a matte finish and clear or transparent film as required in MIL–L–24611(SH) and incorporated by reference in § 160.077–11(d)(2)(i). This paragraph has been revised to allow any finish and any color or transparency of film type bladder materials. However, care will be needed in selecting the finish and color to use since these may have an affect on other performance characteristics required by this final rule such as over-pressure and seam strength.

Sections 160.077–11, 160.077–15(b)(12), and 160.077–19, Materials, Construction, and Testing

These paragraphs include various materials, construction, and testing requirements for hybrid PFD's. One commenter suggested that corresponding provisions in UL 1517 be incorporated by reference in these paragraphs. The UL provisions contain equivalent requirements that would be accepted as such under § 160.077–33. However, they have not been incorporated at this time because there may be other acceptable equivalents which are less costly. As explained above, the Coast Guard will be considering revisions to this final rule during the next year and the UL provisions that have not been included in this rule will be analyzed as a part of that effort.

Section 160.077–13(c), Retroreflective Material

This paragraph requires each commercial hybrid PFD to have a prescribed amount of retroreflective material on its front side, back side, and each reversible side, if any. One commenter suggested that retroreflective material not be required on the back of a hybrid PFD that provides Type II performance since it may not be visible on some designs when the wearer is floating in the water. This comment has not been adopted. The Coast Guard does not expect many, if any, designs to be able to comply with the performance requirements in this final rule unless they also have an in-water visible location for the required retroreflective material. However, if a design is developed that does meet the in-water performance requirements, but without providing a visible location on the back for retroreflective material, it could be approved under the equivalency provisions of § 160.077–33(c).

Section 160.077–13(d), PFD Light

One commenter recommended that the requirement to attach a PFD light on the front shoulder area of commercial hybrid PFD's be modified to allow attachment in any conspicuous location on the PFD that would be observable at a distance when the user is floating in the water. The front shoulder area is the only realistic conspicuous location for known PFD designs but if other locations are possible they could be approved under the equivalency provisions of § 160.077–33(c)(2).

Section 160.077–15(a)(2)(iii)–15(a)(2)(v), Performance, Comfort

Two commenters recommended that the provisions concerning the comfort features of a PFD be deleted on the basis that the presence or absence of these features in a device are considerations appropriately left to individual manufacturers in determining how to market the device effectively. This comment has been adopted in part. Proposed § 160.077–15(a)(2)(iv), which required an uninflated hybrid PFD to be comfortable to wear, has been deleted from the final rule. The REQUIRED TO BE WORN provisions in § 160.077–5 essentially make this requirement redundant. However, the other two requirements, being capable of being worn without significant discomfort when partially inflated to 13 lb. of buoyancy and not causing significant discomfort during and after inflation, relate to important safety concerns not addressed by the REQUIRED TO BE WORN concept. The 13 lb. buoyancy requirement is needed to accommodate users that require more than 7.5 pounds of temporary flotation in order to fully inflate the device after sudden immersion. Approximately 30% of the population need some partial inflation for adequate temporary flotation. The requirement dealing with during and after inflation comfort is needed to lessen the incidence of panic, which could occur due to inflation pressure when using the device in a emergency situation, and thus to increase the wearer's chances of survival.

Section 160.077–15(c)(3)(ii), Performance, Ready-to-use Condition

In the NPRM, this paragraph required each automatic and manual inflation mechanism to be provided in a "ready-to-use" condition. Three commenters recommended that the inflation cartridge of the mechanism be packaged separately rather than in a ready-to-use

condition in order to prevent premature actuation of the device prior to sale. Section 160.077–15(c)(3)(ii) has been revised in accordance with these comments to provide that an inflation mechanism need not be provided in a ready-to-use condition as long as it is conspicuously marked to indicate that the inflation mechanism must be assembled or loaded prior to use. Also, § 160.077–30 has been revised to allow the use of covers or restraints to inhibit tampering with a ready-to-use mechanism provided the cover or restraint is conspicuously marked "REMOVE IMMEDIATELY AFTER PURCHASE".

Section 160.077–19(b)(6) and Section 160.077–21(b)(3), Buoyancy

These paragraphs require testing according to UL Standards which require all hybrid PFD's to have a total buoyancy of 22 pounds when inflated and an inherent buoyancy of 7.5 pounds for recreational hybrids and 10 pounds for commercial hybrids. One commenter recommended that the inherent buoyancy requirement for recreational hybrid PFD's be reduced to five pounds to provide better wearability. A second commenter, who is also a member of National Boating Safety Advisory Council (NBSAC) which has provided significant input concerning these requirements, supported the Coast Guard's rationale expressed in the NPRM for proposing 7.5 pounds. As explained in the NPRM, the value of 7.5 pounds was selected as a careful compromise between wearability and flotation and, accordingly, this requirement has been retained in the final rule.

One commenter suggested that commercial and recreational hybrid PFD's should have the same amount of inherent flotation to facilitate startup and introduction to the market. This comment has not been adopted. Workers on commercial vessels need the increased inherent buoyancy (10 lbs.) to take into account (1) tools and safety devices such as steel toed shoes that workers on commercial vessels typically wear and use, and (2) the increased probability of commercial activities taking place on open waters or under severe operating conditions. As stated in the NPRM, requirements for recreational hybrid PFD's are set lower for reasons of comfort and because recreational PFD's are normally worn under less severe operating conditions. Also, by maintaining the different requirements, the relatively small percentage of recreational users that operate in open waters or under severe conditions will have the option of buying a higher buoyancy device if they so desire.

Section 160.077–19(b)(9), Solvent Exposure

One commenter stated that the gasoline submersion test in UL 1517, section 24, was extreme in that it simulates an adverse condition the occurrence of which is not probable or realistic. The commenter recommended that a sprinkle test be substituted for the UL test. This comment has not been adopted. There is no sprinkle test available and it is doubtful that one could be developed on short notice which would be repeatable. Short term immersion of a PFD in gasoline or other fuel while stowed on board, although not a commonplace occurrence, is not unheard of. Also, the UL test is intended to provide a measure of the PFD's capability to withstand long term exposure to fuel vapors when stowed on board.

Section 160.077–19(b)(10)(ii), Rain Exposure

Two commenters asked whether the rain exposure test in UL Standard 1517, section 31.2 and 31.3, involves testing an entire PFD or just the inflation mechanism. As indicated in the UL standard, the complete PFD is used in this test.

Section 160.077–19(b)(13), Tensile Test

Two commenters questioned the need for increased strength requirements for body strap assemblies on hybrid PFD's, as compared to the lesser strength requirements for Type III PFD's. This paragraph requires a PFD to pass a 225 pound strength test as prescribed in UL 1517, section 22. Current requirements for other PFD's call for a 150 pound strength test. Most body strap assemblies in currently approved PFD's utilize synthetic webbing and either plastic or metal buckles. Some plastic buckles in use have been found to fail in random usage and they present a risk to the user if the failure were to occur in recovery operation. Likewise, some current body strap assemblies, because of the manner in which they are assembled, allow excessive slippage to occur in PFD use. Buckles, both plastic and metal, that are designed to pass a 225 pound strength test should substantially minimize the risk of failure, and will allow the assembly, as a whole, to be designed with, and tested for, reduced slippage.

Upgraded strength requirements will also be proposed in docket CGD 84–068 for other PFD's. These upgraded requirements are considered to be modest when taking into account that synthetic webbing typically has a factor of safety of 4; whereas, plastic buckles meeting the upgraded requirements will only have a factor of safety of 2. As provided in UL 1517, the increased strength requirements have an effective date of September 1, 1989, in order to provide sufficient time for manufacturers to make any modifications needed to meet the upgraded requirements. It should be noted that manufacturers were queried by UL when their standard was being drafted, and, according to the replies received, no significant adverse impact was anticipated in manufacturing body strap assemblies according to the upgraded requirements.

Sections 160.077–27 and 160.077–29, PFD Pamphlet and Manuals

One commenter suggested that additional information be included in the pamphlet and manual which is required by §§ 160.077–27 and 160.077–29 to be provided with each PFD. The suggestion was that the limitations and cautionary information in Commandant Notice 10470 and chapter 5 of the Coast Guard Rescue and Survival Systems Manual be provided with hybrid PFD's having Type III performance and that the information in chapter 7, paragraph C3 of that manual be provided with all other hybrids. UL 1517, which is incorporated by reference in §§ 160.077–27 and 160.077–29, requires that substantially the same information recommended by the commenter be provided in the required pamphlet and manuals.

Sections 160.077–31 (c) and (d), Markings

The same commenter who recommended that additional cautionary information be provided in the PFD manuals and pamphlet also recommended that this information be summarized on the PFD label. A lengthy paragraph on the label, such as the one suggested, would diminish the effectiveness of the other cautionary information already required for the label which includes, among other things, the marking "YOU MAY HAVE TO INFLATE THIS PFD TO FLOAT".

This commenter also stated that, for persons other than good swimmers, cautionary information should be provided prior to purchase concerning the need for automatic inflation devices. This comment has not been adopted. Hybrid PFD's are not recommended for poor swimmers and non-swimmers. The PFD label states very clearly that the devices should be tried out in the water in advance of any use on a vessel. This

up-front information should be adequate to alert poor swimmers and non-swimmers as to the desirability of the product for their use. Also, the pamphlet required by § 160.077–27 contains cautionary information concerning use by non-swimmers.

Section 160.077–31(e), Markings

One commenter suggested that provision be made for the user of a hybrid PFD to permanently mark his or her name on the device. A new § 160.077–31(f) has been added to require that space be provided on the PFD for the user's name or other identification. The required manual text as set out in UL 1517 and required by § 160.077–29 includes an advisory statement for users to mark their names on their devices.

Sections 160.077–33(a), –11(a)(4), and –23(a)(1), Approval Procedures

One commenter suggested that the independent laboratories section, § 160.077–35, be modified to include a reference to Subpart 159.010 for the acceptance of laboratories to perform the required tests and inspections, and to make the required certifications of materials. Section 160.077–33(a) incorporates Subpart 159.005 which in turn specifies that a laboratory meeting Subpart 159.010 must be used for approval testing. Section 160.077–23(a)(1) specifies the same requirement concerning use of independent laboratories for production tests and inspections, and § 160.077–11(a)(4) has been revised in the final rule to emphasize that an independent laboratory making a certification required by that paragraph must be accepted in accordance with 46 CFR Subpart 159.010.

Regulatory Evaluation

These regulations are 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). A regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed above under **ADDRESS.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

The evaluation provides a detailed explanation of the estimated costs of these regulations. The total approval costs per design are expected to be approximately $3000 for hybrid PFD's. Costs to approve other types of PFD's are approximately $2000. The additional cost to approve hybrid PFD's can easily be absorbed in the cost of PFD's produced. The cost increase will be small when considering the thousands of PFD's to be produced under authorization of each approval certificate. The Coast Guard anticipates that within the first year after issuing the final rules, approximately 10 hybrid PFD designs will be approved.

Production inspection costs imposed by these regulations will be approximately $600 per lot of hybrid PFD's. These costs are similar to those incurred for other types of approved PFD's.

The retail cost, per hybrid device, is expected to be between $40–$200, with an average cost of about $55.00. These costs will be optional since, as noted in the **SUMMARY,** carriage will be optional. Currently approved PFD's range in price from $7–$200 with an average cost of about $12.00 for Type II devices and $30.00 for Type III devices that could be replaced by hybrid PFD's.

The benefits of these regulations are summarized in paragraph 4 under **SUPPLEMENTARY INFORMATION** and are explained in detail in the regulatory evaluation. The Coast Guard estimates that as many as 200 lives per year can be saved.

These regulations will have little or no effect on federal, state, or local governments except in their capacities as consumers of PFD's. Coast Guard steps to implement these rules will be done within the scope of ongoing marine safety activities, and there will be no need for additional federal budget commitments.

Based upon the information in the evaluation, as discussed above, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains information collection requirements that are similar to the recordkeeping requirements for other PFD's. These requirements are in the following sections:

Paperwork requirements	OMB approval Nos.
a. § 160.077–11	2115–0141
b. § 160.077–25, except –25(a), –25(d)(4), –25(d)(5), and –25(e)	2115–0090
c. § 160.077–25(d)(4) and –25(d)(5)	2115–0141
d. § 160.077–29	2115–0121
e. § 160.077–31	2115–0121
f. § 160.077–33	2115–0121
g. § 160.077–35	2115–0121

The paperwork requirements in § 160.077–25 (a) and (e) of this rule have been submitted to OMB for approval. These requirements will become effective after OMB approval numbers have been assigned. When approval numbers are assigned 46 CFR 159.001–9(b) will be amended to add each of the OMB approved requirements in Subpart 160.077 to the list of approved requirements in § 159.001–9(b).

List of Subjects in 46 CFR Part 160

Marine safety.

Regulations

PART 160—[AMENDED]

In consideration of the foregoing, Part 160 of Title 46 of the Code of Federal Regulations is amended by adding a new Subpart 160.077 to read as follows:

Subpart 160.077—Hybrid Inflatable Personal Flotation Devices

Sec.

160.077–1 Scope.
160.077–3 Definitions.
160.077–5 REQUIRED TO BE WORN.
160.077–7 Type.
160.077–9 Incorporation by reference.
160.077–11 Materials—Recreational Hybrid PFD's.
160.077–13 Materials—Commercial Hybrid PFD's.
160.077–15 Construction and Performance—Recreational Hybrid PFD's.
160.077–17 Construction and Performance—Commercial Hybrid PFD's.
160.077–19 Approval Testing—Recreational Hybrid PFD's.
160.077–21 Approval Testing—Commercial Hybrid PFD's.
160.077–23 Production tests and inspections.
160.077–25 Manufacturer records.
160.077–27 Pamphlet.
160.077–29 PFD Manuals.
160.077–30 Spare operating components and temporary marking.
160.077–31 PFD Marking.
160.077–33 Approval procedures.
160.077–35 Procedure for approval of design or material revision.
160.077–37 Independent laboratories.

Authority: 46 U.S.C. 3306, 3703, 4104, and 4302; 49 CFR 1.46.

Subpart 160.077—Hybrid Inflatable Personal Flotation Devices

§ 160.077–1 Scope.

(a) This specification contains requirements for approving hybrid inflatable personal flotation devices (hybrid PFDs).

(b) Other regulations in this chapter and in 33 CFR Part 175 allow recreational boats and uninspected commercial vessels to carry hybrid PFD's as substitutes for other required PFD's if they are worn under conditions prescribed in the manual required by § 160.077–29, and on the marking prescribed in § 160.077–31. For recreational boats involved in a special

activity, hybrid PFD approval may also be limited to that activity.

(c) On an inspected commercial vessel, a hybrid PFD will be approved only—

(1) As work vest; or

(2) For the special purpose stated on the approval certificate and PFD marking.

(d) A hybrid PFD will be approved only for adults.

(e) This specification also contains requirements for—

(1) Manufacturers and sellers of recreational hybrid PFD's to provide an information pamphlet and owner's manual with each PFD; and

(2) Manufacturers of commercial hybrid PFD's to provide a user's manual.

§ 160.077-3 Definitions.

(a) "Commandant (G-MVI-3)" means the Chief of the Survival Systems Branch, Office of Merchant Marine Safety, U.S. Coast Guard. Address: Commandant (G-MVI-3/24), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593. Telephone: 202-426-1444.

(b) "Commercial hybrid PFD" means a hybrid PFD approved for use on commercial vessels identified on the PFD label.

(c) "First quality workmanship" means construction which is free from any defect materially affecting appearance or serviceability.

(d) "Hybrid PFD" means a personal flotation device that has at least one inflation chamber in combination with inherently buoyant material.

(e) "Inflation medium" means any solid, liquid, or gas, that, when activated, provides inflation for buoyancy.

(f) "Inspector" means an independent laboratory representative assigned to perform duties described in § 160.077-23.

(g) "PFD" means a personal flotation device of a type approved under this subpart.

(h) "Recreational hybrid PFD" means a hybrid PFD approved for use on a recreational boat as defined in 33 CFR 175.3(b).

(i) [Reserved]

(j) "Reference vest" means a model AK-1 PFD meeting Subpart 160.047 of this chapter, except that, in lieu of the weight and displacement values prescribed in Tables 160.047-4(c)(2) and § 160.047-(4)(c)(4), each front insert must have a weight of kapok of at least 8.25 oz. and a volume displacement of 9.0±0.25 lb., and the back insert must have a weight of kapok of at least 5.5 oz. and a volume displacement of 6.0±0.25 lb. To achieve the specified volume displacement, front insert envelopes may be larger than the dimension prescribed by § 160.047-1(b).

(k) "Second stage donning" means adjustments or steps necessary to make a PFD provide its intended flotation characteristics after the device has been properly donned and then inflated.

§ 160.077-5 Required to be worn.

(a) As provided in Subpart 25.25 of this chapter, and in 33 CFR Part 175, a hybrid PFD that is marked "REQUIRED TO BE WORN" may be used to meet the Coast Guard PFD carriage requirements in those regulations only if it is worn whenever the vessel is underway and the intended wearer is not within an enclosed space.

(b) If hybrid PFD's with the marking "REQUIRED TO BE WORN" are not worn under the conditions stated in paragraph (a) of this section, other approved PFD's will have to be provided to comply with the applicable carriage requirements in 33 CFR Part 175 and Subpart 25.25 of this chapter.

(c) The following PFD's must be marked "REQUIRED TO BE WORN" as specified in § 160.077-31:

(1) Each recreational hybrid PFD.

(2) Each commercial hybrid PFD that is approved for use on an uninspected commercial vessel.

§ 160.077-7 Type.

(a) A hybrid PFD will be approved only as a Type V PFD. A Type V PFD is a PFD that, unlike other PFD Types, has limitations on its approval.

(b) The approval tests in this subpart require each hybrid PFD to have at least Type II or Type III PFD performance.

§ 160.077-9 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Survival Systems Branch (G-MVI-3), Washington, DC 20593.

(b) The materials approved for incorporation by reference in this subpart are:

American Society for Testing and Materials (ASTM)

ASTM B 117, Standard Method of Salt Spray (Fog) Testing.

ASTM D 471, Rubber Property—Effect of Liquids.

ASTM D 751, Standard Methods of Testing Coated Fabrics.

ASTM D 1434, Gas Transmission Rate of Plastic Film and Sheeting.

Federal Aviation Administration Technical Standard Order

TSO-C13, Federal Aviation Administration Standard for Life Preservers.

Federal Standards

In Federal Test Method Standard No. 191 the following test methods:

(1) Method 5100, Strength and Elongation, Breaking of Woven Cloth; Grab Method.

(2) Method 5132, Strength of Cloth, Tearing; Falling-Pendulum Method.

(3) Method 5134, Strength of Cloth, Tearing; Tongue Method.

(4) Method 5804.1, Weathering Resistance of Cloth; Accelerated Weathering Method.

(5) Method 5762, Mildew Resistance of Textile Materials; Soil Burial Method.

Federal Standard No. 751, Stitches, Seams, and Stitching.

Military Specifications

MIL-L-24611(SH)—Life Preserver Support Package For Life Preserver, MK 4.

National Bureau of Standards (NBS)

"The Universal Color Language" and "The Color Names Dictionary" in *Color: Universal Language and Dictionary of Names*, National Bureau of Standards Special Publication 440.

Underwriters Laboratories (UL)

UL 1191, "Components for Personal Flotation Devices."

UL 1517, "Hybrid Personal Flotation Devices."

§ 160.077-11 Materials—Recreational Hybrid PFD's.

(a) *General.*—(1) *Application.* This section contains requirements for materials used in recreational hybrid PFD's.

(2) *Condition of Materials.* All materials must be new.

(3) *Material Selection.* Unless otherwise specified in standards incorporated by reference in this section, all materials must be designed for use in all weather conditions throughout a temperature range of −30 °C to +65 °C (−22 °F to +150 °F).

(4) *Certification.* Each lot of material used in manufacturing PFD's must have a certification of compliance with the requirements in this section. The certification must be made by the PFD manufacturer, the material supplier, or

an independent laboratory accepted by the Commandant in accordance with Subpart 159.010 to make the certification. Each certification by a supplier must be notarized. Each certification by a PFD manufacturer must be accompanied by test results that show compliance with this section.

(5) *Weathering Resistance.* Each non-metallic component which is not suitably covered to shield against ultraviolet exposure must be designed to—

(i) Retain at least 40% of its strength after being subjected to 300 hours of sunshine carbon arc weathering as specified by Method 5804.1 of Federal Test Method Standard Number 191; or

(ii) Meet UL 1517, section 4.3.

(6) *Fungus Resistance.* Each non-metallic component must be designed to retain at least 90% of its strength after being subjected to the mildew resistance test specified by Method 5762 of Federal Test Method Standard 191 when untreated cotton is used as the control specimen. Also, the gas transmission rate of inflation chamber materials must not be increased by more than 10% after being subjected to this test. Materials that are covered when used in the PFD may be tested with that covering.

(7) *Corrosion resistance.* Each metal component must be—

(i) Galvanically compatible with each other metal part in contact with it; and

(ii) Unless it is expendable (such as an inflation medium cartridge), 410 stainless steel or have salt water and salt air corrosion characteristics equal or superior to 410 stainless steel or perform its intended function, and have no visible pitting or other damage on any surface, after 720 hours of salt spray testing according to ASTM B 117.

(8) *Materials not covered.* Materials not covered in this section must be of good quality and suitable for the purpose intended.

(b) *Flotation material.* Inherent buoyancy must be provided by—

(1) Plastic foam meeting—

(i) Subpart 164.013 of this chapter;

(ii) Subpart 164.015 of this chapter; or

(iii) UL 1191 and having a V factor of 89 except that, foam with a lower V factor may be used if compensated to provide equivalent buoyancy which, after a normal service life, is not less than that of a PFD made with 7.5 lb. of buoyancy using a material having a V factor of 89; or

(2) Kapok meeting Subpart 164.003 of this chapter.

(c) *Fabric.*—(1) *All fabric.* All fabric, except inner envelope fabric, must—

(i) Be of a type accepted for use on Type I PFD's approved under Subpart 160.002 of this chapter; or

(ii) Meet the Type V requirements for "Fabrics for Wearable Devices" in UL 1191, except that its breaking strength must be at least 400 N (90 lb.) in both the directions of greater and lesser thread count.

(2) *Rubber coated fabric.* Rubber coated fabric must be of a copper-inhibiting type.

(3) *Inner envelope fabric.* Inner envelope fabric must—

(i) Meet the requirements in paragraph (c)(i) of this section; or

(ii) Be of a type accepted for use on Type II PFD's approved under Subpart 160.047 of this chapter.

(d) *Inflation chamber materials.*—(1) *All materials.* The average permeability of inflation chamber material must not be more than 110% of the permeability of materials determined in approval testing prescribed in § 160.077–19(d). The average grab breaking strength and tear strength of the material must be at least 90% of the grab breaking strength and tear strength determined from testing prescribed in § 160.077–19(d). No individual sample result for breaking strength or tear strength may be more than 20% below the results obtained in approval testing.

(2) *Fabric covered chambers.* Each material used in the construction of inflation chambers that are covered with fabric must meet the requirements specified for—

(i) Bladder materials in section 3.2.6 of MIL–L–24611(SH) if the material is an unsupported film, except that any color or finish may be used; or

(ii) Coated fabric in section 3.1.1 of TSO–C13 if the material is a coated fabric.

(3) *Uncovered chambers.* Each material used in the construction of inflation chambers that are not covered with fabric must meet the requirements specified in paragraph (d)(2)(ii) and (a)(5)(i) of this section.

(e) *Thread.* All thread used in structural seams must meet § 160.001–2(j) of this chapter. Thread and fabric combinations must have similar elongation and durability characteristics.

(f) *Webbing.* Webbing used as a body strap, tie tape or drawstring, or reinforcing tape must meet § 160.002–3(e), § 160.002–3(f), and § 160.002–3(h) of this chapter respectively. Webbing used for tie tape or drawstring must be capable of easily holding a knot and being easily tied and untied. Webbing used as reinforcing tape must be smooth enough to prevent chafing the wearer.

(g) *Closures.*—(1) *Strength.* Each closure such as a buckle, snap hook and dee ring, or other type of fastening must comply with UL 1517, section 4.1. The width of each closure opening through which body strap webbing passes must be the same as the width of that webbing.

(2) *Means of Locking.* Each closure used to secure a PFD to the body, except a zipper, must have a quick and positive means of locking, such as a snap hook and dee ring.

(3) *Zipper.* If a zipper is used to secure a PFD to the wearer it must be—

(i) Easily initiated;

(ii) Non-jamming;

(iii) Right handed; and

(iv) Of a locking type.

(h) *Inflation medium.* If a hybrid PFD has an automatic or manual inflation mechanism—

(1) The inflation medium must not contain or produce compounds more toxic than CO_2 in sufficient quantity to cause an adverse reaction if inhaled through any of its oral inflation mechanisms; and

(2) Any chemical reaction during inflation must not leave a toxic residue.

(i) [*Reserved*]

(j) *Kapok pad covering.* If kapok flotation material is used, pad covering that meets § 160.047–3(e) of this chapter must be provided to enclose the material in at least three separate pads.

§ 160.077–13 Materials—Commercial Hybrid PFD's.

(a) *General.* All commercial hybrid PFD materials must meet § 160.077–11 and this section.

(b) *Closures.* Each closure other than a zipper must have a minimum breaking strength of 1000 N (225 lbs). If a zipper is used to secure the PFD to the body, it must be used in combination with another closure that has a quick and positive means of locking.

(c) *Retroreflective Material.* Each PFD must have at least 200 sq. cm. (31 sq. in.) of retroreflective material on its front side, at least 200 sq. cm. on its back side and at least 200 sq. cm. of material on each reversible side, if any. The material must be Type I material that is approved under Subpart 164.018 of this chapter. The material attached on each side must be divided equally between the upper quadrants of the side. The material, as attached, must not impair PFD performance.

(d) *PFD Light.* Each PFD must have a PFD light that is approved under Subpart 161.012 of this chapter. The light must be securely attached to the front shoulder area of the PFD. The light, as attached, must not impair PFD performance or damage the life jacket.

§ 160.077-15 Construction and Performance—Recreational Hybrid PFD's.

(a) *Performance.* (1) Each recreational hybrid PFD must be able to pass the tests in § 160.077-19.

(2) Each recreational hybrid PFD must—

(i) If second stage donning is required, have an obvious method for doing it;

(ii) If it is to be marked as providing Type II performance, not require second stage donning to achieve that performance;

(iii) Be capable of being worn while inflated at 60 N (13 lb.) of buoyancy without significantly changing its appearance from, or making it significantly less comfortable than, the uninflated condition;

(iv) Not cause significant discomfort to the wearer during and after inflation; and

(v) If it has a manual or automatic inflation mechanism and can be put on inside out, not restrict breathing when donned inside out, adjusted to fit, and inflated.

(b) *Construction: General.* Each recreational hybrid PFD must—

(1) Have one or more inflation chambers;

(2) Have at least one oral means of inflation on each inflation chamber;

(3) Have at least one automatic inflation mechanism that inflates at least one chamber, if marked as providing Type II performance;

(4) Be constructed so that the intended method of donning is obvious to an untrained wearer;

(5) Not have a channel that can direct water to the wearer's face to any greater extent than that of the reference vest defined in § 160.077-3(j).

(6) Have a retainer for each adjustable closure to prevent any part of the closure from being easily removed from the PFD;

(7) If marked as universally sized for wearers weighing over 40 kg (90 pounds), have a chest size range of at least 76 to 120 cm (30 to 52 in.);

(8) Not have means of access to any inherently buoyant inserts;

(9) Not have edges, projections, or corners, either external or internal, that are sufficiently sharp to damage the PFD or cause injury to anyone using or maintaining the PFD;

(10) Be of first quality workmanship;

(11) Unless otherwise allowed by the approval certificate—

(i) Not incorporate means obviously intended for attaching the PFD to the vessel; and

(ii) Not have any instructions indicating that attachment is intended;

(12) Except as otherwise required by this section, meet UL Standard 1517, sections 6.14, 6.20, 7.1, 7.3, 7.8, 8.4, and 9; and

(13) Meet any additional requirements that the Commandant (G-MVI-3) may prescribe, if necessary, to approve unique or novel designs.

(c) *Inflation mechanism.* (1) Each inflation mechanism on a recreational hybrid PFD must—

(i) Not require tools to activate it or replace its inflation medium cartridge or water sensitive element;

(ii) Have an intended method of operation that is obvious to an untrained wearer; and

(iii) Be located outside of its inflation chamber.

(2) Each oral inflation mechanism must—

(i) Be designed to operate without pulling on the mechanism;

(ii) Not be able to be locked in the open or closed position; and

(iii) Have a non-toxic mouthpiece.

(3) Each automatic and manual inflation mechanism must—

(i) Have a simple method for replacing the inflation medium cartridge; and

(ii) Be in a ready-to-use condition or be conspicuously marked to indicate that the inflation mechanism is not in a ready-to-use condition and that the purchaser must assemble it.

(4) Each manual inflation mechanism must—

(i) Provide an easy means of inflation that requires only one deliberate action on the part of the wearer to actuate it; and

(ii) Be operated by pulling on an inflation handle that is marked "Jerk to Inflate" at two visible locations.

(5) Each automatic inflation mechanism must—

(i) Have an obvious method for indicating whether the mechanism has been activated; and

(ii) Be incapable of assembly without its water sensitive element.

(6) The marking required for the inflation handle of a manual inflation mechanism must be waterproof, permanent, and readable from a distance of 2.5 m (8 ft.).

(d) *Deflation mechanism.* (1) Each inflation chamber must have its own deflation mechanism.

(2) Each deflation mechanism must—

(i) Be readily accessible to either hand when the PFD is worn while inflated;

(ii) Not require tools to operate it;

(iii) Have an intended method of operation that is obvious to an untrained wearer, and

(iv) Not be able to be locked in the open or closed position.

(3) The deflation mechanism can be the oral inflation mechanism.

(e) *Sewn seams.* Stitching used in each structural seam of a PFD must provide performance equal to or better than a Class 300 Lockstitch meeting Federal Standard No. 751.

§ 160.077-17 Construction and Performance—Commercial Hybrid PFD's.

(a) *General.* Each commercial hybrid PFD must meet—

(1) Paragraph (b) of this section; and

(2) Section 160.077-15, except § 160.077-15(a)(2)(iii) and § 160.077-15(c)(1)(i).

(b) *Additional requirements.* Each commercial hybrid PFD must—

(1) Be able to pass the tests in § 160.077-21;

(2) Not present a snag hazard when properly worn;

(3) When worn inflated, have a visible external surface area of at least 1300 sq. cm (200 sq. in.) in front and 450 sq. cm (70 sq. in.) in back that are primarily vivid reddish orange as defined by sections 13 and 14 of the "Color Names Dictionary";

(4) Have at least two separate inflation chambers;

(5) Have at least one manual inflation mechanism.

(6) Have at least one automatic inflation mechanism that inflates at least one chamber; and

(7) Not require second stage donning after inflation.

§160.077-19 Approval Testing—Recreational Hybrid PFD's.

(a) *General.* (1) This section contains approval tests and examinations for recreational hybrid PFD's. Each test and examination must be conducted or supervised by an independent laboratory. The tests must be done using PFD's that have been constructed in accordance with the plans and specifications in the application for approval. In each test only one PFD is required to be tested unless otherwise specified or needed to complete the tests in paragraph (d) of this section.

(2) All data relating to buoyancy and pressure must be taken at, or corrected to, standard atmospheric pressure of 760 mm (29.92 inches) of mercury and temperature of 20 °C (68 °F).

(3) The tests in paragraph (b) of this section must be completed before doing the tests in paragraph (d) of this section.

(4) In each test that specifies inflation by an automatic inflation mechanism and either or both of the other mechanisms, the automatic inflation mechanism must be tested first.

(5) Some tests in this section require PFD's to be tested while being worn. The number and characteristics of the

test subjects must be as prescribed in section 11 of UL 1517.

(b) *Tests.* Each PFD design must be tested according to the procedures in the following tests and meet the requirements in those tests:

(1) *Donning and Operability,* UL 1517, section 12.

(2) *Jump Test,* UL 1517, section 13.

(3) *Flotation Stability and Inflation.*

(i) *Uninflated Flotation Stability,* UL 1517, section 14.

Note: If the freeboard of a test subject is close to zero, caution must be taken to prevent the subject from inhaling water. The subject may use lightweight breathing aids to avoid inhaling water.

(ii) *Inflation,* UL 1517, section 14.3 through 14.5 using a PFD with each automatic inflation mechanism disabled.

(iii) *Inflated Flotation Stability,* UL 1517, section 15, for either Type II or Type III performance.

(4) *Water Emergence,* UL 1517, section 16.

(5) *Operation Force Test,* UL 1517, section 17.

(6) *Buoyancy, Buoyancy Distribution, and Inflation Medium Retention Test,* UL 1517, sections 18 and 19, except that the buoyancy and volume displacement of kapok buoyant inserts must be tested in accordance with the procedures prescribed in § 160.047–4(c)(4) and § 160.047–5(e)(1) in lieu of the procedures in UL 1517, section 18 and 19.

(7) *Inflation Chamber Tests.*

(i) *Over-pressure Test,* UL 1517, section 28.

(ii) *Air Retention Test,* UL 1517, section 29.

(8) *Temperature Cycling Tests,* UL 1517, section 23.

(9) *Solvent Exposure Test,* UL 1517, section 24.

(10) *Environmental Tests,* UL 1517, section 31.1.

(i) *Humidity Exposure,* UL 1517, section 31.4.

(ii) *Rain Exposure,* UL 1517, section 31.2 and 31.3.

(11) *Abrasion/Compression Test,* UL 1517, section 26.

(12) *Water Entrapment Test,* UL 1517, section 20.

(13) *Tensile Tests,* UL 1517, section 22.

(14) *Strength of Attachment of Inflation Mechanism,* UL 1517, section 30.

(15) *Flame Exposure Test,* UL 1517, section 25.

(16) *Impact Test,* UL 1517, section 21.

(17) *Seam Strength Test,* UL 1517, section 33.

(18) *Puncture Test,* UL 1517, section 27.

(c) *Visual Examination.* One complete PFD must be visually examined for compliance with the requirements of § 160.077–15.

(d) *Inflation Chamber Properties.*—(1) *General.* The tests in this paragraph must be run if the tests in paragraph (b) of this section are successfully completed. The results of these tests will be used to check the quality of incoming PFD components and the production process. Test samples must come from one of more PFD's that were each used in all of the tests in paragraphs (b)(2), (b)(6), (b)(7), (b)(16), and (b)(18) of this section.

(2) *Grab breaking strength.* Grab breaking strength of chamber materials must be determined according to Method No. 5100 of Federal Test Method Standard 191, or ASTM D 751.

(3) *Tear strength.* Tear strength of chamber materials must be determined according to Method No. 5132 or 5134 of Federal Test Method Standard 191, or ASTM D 751.

(4) *Permeability.* The permeability of chamber materials must be determined according to ASTM D 1434 using CO_2 as the test gas.

(5) *Seam strength.* The seam strength of the seams in each inflation chamber of at least one PFD must be determined according to ASTM D 751, except that 25 mm by 200 mm (1 in. by 8 in.) samples may be used where insufficient length of straight seam is available.

(e) *Additional Tests.* The Commandant (G–MVI–3), may prescribe additional tests, if necessary, to approve unique or novel designs.

§ 160.077–21 Approval Testing—Commercial Hybrid PFD's.

(a) *General.* This section contains commercial hybrid PFD approval tests. The provisions of § 160.077–19(a) apply to each test in this section.

(b) *Tests.* Each test prescribed in § 160.077–19(b), except the tests in paragraphs (b)(2), (b)(3)(i), (b)(3)(ii), and (b)(6), must be conducted and passed.

(c) *Additional tests.* Each PFD design must also be tested according to the procedures in the following tests and meet the requirements in these tests:

(1) *Jump Test,* UL 1517, section S6.

(2) *In-water Removal Test,* UL 1517, section S9.

(3) *Buoyancy and Inflation Medium Retention Test,* UL 1517, Section S10.

(4) *Flotation Stability.*

(i) *Uninflated Flotation Stability,* UL 1517, section S7.

Note.—If the freeboard of a test subject is close to zero, caution must be taken to prevent the subject from inhaling water. The subject may use lightweight breathing aids to avoid inhaling water.

(ii) *Righting Action Test,* UL 1517, section S8. In addition to criteria stated in section S8, the requirements in paragraph (d) of this section must be met after each test with one of the chambers deflated.

(d) *Flotation Stability Criteria.* At the end of the righting action test—

(1) At least 75% of the PFD's retroreflective material on the outside of the PFD, and the PFD light, must be above the water when the subject is floating in the stable flotation attitude; and

(2) The subject when floating in the stable flotation position and looking to the side, must be able to see—

(i) The water no more than 3 m (10 ft.) away; or

(ii) A mark on a vertical scale no higher than the lowest mark which can be viewed when floating in the same position in the reference vest defined in § 160.077–3(j).

(e) *Visual Examination.* One complete PFD must be visually examined for compliance with the requirements of § 160.077–15 and § 160.077–17.

(f) *Inflation Chamber Properties.* If the tests in paragraphs (b) and (c) of this section are completed successfully, the tests in § 160.077–19(d) must be run.

(g) *Additional Tests.* The Commandant (G–MVI–3), may prescribe additional tests, if necessary, to approve unique or novel designs.

§ 160.077–23 Production tests and inspections.

(a) *General.* (1) Production tests and inspections must be conducted in accordance with this section and subpart 159.007 of this chapter.

(2) The Commandant (G–MVI–3) may prescribe additional production tests and inspections if needed to maintain quality control and check for compliance with the requirements in this subpart.

(b) *Test and Inspection Responsibilities.* In addition to responsibilities set out in Part 159 of this chapter, each manufacturer of a hybrid PFD and each independent laboratory inspector must comply with the following, as applicable:

(1) *Manufacturer.* Each manufacturer must—

(i) Perform all required tests and examinations on each PFD lot before the independent laboratory inspector tests and inspects the lot;

(ii) Perform required testing of each incoming lot of inflation chamber material before using that lot in production;

(iii) Have procedures for maintaining quality control of the materials used, manufacturing operations, and the finished product;

(iv) Have a continuing program of employee training and a program for maintaining production and test equipment;

(v) Have an inspector from the independent laboratory observe the production methods used in producing the first PFD lot produced and observe any revisions made thereafter in production methods;

(vi) Admit the inspector and any Coast Guard representative to any place in the factory where work is done on hybrid PFD's or component materials, and where completed PFD's are stored; and

(vii) Allow the inspector and any Coast Guard representative to take samples of completed PFD's or of component materials for tests prescribed in this subpart.

(2) *Independent Laboratory.*

(i) An inspector may not perform or supervise any production test or inspection unless—

(A) The manufacturer has a current approval certificate; and

(B) The inspector has first observed the manufacturer's production methods and any revisions to those methods.

(ii) An inspector must perform or supervise testing and inspection of at least one PFD lot in each five lots produced, except that if less than five lots are produced during any calendar quarter, at least one lot must be tested and inspected during that quarter. Each lot tested and inspected must be within seven lots of the previous lot inspected.

(iii) During each inspection, the inspector must check for noncompliance with the manufacturer's quality control procedures.

(iv) At least once each calendar quarter, the inspector must, as a check on manufacturer compliance with this section, examine the manufacturer's records required by § 160.077–25 and observe the manufacturer in performing each of the tests required by paragraph (h) of this section.

(c) *PFD Lots.* A lot number must be assigned to each group of PFD's produced. No lot may exceed 1000 PFD's. A new lot must be started whenever any change in materials or a production method is made, or whenever any substantial discontinuity in the production process occurs. Changes in lots of component materials must be treated as changes in materials. Lots must be numbered serially. The lot number assigned, along with the approval number, must enable the PFD manufacturer, by referring to the records required by this subpart, to determine who produced the components used in the PFD.

(d) *Samples.* (1) Samples used in testing and inspections must be selected at random. Sampling must be done only when all PFD's or materials in the lot are available for selection.

(2) Each sample PFD selected must be complete, unless otherwise specified in paragraph (h) of this section.

(3) The inspector may not select the same samples tested by the manufacturer.

(4) The number of samples selected per lot must be at least the applicable number listed in Table 160.077–23A or Table 160.077–23B, as applicable.

TABLE 160.077–23A.—MANUFACTURER'S SAMPLING

	Number of samples per lot					
	Lot size					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Inflation chamber materials	See note 1					
Seam strength	1	1	2	2	3	4
Over-pressure(2), (3)	1	2	3	4	6	8
Air retention	Every device in the lot					
Buoyancy and inflation media retention	1	2	3	4	6	8
Tensile strength(4)	1	1	1	1	1	1
Detailed product examination	2	2	3	4	6	8
Retest sample size(2)			13	13	20	20
Final lot examination	Every device in the lot					

Notes to Table:

(1) Samples must be selected from each lot of incoming material. The tests referenced in § 160.077–19(d)(2) through § 160.077–19(d)(4) prescribe the number of samples to select.

(2) Samples selected for this test may not be the same samples selected for other tests.

(3) If any sample fails this test, the number of samples to be tested in the next lot produced must be at least 2% of the total number of PFD's in the lot or 10 PFD's, whichever is greater.

(4) This test is required only when a new lot of materials is used and when a revised production process is used. However, the test must be run at least once every calendar quarter regardless of whether a new lot of materials or revised process is started in that quarter.

TABLE 160.077–23B.—INSPECTOR'S SAMPLING

	Number of samples per lot					
	Lot size					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Over-pressure 1	1	1	2	2	3	4
Air retention	1	1	2	2	3	4
Buoyancy and inflation media retention	1	1	2	2	3	4
Tensile strength 2	1	1	1	1	1	1
Waterproof marking	See note 3 for sampling					
Detailed product examination	1	1	1	2	2	3
Retest sample size 1	10	10	13	13	20	20
Final Lot Inspection	10	15	20	25	27	30

Notes to Table:

(1) Samples selected for this test may not be the same PFD's selected for other tests.

(2) This test may be omitted if the manufacturer has previously conducted it and the inspector has conducted the test on a previous lot during the same calendar quarter.

(3) One sample of each means of marking on each type of fabric or finish used in PFD construction must be tested. This test is only required when a new lot of materials is used. However, the test must be run at least once every calendar quarter regardless of whether a new lot of materials is started in that quarter.

(e) *Accept/Reject Criteria: Manufacturer Testing.* (1) A PFD lot passes production testing if each sample passes each test.

(2) In lots of 200 or less PFD's the lot must be rejected if any sample fails one or more tests.

(3) In lots of more than 200 PFD's, the lost must be rejected if—

(i) One sample fails more than one test;

(ii) More than one sample fails; or

(iii) One sample fails one test and in redoing that test with the number of samples specified for retesting in Table 160.077–23A, one or more samples fail the test.

(4) A rejected PFD lot may be retested only if allowed under paragraph (k) of this section.

(5) In testing inflation chamber materials, a lot is accepted only if the average of the results of testing the

minimum number of samples prescribed in the reference tests in § 160.077–19(d) is within the tolerances specified in § 160.077–11(d)(1). Any lot that is rejected may not be used in production.

(f) *Accept/Reject Criteria: Independent Laboratory Testing.* (1) A lot passes production testing if each sample passes each test.

(2) A lot must be rejected if—

(i) One sample fails more than one test;

(ii) More than one sample fails; or

(iii) One sample fails one test and in redoing that test with the number of samples specified for retesting in Table 160.077–23B, one or more samples fail the test.

(3) A rejected lot may be retested only if allowed under paragraph (k) of this section.

(g) *Facilities and Equipment.*—(1) *General.* The manufacturer must provide the test equipment and facilities described in this section for performing production tests, examinations, and inspections.

(2) *Calibration.* The manufacturer must have the calibration of all test equipment checked at least every six months by a weights and measures agency or the equipment manufacturer, distributor, or dealer.

(3) *Equipment.* The following equipment is required:

(i) *A Sample Basket* for buoyancy tests. It must be made of wire mesh and be of sufficient size and durability to hold a complete inflated PFD. The basket must be heavy enough or be sufficiently weighted to become submerged when holding a test sample.

(ii) *A Tank Filled with Fresh Water* for buoyancy tests. The height of the tank must be sufficient to allow a water depth of at least 5 cm (2 inches) from the water surface to the top of the basket when the basket is not touching the bottom. The length and width of the tank must be sufficient to prevent each submerged basket from contacting another basket or the tank sides and bottom. Means for locking or sealing the tank must be provided to prevent disturbance of any samples or a change in water level during testing.

(iii) *A Scale* that has sufficient capacity to weigh a submerged sample basket. The scale must be sensitive to 13 g (0.5 oz.) and must not have an error exceeding ±13 g (0.5 oz.).

(iv) *Tensile Test Equipment* that is suitable for applying pulling force in conducting body strap assembly strength subtests. The equipment assembly may be (A) a known weight and winch, (B) a scale, winch, and fixed anchor, or (C) a tensile test machine that is capable of holding a given tension. The assembly must provide accuracy to maintain a pulling force within ±2 percent of specified force. Additionally, if the closed loop test method is used, two cylinders of the type described in that method must be provided.

(v) *A Thermometer* that is sensitive to 0.5 °C (1 °F) and does not have an error exceeding ±0.25 °C (0.5 °F).

(vi) *A Barometer* that is capable of reading mm (inches) of mercury with a sensitivity of 1 mm (0.05 in.) Hg and an error not exceeding ±0.05 mm (0.02 in.) Hg.

(vii) *A Regulated Air Supply* that is capable of supplying the air necessary to conduct the tests specified in paragraphs (h)(4) and (h)(5) of this section.

(viii) *A Pressure Gauge* that is capable of measuring air pressure with a sensitivity of 1 kPa (0.1 psig) and an error not exceeding ±0.5 kPa (0.05 psig).

(ix) *A Torque Wrench* if any screw fasteners are used. The wrench must be sensitive to, and have an error of less than, one-half the specified tolerance for the torque values of the fasteners.

(4) *Facilities:* The manufacturer must provide a suitable place and the necessary apparatus for the inspector to use in conducting or supervising tests. For the final lot inspection, the manufacturer must provide a suitable working environment and a smooth-top table for the inspector's use.

(h) *Production Tests and Examinations.*—(1) *General.* (i) Samples used in testing must be selected according to paragraph (d) of this section.

(ii) On the sample selected for testing—

(A) The manufacturer must conduct the tests in paragraph (h)(2) through (h)(8) of this section; and

(B) The independent laboratory inspector must conduct or supervise the tests in paragraph (h)(4) through (h)(9) of this section.

(iii) Each individual test result must, in addition to meeting the requirements in this paragraph, comply with the requirements, if any, set out in the approved plans and specifications.

(2) *Inflation Chamber Materials.* Each sample must be tested according to § 160.077–19(d)(1) through § 160.077–19(d)(4). The average and individual results of testing the minimum number of samples prescribed in § 160.077–19(d) must comply with the requirements in § 160.077–11(d)(1).

(3) *Seam Strength.* The seams in each inflation chamber of each sample must be tested according to §§ 160.077–19(d)(1) and 160.077–19(d)(5). The results for each inflatioh chamber must be at least 90% of the results obtained in approval testing.

(4) *Over-pressure.* Each sample must be tested according to and meet UL 1517, section 28.

(5) *Air Retention.* Each sample must be tested according to and meet UL 1517, section 36.

(6) *Buoyancy and Inflation Medium Retention.* Each sample must be tested according to and meet § 160.077–19(b)(6), except that the UL 1517 section 19 test is not required unless specified on the approved plans and specifications. In addition to meeting the minimum values required by § 160.077–19(b)(6), each buoyancy value must fall within the tolerances specified in the approved plans and specifications.

(7) *Tensile Strength.* Each sample must be tested according to and meet UL 1517, section 22.

(8) *Detailed Product Examination.* Each sample must be disassembled to the extent necessary to determine compliance with the following:

(i) All dimensions and seam allowances must be within tolerances prescribed in the approved plans and specifications.

(ii) The torque of each screw type mechanical fastener must be within its tolerance as prescribed in the approved plans and specifications.

(iii) The arrangement, markings, and workmanship must be as specified on the approved plans and specifications and this subpart.

(iv) The PFD must not otherwise be defective.

(9) *Waterproof Marking Test.* Each sample is completely submerged in fresh water for at least 30 min. and then removed and immediately placed on a hard surface. The markings are vigorously rubbed with the fingers for 15 seconds. If the printing becomes illegible, the sample is rejected.

(i) [*Reserved*]

(j) *Final Lot Examination and Inspection.* (1) *General.* On each PFD lot that passes production testing, the manufacturer must perform a final lot examination and an independent laboratory inspector must perform a final lot inspection. Samples must be selected according to paragraph (d) of this section. Each final lot examination and inspection must show—

(i) First quality workmanship;

(ii) That the general arrangement and attachment of all components such as body straps, closures, inflation mechanisms, tie tapes, drawstrings, etc. are as specified in the approved plans and specifications; and

(iii) Compliance with the marking requirements in § 160.077–31.

(2) *Accept/Reject Criteria.* Each nonconforming PFD must be rejected. If three or more nonconforming PFD's are rejected for the same kind of defect, lot examination or inspection must be discontinued and the lot rejected.

(3) *Manufacturer Examination.* This examination must be done by a manufacturer's representative who is familiar with the approved plans and specifications, the functioning of the PFD and its components, and the production testing procedures. This person must not be responsible for meeting production schedules or be supervised by someone who is. This person must prepare and sign the inspection record required by § 159.077–13 of this chapter and § 160.077–25(b).

(4) *Independent Laboratory Inspection.*

(i) The inspector must discontinue lot inspection and reject the lot if observation of the records for the lot or of individual PFD's shows noncompliance with this section or the manufacturer's quality control procedures.

(ii) An inspector may not perform a final lot inspection unless the manufacturer has a current approval certificate.

(iii) If the inspector rejects a lot, the Commandant (G–MVI–3) must be advised immediately.

(iv) The inspector must prepare and sign the record required by § 159.077–13 of this chapter and § 160.077–25(b). If the lot passes, the record must also include the inspector's certification to that effect and a certification that no evidence of noncompliance with this section was observed.

(k) *Disposition of PFD's Rejected in Testing or Inspections.* (1) A rejected PFD lot may be resubmitted for testing, examination, or inspection if the manufacturer first removes and destroys each PFD having the same type of defect or, if authorized by the Commandant (G–MVI–3), reworks the lot to correct the defect.

(2) Any PFD rejected in a final lot examination or inspection may be resubmitted for examination or inspection if all defects have been corrected and reexamination or reinspection is authorized by the Commandant (G–MVI–3).

(3) A rejected lot or rejected PFD may not be sold or offered for sale with the representation that it meets this subpart or that it is Coast Guard approved.

§ 160.077–25 Manufacturer records.

(a) Each manufacturer of hybrid PFD's must keep the records required by § 159.007–13 of this chapter, except that they must be retained at least 120 months after the month in which the inspection or test was conducted.

(b) Each record required by § 159.007–13 of this chapter must also include the following information:

(1) For each test, the serial number of the test instrument used if there is more than one available.

(2) For each test and inspection, the identification of the samples used, the lot number, the approval number, and the number of PFD's in the lot.

(3) For each lot rejected, the cause for rejection, any corrective action taken, and the final disposition of the lot.

(c) The description or photographs of procedures and apparatus used in testing is not required for the records prescribed in § 159.077–13 of this chapter as long as the manufacturer's procedures and apparatus meet the requirements of this subpart.

(d) Each manufacturer of hybrid PFD's must also keep the following records:

(1) Records for all materials used in production including the following:

(i) Name and address of the supplier.

(ii) Date of purchase and receipt.

(iii) Lot number.

(iv) Certification meeting § 160.077–11(a)(4).

(2) A copy of this subpart.

(3) Each document incorporated by reference in § 160.077–9.

(4) A copy of the approved plans and specifications.

(5) The approval certificate.

(6) Calibration of test equipment, including the identity of the agency performing the calibration, date of calibration, and results.

(e) The records required by paragraph (d)(1) of this section must be kept for at least 120 months after preparation. All other records required by paragraph (d) of this section must be kept for at least 60 months.

§ 160.077–27 Pamphlet.

(a) Each recreational hybrid PFD sold or offered for sale must be provided with a pamphlet that a prospective purchaser can read prior to purchase. The pamphlet must meet the requirements of UL 1517, section 39.

(b) Each pamphlet must be prominently marked "Seller, do not remove pamphlet."

(c) No person may sell or offer for sale any recreational hybrid PFD unless the pamphlet required by this section is provided with it.

§ 160.077–29 PFD Manuals.

(a) *Approval.* The text of each manual required by this section is reviewed with the application for approval. Changes may be required if needed to comply with this section.

(b) *Recreational Hybrid PFD's.* Each recreational hybrid PFD sold or offered for sale must be provided with an owner's manual.

(1) Each manual must contain at least the following in the order presented below:

(i) The information in UL 1517, section 40 under the heading "Approval Restrictions and Carriage Requirements."

(ii) Instructions on use including instructions on donning, inflation, replenishing inflation mechanisms, and recommended practice operation.

(iii) Instructions on how to properly inspect and maintain the PFD, and recommendations concerning frequency of inspection.

(iv) Instructions on how to get the PFD repaired.

(v) The information in UL 1517, section 40, that is not included under paragraph (b)(1)(i) of this section.

(2) No person may sell or offer for sale a recreational hybrid PFD unless the manual required by this paragraph is provided with it.

(c) *Commercial Hybrid PFD.* (1) Each commercial hybrid PFD that is REQUIRED TO BE WORN must be provided with a manual that contains the information in paragraph (b)(1) of this section.

(2) Each commercial hybrid PFD that is approved only as a work vest must have a manual that contains the information in this paragraph or in paragraph (b)(1) of this section.

(3) Each commercial hybrid PFD approved with a special purpose limitation must have a user's manual that—

(i) Explains in detail the proper care, maintenance, stowage and use of the PFD; and

(ii) Includes any other safety information as prescribed by the approval certificate.

(4) If the manual required by paragraph (c)(3) of this section calls for inspection or service by vessel personnel, the manual must—

(i) Specify personnel training or qualifications needed;

(ii) Explain how to identify the PFD's that need to be inspected; and

(iii) Have an inspection and service log, unless the information is otherwise recorded.

§ 160.077–30 Spare operating components and temporary marking.

(a) *Spare Operating Components.* Each recreational and commercial hybrid PFD which is marked REQUIRED TO BE WORN must—

(i) If it has a manual or automatic inflation mechanism, be packaged and sold with at least three spare inflation medium cartridges; and

(ii) If it has an automatic inflation mechanism, be packaged and sold with at least three spare water sensitive elements.

(b) *Temporary Marking.* Each hybrid PFD which is provided in a ready-to-use condition but has covers or restraints to inhibit tampering with the inflation mechanism prior to sale must have any such covers or restraints conspicuously marked "REMOVE IMMEDIATELY AFTER PURCHASE".

§ 160.077-31 PFD Marking.

(a) *General.* Each hybrid PFD must be marked with the applicable information required by this section. Each marking must be waterproof, clear, permanent, and readable from a distance of three feet.

(b) *Prominence.* Each marking, other than the text in paragraphs (c) and (d) of this section, must be significantly less prominent and in smaller print than paragraph (c) and (d) text.

(c) *Recreational Hybrid PFD's.* Each recreational hybrid PFD must be marked with the following text using capital letters where shown and be presented in the exact order shown:

ADULT—For a person weighing more than 90 lb.

Type V PFD: Recreational Hybrid Inflatable—Approved for use only on recreational boats. REQUIRED TO BE WORN to meet Coast Guard carriage requirements (except for persons in enclosed spaces as explained in owner's manual).

YOU MAY HAVE TO INFLATE THIS PFD TO FLOAT.

This PFD requires maintenance.

Try this PFD in the water to see if you will float without inflation.

When inflated this PFD provides performance equivalent to a (*See paragraph (h) of this section for exact text to be used here*).

When new, this PFD provides a minimum buoyant force of 7.5 lb. uninflated and 22 lb. inflated.

A pamphlet and owner's manual must be provided with this PFD.

(d) *Commercial Hybrid PFD's.* Each commercial hybrid PFD must be marked with the following text using capital letters where shown and be presented in the exact order shown:

ADULT—For a person weighing more than 90 lb.

Type V PFD: Commercial Hybrid Inflatable—Approved for use on (*See paragraph (j) of this section for exact text to be used here*).

YOU MAY HAVE TO INFLATE THIS PFD TO FLOAT.

This PFD must be maintained, stowed, and used only in accordance with the manufacturer's manual.

Try this PFD in the water to see if you will float without inflation.

When new, this PFD provides a minimum buoyant force of 10 lb. uninflated and 22 lb. inflated.

(e) *All PFD's.* Each hybrid PFD must also be marked with the following information below the text required by paragraph (c) or (d) of this section:

(1) U.S. Coast Guard Approval Number (insert assigned approval number).

(2) Manufacturer's or private labeler's name and address.

(3) Lot Number.

(4) Date, or year and calendar quarter, of manufacture.

(5) Generic identification of the inherently buoyant material.

(6) Necessary vital care or use instructions, if any, such as the following:

(i) Warning against dry cleaning.

(ii) Size and type of inflation medium cartridges required.

(iii) Specific donning instructions.

(f) *Identification of User.* Each hybrid PFD must have adequate space within which to mark the name or other identification of the intended user.

(g) *Flotation Material Buoyancy Loss.*—(1) *Foam.* When flotation foam having a V factor of less than 94 is used, the buoyancy loss statement in UL 1517 section 37.5, item E, must follow the minimum bouyant force statement in paragraph (c) or (d) of this section.

(2) *Kapok.* When kapok flotation material is used, the following must be provided after the minimum buoyant force statement in paragraph (c) or (d) of this section: "If pads become stiff or waterlogged, replace the device."

(h) *Type Equivalence.* The exact text to be inserted will be one of the following type equivalents as noted on the approval certificate:

(1) Donned Type I PFD.

(2) Type II PFD.

(3) Type III PFD.

(4) Type V PFD—*(insert exact text of additional description noted on approval certificate).*

(i) [*Reserved*]

(j) *Approved Use.* The exact text to be inserted will be one or more of the following statements as noted on the approval certificate:

(1) "uninspected commercial vessels. REQUIRED TO BE WORN to meet Coast Guard carriage requirements (except for persons in enclosed spaces as explained in owner's manual)."

(2) "inspected commercial vessels as a WORK VEST only."

(3) "*(Insert exact text of special purpose or limitation, and vessel(s) or vessel type(s), noted on approval certificate).*"

§ 160.077-33 Approval procedures.

(a) *General.* Subpart 159.005 of this chapter contains the approval procedures. Those procedures must be followed, excepted as modified in this paragraph.

(1) Preapproval review under §§ 159.005-5 and 159.005-7 may be omitted if a similar design has already been approved.

(2) The information required in all three subparagraphs of § 159.005-5(a)(2) must be included in the application.

(3) The application must also include the following:

(i) The type of performance (i.e. Donned Type I, Type II or Type III) that the PFD is designed to provide.

(ii) Any special purpose(s) for which the PFD is designed and the vessel(s) or type(s) of vessel on which its use is planned.

(iii) Buoyancy and torque tolerances to be allowed in production.

(iv) The text of any optional marking to be provided in addition to required text.

(v) The manual required by § 160.077-29 (UL 1517 test may be omitted in this submission).

(4) The description of quality control procedures required by § 159.005-9 to be submitted with the text report may be omitted as long as the manufacturer's planned quality control procedures comply with § 160.077-23.

(b) *Waiver of tests.* If a manufacturer requests that any test in this subpart be waived, one of the following must be provided to the Commandant (G-MVI-3), as justification for the waiver:

(1) Acceptable test results on a PFD of sufficiently similar design.

(2) Engineering analysis showing that the test is not applicable to the particular design or that by design or construction the PFD cannot fail the test.

(c) *Alternative Requirements.* A PFD that does not meet requirements in this subpart may still be approved if the device—

(1) Meets other requirements prescribed by the Commandant (G-MVI-3) in place of or in addition to requirements in this subpart; and

(2) Provides at least the same degree of safety provided by other PFD's that do comply with this subpart.

§ 160.077-35 Procedure for approval of design or material revision.

(a) Each change in design, material, or construction of an approved PFD must

be approved by the Commandant (G-MVI-3) before being used in any production PFD's.

(b) Determinations of equivalence of design, construction, and materials may be made only by the Commandant (G-MVI-3).

§ 160.077-37 Independent laboratories.

A list of independent laboratories which have been accepted by the Commandant for conducting or supervising the tests and inspections required by this subpart, and for making material certifications required by § 160.077-11, may be obtained from Commandant (G-MVI-3).

Dated: August 19, 1985.

J. W. Kime,

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

[FR Doc. 85-20096 Filed 8-21-85; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 97

[PR Docket No. 84-960; RM-4781; RM-4784]

Allocation of Additional Frequencies for the Amateur Radio Service, the Radio Amateur Civil Emergency Service and the Amateur-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document amends the Amateur Radio Service rules to add the 902-928 MHz band and to remove the 420-430 MHz band north of Line A. These changes are being made in order to implement the Final Acts of the 1979 World Administrative Radio Conference and an April 7, 1982 Arrangement between Canada and the United States.

DATE: These rules become effective 0001 UTC September 28, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Allocations.

47 CFR Part 97

Amateur radio, Radio, Repeaters, Treaties.

Second Report and Order

In the matter of amendment of Parts 2 and 97 of the Commission's rules to implement allocation of additional frequencies for the Amateur Radio Service, the Radio Amateur Civil Emergency Service and the Amateur-Satellite Service; PR Docket No. 84-960, RM-4781, RM-4784, FCC 85-460.

Adopted: August 9, 1985.

Released: August 15, 1985.

By the Commission.

1. In the *Notice of Proposed Rule Making*, 49 FR 40611, October 17, 1984, in this proceeding, we proposed to implement certain frequency band allocations to the Amateur Radio Service pursuant to our *Second Report and Order* in General Docket 80-739, 49 FR 2357, January 19, 1984. Specifically, we proposed: (1) To add the 10.100-10.150 MHz frequency band to the Amateur Radio Service and to the Radio Amateur Civil Emergency Service; (2) to add the 24.890-24.990 MHz frequency band to the Amateur Radio Service and to the Amateur-Satellite Service; and (3) to add the frequency band 902-928 MHz to the Amateur Radio Service. We also proposed to remove the 420-430 MHz band from the Amateur Radio Service north of Line A. (Line A is defined in § 97.185(c)(5) of the Commission's rules).

2. The proposals relating to the twelve and thirty meter bands were addressed in this proceeding's *First Report and Order*, 50 FR 18662, May 2, 1985.[1] This document addresses the remaining issues.

3. *420-430 MHz.* We proposed to remove this spectrum from the Part 97 Amateur Radio Service north of Line A to implement action we had already taken in General Docket No. 80-739. In that proceeding we amended the Part 2 Table of Allocations (47 CFR 2.106) to add a new footnote (NG 135) to indicate that the amateur service is not allocated north of Line A. We took this action pursuant to the Arrangement between the Department of Communications of Canada and the National Telecommunications and Information Administration and the Federal Communications Commission of the United States concerning the use of the 406.1 MHz to 430 MHz band in Canada-United States border areas effected by exchange of notes at Washington, D.C., February 26 and April 7, 1982, and entered into force April 7, 1982. We also proposed, consistent with paragraph 32 of the *Second Report and Order* in General Docket No. 80-739, *supra*, to grant amateur radio operators waivers on a case-by-case basis to operate in this band, subject to successful prior coordination by the FCC with the Canadian administration.

4. The Northern Illinois DX Association, Bruce O. Jordan and Joseph J. Schweda, Jr., filed comments objecting to the proposed removal of this band from the amateur service north of Line A. However, the relative merits of this action are not at issue. We are required to honor the terms and conditions of the Arrangement which specifically states at paragraph 2.2: "The Amateur Service is excluded from the band 420-430 MHz in the Coordination Zone . . ." In the U.S., that zone is the area north of Line A.

5. The Southern California Repeater and Remote Base Association (SCRRBA) argued that the proposed rules language for this band was confusing. SCRRBA claimed that from the proposed language one could not determine whether the spectrum was withdrawn from the amateur service or merely available subject to conditions. SCRRBA recommended alternative language reflecting the latter interpretation. However, the former interpretation is correct. Any rules authorizing amateur operation north of Line A in this band would be in derogation of the Arrangement. Therefore, we are adopting rules which prohibit any amateur operation in this band north of Line A. Waiver of these rules would require successful prior coordination with Canada.

6. Both the American Radio Relay League, Incorporated (ARRL), and SCRRBA requested more specificity about the standards for grant of a waiver in this band and the technical and other showings which must be made for such a waiver. Any application for waiver of the rules to operate in the 420-430 MHz band north of Line A would, of course, need to make a technical showing that the operation would cause no harmful interference to Canadian radio operations. Any such application in all other respects would be required to meet the standard threshhold tests for grant of a waiver. Since the waiver process is "a safety valve procedure for consideration of an application for exemption based on special circumstances," *WAIT Radio* v. *FCC.*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), it is not possible to predict in advance what "special circumstances" might arise warranting waiver of the new rule in any particular matter or individualized situation. In any event, we have already specified that grant of such a waiver

[1] The frequencies between 10.100 and 10.150 MHz are commonly referred to in the amateur community as the thirty meter band. The frequencies between 24.890 Mhz and 24.990 MHz are commonly referred to in the amateur community as the twelve meter band.

would be subject to successful prior coordination with the Canadian administration.

7. To date, we have not been able to arrange prior coordination of formal waiver requests to operate north of Line A at 420–430 MHz with the Canadian administration. However, through informal notification procedures we may be able to arrange certain FCC-licensed amateur operation on a secondary non-interference basis at the sufferance of the Canadian administration on a case-by-case basis. Specific requests to make such an arrangement should be directed to the Private Radio Bureau Licensing Division in Gettysburg, Pennsylvania.

8. *902–928 MHz.* We also proposed to implement allocation of the 902–928 MHz frequency band to the Amateur Radio Service in all of the United States and its possessions except for Colorado, Wyoming and U.S. possessions in Region 3.[2] [3] We proposed to make amateur operation in this band secondary to operation of Government stations, Automatic Vehicle Monitoring (AVM) systems, and industrial, scientific and medical (ISM) devices.[4] Additionally, the proposal required FCC-licensed amateurs to avoid harmful interference to authorized fixed, mobile and broadcasting operations in Regions 1 and 3. We proposed to make this band available for the use of all amateur operators above Novice class, and to allow a wide range of emission types in the band.

9. The ARRL, SCRRBA, Sherwood Libit, Robert J. Roehrig, and Joseph J. Schroeder, Jr., commented in favor of the 902–928 MHz proposal.[5] The Personal Radio Steering Group, Inc., (PRSG), Sensormatic Electronics Corporation (Sensormatic), Suncom, Inc. (Suncom), X-cyte Inc. (XCI), Ray Newhall, and Michael C. Trahos commented against the proposal.[6] PRSG, Newhall, and Trahos cite our recent decisions to decline to adopt a Private Radio Communications Service (PRCS) and to dismiss a Petition for Rule Making by MURA Corporation to create a new 900 MHz personal communication service. *Report and Order*, In the Matter of Creation of an Additional Private Radio Service, General Docket No. 83–26, 50 FR 865, January 7, 1985. They contend that because these proposals were rejected primarily due to an inadequate amount of spectrum in the land mobile reserve, the amateur service should be required to make a showing of need for the 902–928 MHz frequency band. They urge us to consider whether this spectrum is more suitable for a personal communication service. Sensormatic and Suncom also commented that there is an insufficient showing of need for this spectrum for the Amateur Radio Service.

10. We initiated this proceeding to implement certain spectrum allocation decisions we made regarding the Amateur Radio Service in the *Second Report and Order* in General Docket No. 80–739, In the Matter of Amendment of Part 2 of the Commission's Rules Regarding Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979, 49 FR 2357, January 19, 1984. The amateur community faces no additional burden of proof to retain the 902–928 MHz domestic secondary allocation we made at that time.

11. Moreover, we addressed the issue of whether a domestic mobile allocation should be made in the 902–928 MHz band and concluded that the record did not justify such an allocation. See *Second Report and Order*, General Docket No. 80–739, *supra* at para. 45. While we indicated we would consider appropriate action if an adequate showing was made in the future, the record before us does not make a *prima facie* case for a personal communications service in this band. It appears that a secondary personal communications service could receive considerable harmful interference from and cause harmful interference to current primary government military radio location uses.[7] We therefore decline to consider a personal radio service allocation in the 902–928 MHz band in this proceeding.

12. In two other ongoing proceedings (General Docket Nos. 84–1231 and 84–1233) we have solicited comments on the feasibility of geographically sharing proposed spectrum allocations for private land mobile and cellular services to implement a personal communications service outside major population centers. Additionally, Petitions for Reconsideration of our action in the *Report and Order* in General Docket No. 83–26, *supra*, are still pending. We do not by our action in this proceeding intend to prejudge those dockets.

13. Sensormatic, Suncom and XCI also opposed inclusion of the 902–928 MHz band in the Amateur Radio Service on the basis that it may cause destructive interference to field disturbance sensors. Part 15 field disturbance sensors may be operated in the entire 902–928 MHz band (at a nominal operating frequency of 915 ± 13 MHz). However, pursuant to 47 CFR 15.311, operation of field disturbance sensors is subject to the general conditions of operation in 47 CFR 15.3. These conditions include a specific statement that there is no vested or recognizable right to continued use of any given frequency by virtue of prior registration or certification of equipment. Additionally, Part 15 devices like field disturbance sensors are secondary to all other operations—they must cause no harmful interference to other operations and must suffer interference from them. Thus, the fact that they may suffer such interference as a result of this action is not a compelling argument against the proposal.[8]

14. Joseph Schroeder recommended that rather than prohibiting all amateur operations in this band in Colorado and Wyoming, we need only require amateurs to operate with reduced power. The treatment of the Colorado-Wyoming areas is pursuant to footnote US 267 in the Table of Allocations (47 CFR 2.106). We concluded that this footnote was necessary to protect existing Government operations in these areas. See *Notice of Proposed Rule Making*, General Docket No. 80–739, 48 FR 3790, January 27, 1983, at para. 74. However, we also noted that reaccommodation of these operations was under study and if accomplished, US 267 may be deleted. *Id.* We expect that reaccommodation of these services will be accomplished within a year. If it is, US 267 will then be deleted. Until such time, the prohibition of amateur operation in the 902–928 MHz band in Colorado and Wyoming must remain to protect Government operations.

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[2] Footnote US 267 to the Table of Allocations (47 CFR 2.106) prohibits amateur radio station operation in the 902–928 MHz band in Colorado or Wyoming.

[3] The 902–928 MHz band is not allocated for the amateur service outside of Region 2 in the International Table of Allocations.

[4] See footnotes US 218 and US 275 to the Table of Allocations (47 CFR 2.106).

[5] The Society for the Promotion of Amplitude Modulation, Larry E. Jones, Bruce O. Jordan, Jan A. Tarsala, and Joseph Anthony Wolos also generally favored all of the proposals to implement allocation of additional frequencies to the Amateur Radio Service.

[6] The comments of Sensormatic were filed on May 7, 1985. The Comments of XCI were filed on May 16, 1985. While these comments are both late-filed, they provide relevant information about Part 15 devices in the 902–928 MHzband submitted by principals with a direct interest in these devices. We therefore find it is in the public interest to accept these comments and to include them as part of the record. 47 U.S.C. 154(j).

[7] See *Order*, FCC 85–444, August 5, 1985.

[8] Sensormatic implies in its Comments, at page 3, that amateur secondary usage and Part 15 field disturbance sensor usage would be of equal status. This is not the case. Part 15 devices, including field disturbance sensors, must tolerate interference from operation in any radio service, whether it is listed as primary or secondary in the Table of Allocations.

15. SCRRBA suggested addition of frequency modulated composite emissions in the 902—928 MHz band to permit suitably equipped amateur stations to transmit communications consisting of multiplexed channels. We agree with SCRRBA that such emissions would serve the dual purpose of permitting amateur operators to experiment with a new transmission mode and to efficiently utilize the spectrum when several different channels of information must be transmitted simultaneously from one location to another. We are therefore including this type of emission in our final rules for the 902-928 MHz band.

16. Jan Tarsala urged to authorize a maximum of 1500 watts peak envelope power for amateur stations in repeater operation in this band, and to permit wideband digital transmissions. We agree that the initially sparse occupancy of this band recommends it as excellent spectrum for experimentation with wideband modulation formats, and that a greater authorized maximum power for repeater operation would enhance amateur communication in this band by overcoming propagation losses. We are therefore including both changes in the final rules.

17. *Miscellaneous.* The rules we are adopting conform to the new frequency and emission tables we recently adopted to achieve more usable formats, see *Order*, 50 FR 13792, April 8, 1985, and to the new emission designators we adopted in the *Third Report and Order* in General Docket No. 80-739, 49 FR 48964, December 14, 1984. We are also correcting a typographical error in the *First Report and Order* in this proceeding, 50 FR 18662, May 2, 1985, in footnote 1 to 47 CFR 97.415.

18. This action has been analyzed with respect to the Paperwork information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

19. The Commission has certified in accordance with section 605 of the Regulatory Flexibility Act that these rules do not have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur Radio Service for commercial radiocommunication (see 47 CFR 97.3(b)).

20. In view of the foregoing, it is ordered, That Parts 2 and 97 are amended as set forth in the attached Appendix. This action is taken pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)).

21. It is further ordered, That these rule amendments are effective 0001 UTC, September 28, 1985.

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

23. For information concerning this proceeding contact John J. Borkowski, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 97 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1068, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

§ 2.106 [Amended]

2. The second sentence is removed from footnote NG 135 to the Table of Frequency Allocation in § 2.106.

PART 97—[AMENDED]

3. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609.

4. Paragraph (i) of § 97.3 is added to read:

§ 97.3 Definitions

* * * * *

(i) *Line A.*

Line A begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine at which point it terminates.

* * * * *

5. In § 97.7, the Megahertz entries for the Technician, General, Advanced and Amateur Extra classes in paragraph (a) are amended by adding limitation 13 to each of the 0.70 meter entries and by adding a new 0.35 meter entry between each of the 0.70 and 0.23 meter entries, and in paragraph (b), paragraphs (13) and (14) are added to read as follows:

§ 97.7 Control operator frequency privileges.

* * * * *

Control operator license class	Meter band	Terrestrial location of the amateur radio station			Limitations (see paragraph (b))
		ITU region 1	ITU region 2	ITU region 3	
* * *	*	*	*	*	*
	Megahertz				
Technician					
* * *	*	*	*	*	*
	0.70	430-440	420-450	420-450	3, 4, 13
	0.35	.....	902-928	.....	1, 3, 14
* * *	*	*	*	*	*
	Megahertz				
General					
* * *	*	*	*	*	*
	0.70	430-440	420-450	420-450	3, 4, 13
	0.35	.....	902-928	.....	1, 3, 14
* * *	*	*	*	*	*
	Megahertz				
Advanced					
* * *	*	*	*	*	*
	0.70	430-440	420-450	420-450	3, 4, 13
	0.35	.....	902-928	.....	1, 3, 14
* * *	*	*	*	*	*
	Megahertz				
Amateur Extra					
* * *	*	*	*	*	*
	0.70	430-440	420-450	420-450	3, 4, 13
	0.35	.....	902-928	.....	1, 3, 14
* * *	*	*	*	*	*

(b) Limitations:

* * * * *

(13) No station shall operate north of Line A (see § 97.3(i)) in the 420–430 MHz band.

(14) In the 902–928 MHz band, amateur radio stations shall not operate within the States of Colorado and Wyoming, bounded by the area of: latitude 39° to 42° N, and longitude 103° W to 108° W. The band is allocated on a secondary basis to the amateur service subject to not causing harmful interference to the operations of Government stations authorized in this band or to Automatic Vehicle Monitoring (AVM) systems. Stations in the amateur service must tolerate any interference from the operations of industrial, scientific and medical (ISM) devices, AVM systems and the operations of Government stations authorized in this band.

6. Paragraph (a) of § 97.61 is amended by adding an entry to the Table therein under Megahertz, between the 420–450 MHz and 1215–1300 MHz entries, to read as follows:

§ 97.61 Authorized emissions.

* * * * *

Frequency band	Emissions	Limitations (see paragraph (b))
* * * * *		
Mhz:		
* * * * *		
902–928	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, F8E, P0N.	
* * * * *		

7. Paragraph (c) of § 97.67 is amended by revising the heading of the third column of the Table therein to read "902 MHz" instead of "1215 MHz," as follows:

§ 97.67 Maximum authorized transmitting power.

* * * * *

Antenna height above average terrain in meters	Maximum effective radiated power for frequency bands above—		
	29.5 MHz	40 MHz	902 MHz
* * * * *			

8. Paragraphs (c)(2)(ii) and (c)(2)(iii) of § 97.69 and revised to read:

§ 97.69 Digital communications.

* * * * *

(c) * * *

(2) * * *

(ii) 100 kHz on frequencies between 220 and 902 MHz.

(iii) On frequencies above 902 MHz any bandwidth may be used provided that the emission is in accordance with § 97.63(b) and § 97.73(c).

* * * * *

9. Subparagraph (5) of paragraph (c) of § 97.185 is revised to read:

§ 97.185 Frequencies available.

* * * * *

(c) * * *

(5) No station shall operate north of Line A (see § 97.3(i)) in the 420–430 MHz band.

* * * * *

10. Footnote 1 to § 97.415 is revised to read:

§ 97.415 Frequencies available.

* * * * *

[1] Unless otherwise specified in this Subpart the rules regarding authorized emission modes (§§ 97.61 and 97.65) and authorized transmitting power (§ 97.67) are applicable for each of the listed frequency bands.

[FR Doc. 85–19793 Filed 8–21–85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[Docket 83–513; RM–4399; RM–4421; RM–4491]

FM Broadcast Station in Cross City and Trenton, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Channel 292A to Cross City, Florida, in response to a petition from Seashore Broadcast Corp. Additionally, Channel 269A is allotted to Trenton, Florida, in response to a counterproposal submitted by Myrtle C. Burckhalter. The request of Cross City Broadcasting to allot Channel 269A to Cross City is denied. The allotted channels could provide a first FM service to each community.

EFFECTIVE DATE: September 26, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the matter of: amendment of § 73.202(b), table of allotments, FM broadcast stations (Cross City and Trenton,[1] Florida), Docket 83–513, RM–4399, RM–4421, RM–4491.

Adopted: August 13, 1985.

Released: August 20, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 28491, published June 22, 1983, in response to two separate petitions for Class A channels at Cross City, Florida. The first proposal was submitted by Seashore Broadcasting Corporation ("Seashore") for Channel 292A, and the second by Cross City Broadcasting ("Cross") requesting Channel 269A. Myrtle C. Burckhalter submitted a timely counterproposal requesting the allotment of Channel 269A to Trenton, Florida. Because the spacing requirements of § 73.207 of the Rules [2] preclude the allotment of Channel 269A to Cross City and Trenton, the proposals will be considered together, herein. All petitioners in this proceeding have stated their intention to apply for the channel, if allotted to their respective community.

2. On October 14, 1983, Jim Johnson Enterprises, Inc. filed a petition to accept a late filed counterproposal for Channel 292A at Mayo, Florida. The

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

[2] Section 73.207 requires a mileage separation of 105 kilometers (65 miles) between Class A channels, whereas Cross City and Trenton are separated by a distance of approximately 29 kilometers (18 miles).

date for filing comments and conflicting proposals ended July 25, 1983. In § 1.420(d) of the Rules and paragraph 3 and 4 of the Appendix to the *Notice*, we have set deadlines or cut-off dates for filing conflicting proposals. Here, there has been no explanation given for the untimely filing. Thus, we find the counterproposal of Jim Johnson Enterprises, Inc. unacceptable for consideration in this proceeding.

3. In an effort to satisfy the desire of interested parties for allotments at Cross City and Trenton, the staff conducted a channel search, but found no other channel available for use at either community. Therefore, we will consider the proposals on a comparative basis to determine which community meets our allotment priorities consistent with the mandate of section 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio services among the communities.

4. The Commission's criteria for evaluating conflicting proposals was set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Our priorities favor a first local FM service to each community. We note that Cross City (population 2,154) is somewhat larger than Trenton (population 1,131). We believe we should prefer Trenton for the allotment of Channel 269A and allot Channel 292A to Cross City. To do otherwise would mean Trenton would be foreclosed from any local service while Cross City would be allotted two FM channels.

5. Channel 269A can be allotted to Trenton in conformity with the minimum distance separation requirements. However, Channel 292A at Cross City requires a site restriction of 1.2 kilometers (0.8 miles) southwest of the city to avoid short spacing to co-channel 292A, Station WPXE-FM, Starke, Florida.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 204(b), and 0.239 of the Commission's Rules, it is ordered, that effective September 26, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below:

City	Channel No.
Cross City, Florida	292A
Trenton, Florida	269A

7. The filing window for applications on Channels 292A and 269A will open on September 27, 1985, and close on October 28, 1985.

8. It is further ordered, That the petition of Cross City Broadcasting to allot Channel 276A to Cross City is denied.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20038 Filed 8-21-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket No. 83-270; RM-4274]

FM Broadcast Station in Pana, Ramsey, and Taylorville, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action allots a first FM channel to Ramsey, Illinois, in response to a petition filed by Daniel Voss.

EFFECTIVE DATE: September 26, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Radio.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of allotments, FM broadcast stations. (Pana, Ramsey, and Taylorville, Illinois), MM Docket 83-270 RM-4274.

Adopted: August 13, 1985.

Released: August 20, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Further Notice of Proposed Rule Making and Order to Show Cause*, 48 FR 45430, published October 5, 1983, which proposed two alternate options for allotting a first FM channel to Ramsey, Illinois. Option I proposed to substitute Channel 232A for Channel 265A at Pana, Illinois, and allot Channel 265A to Ramsey: Option II proposed to substitute Channel 232A for Channel 224A at Taylorville, Illinois, and allot Channel 224A to Ramsey, with a site restriction. The proposed substitutions would require a modification of license for the Pana and Taylorville stations operating on the affected channels. Comments in response to the *Further Notice* were filed by Voss,[1] by PBC and by Sky Communications, Ltd.[2] to whom the *Order to Show Cause* was directed.

2. This proceeding was instituted at the request of Daniel Voss ("petitioner") proposing the Pana substitution. In response to the *Notice*, Pana Broadcasting Corporation ("PBC") [3] submitted a counterproposal suggesting the Taylorville substitution instead.

3. A staff study indicates that under the rules adopted as a result of BC Docket 80-90, 94 F.C.C. 2d 152 (1983) recon., 97 F.C.C. 2d 279 (1984), Channel 287A can be allotted to Ramsey without the need for a substitution of channels at any other community. In view of the interest expressed in operating an FM service at Ramsey, we believe that the public interest would benefit from the allotment of Channel 287A to Ramsey.

4. Accordingly, it is ordered, that effective September 26, 1985, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the city of Ramsey, Illinois, as follows:

City	Channel No.
Ramsey, Illinois	287A

5. The filing window for applications on these channels will open on September 27, 1985 and close on October 28, 1985.

6. It is further ordered, that the counterproposal of Pana Braodcasting Corporation, is denied.

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

8. For further information concerning the above, contact Montrose Tyree, (202) 634-6530.

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[1] Voss' comments were filed November 14, 1983, after the deadline period ended. A request was made for acceptance of those comments. To the extent the comments merely state an interest in the allotment, we shall accept Voss' late filed comments.

[2] Sky Communications, Ltd. is the licensee of FM Station WTJY (Channel 224A), Taylorville, Illinois.

[3] Pana Broadcasting Corporation is the licensee of FM Station WKXK (Channel 265A), Pana, Illinois.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20039 Filed 8-21-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-408; RM-4388; RM-4492]

FM Broadcast Station in Clintonville, Manitowoc, New Holstein and Mishicot, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Channel 258A to New Holstein, Wisconsin, and Channel 298A to Mishicot, Wisconsin, at the request of WMBE, Incorporated and Mishicot Community Broadcasting, respectively. The allotments could provide each community with its first FM service.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Radio.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of allotments, FM broadcast stations. (Clintonville, Manitowoc, New Holstein and Mishicot,[1] Wisconsin), MM Docket No. 83-408, RM-4388, RM-4492.

Adopted: August 13, 1985.

Released: August 20, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making and Order to Show Cause*, 48 FR 20954, published May 10, 1983, proposing the allotment of FM Channel 221A to New Holstein, Wisconsin, as that community's first FM channel with a related substitution of Channel 275A for Channel 221A at Manitowoc, Wisconsin, at the request of WMBE, Incorporated ("petitioner"). In response to the *Notice*, Mishicot Community Broadcasting ("MCB") filed a counterproposal seeking the allotment of Channel 257A to Mishicot, Wisconsin, in lieu of Manitowoc, Wisconsin.[2] Petitioner submitted supporting comments reaffirming its intention to apply for the channel at New Holstein. Oppositions were filed by Cub Radio, Inc. ("WKKB"), licensee of Station WKKB (FM), Channel 221A, at Clintonville, Wisconsin, for which a site restriction was proposed.[3] Petitioner and WKKB filed reply comments. Additional comments were filed late by the petitioner.[4]

2. Both oppositions raised technical arguments against the proposed New Holstein allotment. WKKB argues that it will be difficult for a station on Channel 221A to provide city grade service to New Holstein from the restricted site. Further, WKKB asserts that by yielding its channel to another station in the same market, confusion to listeners may result with a consequent loss of audience to WKKB. Finally, WKKB states that second harmonic interference may be caused to the viewers of Station WLUK, Channel 11, Green Bay, Wisconsin, by using Channel 257A at Manitowoc. In view of the above, WKKB requests a hearing.

3. Petitioner submitted comments suggesting that Channel 258A could be allotted to New Holstein, thus eliminating the need to substitute channels in Manitowoc or to site restrict the allotment in Clintonville. Petitioner also suggests that Channel 298A could alternately be allotted to Mishicot.

4. A staff engineering study confirms that Channel 258A at New Holstein and Channel 298A at Mishicot can be allotted in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. Channel 258A at New Holstein requires a site restriction of 5.1 km (3.2 miles) northeast of the community to avoid short spacing to the recently allotted Channel 259A, Mayville, Wisconsin. See *First Report and Order* in MM Docket No. 84-231, 50 FR 3514, published January 25, 1985.

5. In view of the fact that all conflicts have been resolved, we believe the public interest would be served by the allotments of Channel 258A to New Holstein and Channel 298A to Mishicot, in order to provide each community with a first FM channel. Accordingly, pursuant to the authority contained in section 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered that effective September 26, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended for the following communities:

City	Channel No.
Mishicot, Wisconsin	298A
New Holstein, Wisconsin	258A

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

7. The window period for filing applications will open September 27, 1985, and close October 28, 1985.

8. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20040 Filed 8-21-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[Gen. Docket No. 83-45; RM-3910; RM-3924; FCC 84-509]

Frequency Allocation to the Offshore Radio Service

Correction

In FR Doc. 85-7046 beginning on page 12021 in the issue of Wednesday, March 27, 1985, make the following corrections: On page 12027, in the second column, in § 74.709(e)(1), in the first line, "922°00'" should read "92°00'".

BILLING CODE 1505-01-M

47 CFR Parts 81, 83 and 87

[PR Docket No. 83-431; RM-2946; FCC 85-441]

Digital Selective Calling in the Maritime Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order amends the rules to provide the parameters under which the Digital

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

[2] Public Notice of the filing of the counterproposal was given on June 13, 1983, Report No. 1411.

[3] A construction permit has been issued to M&M Broadcasting, Inc. for Station WFCL-FM, Channel 221A at Clintonville.

[4] Petitioner's late-filed comments will be accepted for consideration herein as they provided information which was not previously available to the Commission.

Selective Calling (DSC) system may be implemented by ships and coast stations operating within the Maritime Mobile Service. DSC is a system used to establish contact with a station or group of stations by radio. The primary reason for implementing DSC is to provide a standard method for establishing radio contact in the marine environment and to promote more efficient use of the radio spectrum. DSC will be an integral part of the Future Global Maritime Distress and Safety System developed by the International Maritime Organization and planned for final implementation in the next decade. The intended effect is to make DSC available to the maritime community on an optional basis at an early date.

EFFECTIVE DATE: September 23, 1985.

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

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, Special Services Division, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Communications equipment, Radio.

47 CFR Part 83

Communications equipment, Marine Safety, Radio, Ship Stations.

47 CFR Part 87

Aeronautical Stations, Radio.

Report and Order (Proceeding Terminated)

In the matter of digital selective calling system in the maritime mobile service; PR docket no: 83-431, RM-2946, FCC 85-441.

Adopted: August 5, 1985.
Released: August 15, 1985.

By the Commission.

1. This Report and Order gives the parameters for implementation of Digital Selective Calling (DSC) in the Maritime Mobile Service.

2. In the Notice of Proposed Rule Making and Order (NPRM&O) in this proceeding adopted on April 27, 1983 (48 FR 23673), the Commission proposed to amend Parts 81 and 83 of its rules to implement the DSC system of the International Radio Consultative Committee (CCIR) in the Maritime Mobile Service. Subsequent to adoption of the NPRM&O the Final Acts of the World Administrative Radio Conference for the Mobile Services (MWARC '83) were published. These Final Acts contained a number of provisions pertinent to the DSC system. In view of these provisions and public comments, a further Notice of Proposed Rule Making (FNPRM) was adopted October 18, 1984 (49 FR 43718).

Background

3. The development of improved calling procedures has long been regarded as essential to any major improvement of maritime mobile communications. Selective calling systems were described as early as the International Telecommunication Union's (ITU's) Ninth Plenary Assembly of CCIR in 1959. In 1967, the ITU Radio Regulations were amended to provide for a sequential single frequency code (SSFC) system of selective calling to meet immediate maritime needs. When the SSFC system was introduced, the ITU called for the development of a system with greater capability for future maritime use.

4. The CCIR in 1974 recommended a digital selective calling system. The 1974 World Maritime Administrative Radio Conference established dedicated digital selective calling frequencies and adopted the digital technique subject to final definition of the technical characteristics by the CCIR. The ITU's Fifteenth Plenary Assembly in the CCIR (CCIR, Geneva, 1982) adopted the DSC operational and technical characteristics which are contained in CCIR Recommendation 493-2 and the DSC operational procedures which are contained in CCIR Recommendation 541-1. These CCIR recommendations, in conjunction with Article 62 of the ITU Radio Regulations, form the background for implementation of DSC.

5. The Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), through its Subcommittee on Radiocommunications, commenced development of the Future Global Maritime Distress and Safety System (FGMDSS) in 1979. The FGMDSS is expected to become fully operational in the next decade. It will replace the present system which relies primarily on ship-to-ship distress alerting using Morse Code. The future system will rely mainly on ship-to-shore distress alerting using satellites and a terrestrial system employing digital selective calling.

6. The FGMDSS is now being developed internationally. The MWARC '83 provided frequencies for implementation of the FGMDSS. When the FGMDSS is implemented in the United States, DSC as specified in CCIR Recommendation 493 will be mandatory for certain classes of cargo and passenger ships. Other classes of ships will also be required to install compatible DSC equipment in order to contact Rescue Coordination Centers operated by the U.S. Coast Guard since the Coast Guard is planning to discontinue its manual distress watches once DSC is fully operational.

7. There is growing user demand for a universal, automated, radiotelephone system. The matter has been the subject of considerable study. The Radio Technical Commission for Marine Services, a Federal Advisory Committee, completed a study in 1981 on the subject of a "VHF Automated Radiotelephone System." The work of this advisory committee was the basis for United States recommendations to CCIR Interim Working Party 8/5. The Radio Technical Commission for Maritime Services (RTCM) is studying DSC with a view toward encouraging more efficient use of the spectrum.

8. U.S. coast stations today employ various systems of selective calling other than the DSC system. These systems range from simple to complex depending upon the type of service and number of features provided. The most prominent existing domestic example of selective calling is the Great Lakes VHF Radiotelephone System operated by Lorain Telecom Corporation. Lorain's 14 stations provide an automated service to vessels whose voyages are confined to the Great Lakes. Special equipment is furnished by Lorain to its subscribers for this service. Other coast station operators provide a local automated service on one or more stations but, once outside their service area, calls must be made manually.

FNPRM Response and Discussion

9. Comments were filed in response to the FNPRM by the following:

—Rockwell International Corporation (ROCKWELL)
—Radio Technical Commission For Maritime Services (RTCM)
—National Marine Electronics Association (NMEA)
—Bell South Corporation, on behalf of South Central Bell Company and Southern Bell Telephone and Telegraph Company (THE TELEPHONE COMPANIES)
—WJG Telephone Company, Inc. (WJG)
—Coastal Marine Telephone, Inc. (COASTAL MARINE)
—United States Coast Guard (USCG)

Reply comments were filed by Waterway Communications System, Inc. (WATERCOM).

10. The Commission's initial proposal was to authorize the use of working frequencies in accordance with the ITU Radio Regulations which do not authorize the use of DSC techniques in

certain radiotelephony bands, ROCKWELL, RTCM, NMEA and WJG all expressed a preference to use DSC on coast and ship station working frequencies. Existing § 81.132(b) of the rules currently authorizes signalling devices without distinction as to type of frequency or frequency band. Because use of working frequencies for selective signalling in the past has not caused any known interference, we will authorize the use of DSC on all coast and ship station working frequencies so long as harmful interference is not caused.[1] Sections 81.132(b) and 83.132(b) of the rules have been modified to make this clear and the rules have been amended to include reference to these paragraphs when authorizing DSC general purpose calling on working frequencies.

11. RTCM recommended that DSC be permitted to establish narrow-band direct-printing communications. We concur and the rules have been changed to reflect this operational technique.

12. RTCM and WJG recommended that the frequency tolerance for ship station transmitters using DSC emissions should be ±20 Hertz until January 1, 2000, for all ships. They reasoned that the slight technical improvement achievable through use of a ±10 Hertz frequency tolerance does not warrant early replacement of transmitters. We agree that immediate replacement is not required and are revising the rules to reflect a January 1, 1995 implementation date to allow adequate amortization of equipment.

13. NMEA was concerned about the use of R.F. scanning synthesized receivers in conjunction with DSC and the FGMDSS. Most of their concerns are under consideration by special committees of the ITU and the International Maritime Organization (IMO). The resolution of these questions will be promulgated to the public as soon as practicable. However, it is settled that DSC use in the VHF band will require a continous watch on Channel 70, among other things, in order to preclude the requirement for a Channel 16 watch. We are implementing rules which preclude use of the dot pattern on VHF frequencies.

14. NMEA expressed a concern about the partial recommended MF/HF receiver bandwidth specification which was proposed for use with DSC. NMEA recommended that either a complete specification be adopted or that the proposed partial specification be deleted. Since Commission precedent has left this matter to the equipment manufacturer in order to permit flexibility of design and since CCIR Recommendation 493 contains receiver bandwidth guidance, we are not adopting receiver bandwidth rules.

15. THE TELEPHONE COMPANIES asked the Commission to include more definitive recommendations in this proceeding regarding the automation of VHF. Article 62 of the Radio Regulations prescribes full conformity with the relevant CCIR Recommendations when using Digital Selective Calling. CCIR Recommendation 493–2 is currently undergoing a revision which is expected to result in a new CCIR Recommendation 493–3 being adopted at the 1986 CCIR Plenary Meeting. It is envisioned that the revised CCIR Recommendation will include a format specifier symbol for semi-automatic/automatic VHF service and other changes to facilitate automation in the VHF band. In view of these circumstances, we will not add the requested recommendations to this proceeding.

16. THE TELEPHONE COMPANIES also requested clarification regarding the status of DSC after date BRAVO-the date when the Commission plans to require that all selective calling equipment operating on designated maritime mobile bands must meet DSC operational and technical requirements. While date BRAVO may be one specific date, it is possible that date BRAVO could be implemented on a geographical basis using more than one date. We consider that date BRAVO should either coincide with or closely follow the date when that U.S. Coast Guard establishes its VHF DSC guard for marine areas now serviced by the U.S. Coast Guard aural guard on Channel 16. It is envisioned that distress and safety DSC calls on Channel 70 will be intended for Coast Guard facilities and that general purpose DSC calls on Channel 70 will be intended for public coast stations. Although public coast stations may equip for DSC on a voluntary basis, they will be required to continue providing conventional VHF service after date BRAVO. The post date BRAVO situation for marine areas not covered by a U.S. Coast Guard VHF DSC guard, i.e., inland waters excluding the Great Lakes, is not possible to accurately predict at this time. The Commission will seek an appropriate solution to this problem based upon safety considerations, equipment in use by public coast and ship stations and minimum public burden.

17. WJG took exception to the Commission's tentative decision to exclude communications in the 216–220 MHz band from the scope of this proceeding. In reply comments, WATERCOM pointed out that there is no common signalling channel in the 216–220 MHz band and that systems operating in this band require a signalling protocol which integrates with the call processing function. We affirm our tentative decision to exclude communications in the 216–220 MHz band from the scope of this proceeding because there is no substantive need for compatible DSC signalling techniques in the 216–220 MHz band.

18. COASTAL MARINE wanted to know whether the use of DSC for the initial signalling would preclude the use of other control signalling to dial or control the switched network once the signalling is complete. During the optional implementation phase of DSC, digital selective calling and other signalling techniques will be permitted on working frequencies. Only digital selective calling techniques will be permitted on frequencies made available specifically for distress and safety DSC and general purpose DSC. The use of signalling techniques has been clarified in Section 81.132 and 83.132 of the rules. Whether the use of signalling techniques, other than digital selective calling, will be permitted on working frequencies subsequent to date BRAVO is a matter which will be addressed when date BRAVO is established.

19. COASTAL MARINE was concernd that the rules as proposed would in effect adopt existing CCIR Recommendations 493–2 and 541–1 as well as future changes without being subject to public comments normally associated with the rule making process. COASTAL MARINE recommended that CCIR Recommendations 493–2 and 541–1 be included as Subparts to the Commission's rules. Article 62 of the ITU Radio Regulations states in part that, "A digital selective calling system may be used if it is in full conformity with the relevant CCIR Recommendations in which all operational, technical and competibility aspects which might be involved have been taken into account". In view of the general acceptance of CCIR Recommendations as reflected in the ITU Radio Regulations, the fact that the public is invited through notices in the **Federal Register** to participate in U.S. CCIR study group meetings leading to possible changes in these documents, and the availability of amendment procedure in the rules, the Commission considers that adequate administrative protection is being provided to the public and the general acceptance of

[1] Section 4 of Article 6 of the Radio Regulations permits derogation of Radio Regulations provisions under the conditions specified.

approved CCIR Recommendations would be in the public interest when the use of existing equipment is not prevented. For this reason we are adopting rules which generally refer to CCIR Recommendations with the understanding that reference is being made to the most recent version which has been approved by the CCIR and which does not prevent the use of existing equipment. In those cases when a CCIR Recommendation would prevent use of existing equipment, specific Commission action would be required.

20. The USCG comments essentially made three recommendations: That operators of vessels fitted for DSC operations on VHF Channel 70 should be cautioned to maintain a guard on Channel 16 when sailing in areas not covered by a coastal DSC guard; that DSC functional capabilities should be activated when the coastal area is serviced by a DSC Guard rather than when FGMDSS becomes operational; and that a trial period be established for dual distress and safety/general purpose use of VHF Channel 70 which would allow time for a thorough examination of the traffic loading problem. The Commission generally concurs with the USCG recommendations: Information provided vessel operators concerning the need to guard Channel 16 should be by public notices and educational efforts. We do not believe it is appropriate to incorporate the caution suggested by the USCG into the rules. The service of United States coastal areas by a DSC guard should have more significance to the implementation of DSC rather than when the FGDMSS becomes operational. Paragraph 16 of this Report and Order emphasizes the significance of the USCG VHF DSC guard. A trial period to evaluate the traffic load of DSC calls on Channel 70 alludes to beginning and ending dates which would be difficult to establish at this time. Rather, we are adopting rules permitting DSC dual purpose calling on Channel 70 on the condition that if the volume of general purpose calling becomes such that harmful interference may be caused to the use of DSC for distress and safety purposes, general purpose calling will be removed to a second calling frequency which will be made available for that purpose.

21. Commenters provided other constructive comments and recommendations related to the implementation of DSC. Some of these recommendations were minor in nature and were incorporated into the rules. Other recommendations such as those relating to billing and charges were considered to be beyond the scope of this proceeding.

Implementation

22. The following paragraphs summarize the DSC implementation concepts contained in the Appendix. The adopted rules reflect the provisions applicable to DSC provided for by the MWARC '83 and many of the recommendations made by commenters in response to this proceeding. While the rules pertinent to DSC are necessarily based upon the effective version of CCIR Recommendation 493, in this case 493-2, we reiterate that planning on an international basis has been underway for several months which is expected to result in a new version of CCIR Recommendation 493.

23. Implementation of the DSC system is proposed on the basis of two open-ended dates:

Date ALPHA—A date in the future to be established by FCC Order. After date ALPHA, new installations of selective calling equipment operating on designated maritime mobile bands must meet DSC operational and technical characteristics.

Date BRAVO—A date in the future to be established by FCC Order which will be a minimum of three years subsequent to date ALPHA. After date BRAVO, all selective calling equipment operating on designated maritime mobile bands must meet DSC operational and technical characteristics.

All coast and ship stations are authorized to install and use DSC equipment on the effective date of this Report and Order. Such equipment must contain, as a minimum, the operational characteristics delineated in the Appendix. Tone or synthesized selective calling equipment in use on date ALPHA will be authorized for continued use at the same installation until date BRAVO.

24. The operational and technical characteristics of CCIR Recommendation 493, with indicated expections, will be used as the standards for Digital Selective Calling requirement. For ships, the radio frequency tolerance of transmitters used with digital selective calling equipment in the MF and HF bands must be ±10 Hertz after January 1, 1995. For coast stations after January 1, 1990, the radio frequency tolerance of transmitters used for digital selective calling equipment in the MF and HF bands must be ±10 Hertz. The operational provisions of CCIR Recommendation 541 will be the basis for DSC operations.

25. The system of Maritime Identification Digits (MID's) as contained in the ITU Radio Regulations (Resolution 313 and Appendix 43) and modified by the MWARC '83 will be used in conjunction with the implementation of the DSC system. MID's are three numbers contained within a nine digit maritime mobile service identity to be used by automatic systems for identification of ship and coast stations, and for automatic interconnection between ships and land based networks.

26. Rule amendments in the Appendix designate certain frequencies in the 2–25 MHz and VHF maritime bands for DSC techniques. Current ship radio stations authorized to use these bands may also use appropriate DSC frequencies in these bands without modifying the ship radio station license.

27. Notwithstanding the fact that the frequency 156.525 MHz (Channel 70) was designated exclusively for simplex CCIR DSC distress and safety purposes by the Final Acts of the MWARC '83, the Commission will make Channel 70 available to ships and coast stations for DSC distress and safety purposes and for DSC general purpose calling. Section 4 of Article 6 of the Radio Regulations allows assignments to be made in derogation of provisions of the Radio Regulations under the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the Radio Regulations. The Commission invokes this prerogative because a single multipurpose calling frequency should be adequate to meet the volume of VHF DSC calling for the foreseeable future. If the volume of general purpose calling becomes such that harmful interference may be caused to the use of DSC for distress and safety purposes, general purpose calling will be removed to a second calling frequency which will be made available for that purpose. In the case, Channel 70 will be exclusively used for DSC Distress and Safety purposes. This approach will preclude the need for a second watch receiver on ship stations to be retrofitted with CCIR DSC equipment. Moreover, our experience is that most ships which are voluntarily equipped will maintain a watch on a multipurpose calling frequency and thereby be available to receive distress/safety communications and provide needed emergency assistance to ships in distress.

28. Section 81.203 of the current rules authorizes the use of DSC frequencies for calls by NB-DP purposes until such time as a digital selective calling system and associated procedures have been agreed upon and adopted into the ITU Radio Regulations. We believe there is

little use of these frequencies for Domestic NB-DP. Therefore, we are rescinding the use of those frequencies for calling with NB-DP protocols and are making them available exlusively for DSC general purpose calling which may also be used to establish NB-DP communications.

29. Cost and ship stations may use general purpose DSC calling procedures on authorized MF and HF working frequencies. General purpose DSC calling procedures in the VHF band are limited to those frequencies listed in the State Control, Commercial, Noncommercial, Public Correspondence and Digital Selective Calling categories. The Port Operations category is not included because these frequencies are shared between Government and Non-Government, use is limited to the safe movement of ships and the frequencies are normally not guarded.

30. As proposed, use of the frequency 156.525 MHz (Channel 70) for communications between aircraft and ship stations is being eliminated to preclude interference on Channel 70 which will be used as a VHF multipurpose calling frequency.

Conclusion

31. In view of the foregoing, we conclude that it is in the public interest to implement the digital selective calling provisions of the Radio Regulations and relevant CCIR Recommendations into the maritime rules. Accordingly, we are adopting rules which will provide for early optional implementation of DSC in the Maritime Mobile Radio Service.

32. In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that these rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. These rules provide for the optional use of DSC and will not require any segment of the maritime community to purchase DSC equipment.

33. The rules being adopted in this proceeding have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

34. Accordingly, it is ordered, That under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 145(i) and 303(r), Parts 81, 83 and 87 of the Commission's rules are amended as set forth in the attached Appendix, effective September 23, 1985.

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

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

37. Regarding questions on matters covered by this document, contract Robert E. Mickley (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

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

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

1. The authority citation for Part 81 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 81.8 is amended by adding the term "Digital Selective Calling" and its definition, in alphabetical order, to the existing list of terms and definitions, as follows:

§ 81.8 Technical definitions.

* * * * *

Digital Selective Calling (DSC)—A system used to establish contact with a station or group of stations automatically by means of radio. It is a synchronous ten bit digital code consisting of seven information bits and an associated three bits binary code for error detection. (The operational and technical characteristics of this system are contained in International Radio Consultative Committee (CCIR) Recommendation 493.)

* * * * *

3. Section 81.131 is amended by revising the introductory text of paragraph (b) and by adding a new paragraph (f) to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b) Authorized frequency tolerances for coast stations, including marine utility stations, operating on frequencies below 30 MHz must be in accordance with paragraph (f) of this section for digital selecting calling emissions and with the following table for other emissions:

* * * * *

(f) Until January 1, 1990, the radio frequency tolerance for coast station transmitters using F1B and J2B emissions for digital selective calling in the MF and HF bands is ±15 Hz. Thereafter, the radio frequency tolerance for coast station transmitters using F1B and J2B emissions for digital selective calling in the MF and HF bands is ±10 Hz.

* * * * *

4. In § 81.132, paragraph (b) is revised to read as follows:

§ 81.132 Authorized classes of emissions.

* * * * *

(b) Authorization to use radiotelephone and radiotelegraph emissions is construed to include use of telegraphy (including keying only the modulating audio frequency), tone signals, digital selective calling, and other signalling devices for the sole purpose of establishing or maintaining communications provided:

(1) That these signalling techniques, other than digital selective calling, are not used on frequencies made available specifically for distress and safety DSC calling and general purpose DSC calling as identified by §§ 81.304(b)(21) and 81.304(b)(22);

(2) The authorized bandwidth for the class of emission is not exceeded; and

(3) That harmful interference is not caused to service carried on by stations operating in accordance with the Radio Regulations.

* * * * *

5. Section 81.144 is added to read as follows:

§ 81.144 Selective calling equipment.

This section specifies the operational and technical characteristics of DSC equipment, the applicability of such equipment and an implementation plan.

(a) Selective calling equipment installed in coast radio stations subsequent to a date to be established by FCC Order must be compatible with CCIR Recommendation 493 except that:

(1) Station identification need only be numerical;

(2) the order of entry and readout for coordinates must be—first latitude and then longitude;

(3) calls from coast stations in the MF/HF bands are to be preceded by a dot pattern;

(4) the dot pattern is not to be used on frequencies in the VHF band; and

(5) more restrictive technical provisions in these rules take precedence.

(b) Unless otherwise stated, reference to any CCIR Recommendation appearing in this part means the most recent

version of the CCIR Recommendation which has been approved by the CCIR and which does not prevent use of existing equipment.

(c) The requirement for use of DSC equipment, as contained in paragraph (a) to this section, is not applicable to the following:

(1) Equipment used in conjunction with the Automated Maritime Telecommunications System (AMTS) in the band 216–220 MHz.

(2) Equipment which performs a selective calling function as a part of the Narrow-Band Direct-Printing (NB–DP) system in accordance with CCIR Recommendation 476.

(d) The operational format of a DSC call sequence is:

format specifier
address
category
self-identification
message 1
message 2
.
.
end of sequence

DSC equipment must have the following operational characteristics as a minimum:

(1) Minimum operational characteristics of the call sequence in order to receive a DSC call:

(i) Format specifier—

(A) distress call; a separate and distinct aural alarm is required,

(B) all ships call,

(C) selective call.

(ii) address—

(A) distress call,

(B) all ships call; the address information for "distress calls" and "all ships calls" is contained in the format specifier,

(C) selective call; recognize the called coast station numerical identification.

(iii) Category—

(A) distress call; the category information is contained in the format specifier,

(B) priorities,

(1) distress; the same separate and distinct aural alarm is required as listed for distress calls in paragraph (d)(1)(i)(A) of this section

(2) urgency,

(3) vital safety,

(4) important safety,

(5) ship business priority,

(6) routine,

Note.—The same aural or visual indicator may be used for urgency, vital safety, important safety, ship business priority and routine priorities.

(iv) self-identification; not applicable to the receiving mode—

(v) messages; display a two digit channel number when used on VHF; otherwise, display a four digit channel number—

(vi) end of sequence; recognize the "end of sequence"—

(2) Minimum operational characteristics of the call sequence in order to transmit a DSC call:

(i) format specifier;

(A) all ships call,

(B) selective call,

(C) selective call for a group of ships in a particular geographical area; except for limited coast stations.

(ii) Address—

(A) all ships call; the address information for "all calls" is contained in the format specifier,

(B) selective call; transmit the called ship numerical identification,

(C) identification of a particular geographical area; except for limited coast stations.

(iii) Category (priority)—

(A) distress,

(B) routine,

(iv) self-identification; automatically transmit coast station identity—

(v) Messages; transmit a two digit number on VHF channels; otherwise, transmit a four digit channel number—

(vi) end of sequence; automatically transmit "end of sequence"—

(e) The technical format of the DSC call sequence is comprised of the following:

dot pattern
phasing sequence
format specifier
address
category
self-identification
message 1
separator (if required)
message 2
separator (if required)
.
.
end of sequence
error check character

(f) When all of the following conditions are met, one or synthesized selective calling equipment not in conformance with the technical characteristics of CCIR Recommendation 493 may be operated until a date to be established by FCC Order. The date will be a minimum of three years from the date subsequent to which DSC equipment is required for new selective calling installations. The conditions are:

(1) The equipment must have been installed and operational by the date to be established in accordance with paragraph (a) of this section.

(2) The equipment must be used only at the same radio station where located and operational on the date to be established in accordance with paragraph (a) of this section.

6. Section 81.203 is revised to read as follows:

§ 81.203 Digital selective calling frequencies.

(a) The carrier frequencies in the following table are available for use by coast stations for general purpose calls to ship stations using digital selective calling (DSC) techniques. The associated reply frequencies are also shown.

Coast station transmit to ships (kHz)	Coast station receive from ships (kHz)
4357.0	4187.5
6506.0	6281.5
8718.5	8375.5
13100.0	12562.0
13100.5	12562.5
17232.0	16750.5
17232.5	16751.5
22595.0	22248.0
22595.5	22248.5

(b) Coast station working frequencies are authorized for DSC General Purpose Calling under the provisions of § 81.132(b).

(c) When calling ship stations by DSC, the coast station must use the ship station identity and its assigned identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission. The numerals are compatible with international operations.

(d) Operating procedures for the use of digital selective calling (DSC) equipment in the Maritime Mobile Service are as contained in CCIR Recommendation 541 as modified by § 81.363(c).

(e) Frequencies available to ship stations for DSC distress and calling are also available to coast stations under the conditions contained in CCIR Recommendation 541. These DSC frequencies are identified by § 81.304(b)(22).

7. Section 81.204 is amended by revising paragraph (b)(6) to read as follows:

§ 81.204 Assignable frequencies—Narrow-band direct-printing radiotelegraph and transmission systems.

* * * * *

(b) * * *

(6) Calls to ship stations by NB–DP must be made by radioteleprinter on the NB–DP frequencies assigned to the coast station. However, when the above alternatives are unsuccessful, coast stations may call ship stations by A1 Morse radiotelegraphy, shift to A1 radiotelegraphy working frequencies,

and complete arrangements for setting up a NB-DP circuit, or DSC procedures may be employed on frequencies authorized for DSC calling.

* * * * *

8. Section 81.205 is amended by adding paragraph (f).

§ 81.205 Narrow-band direct-printing (NB-DP) operating procedure.

* * * * *

(f) In calling ship stations by narrow-band direct-printing, the coast station must use the ship station selective calling number (5 digits) and its assigned coast station identification number (4 digits). Calls to ships station must employ the following format: Ship station selective call number, repeated twice, "DE", sent once; and coast station identification number, repeated twice. When the ship station does not reply to a call sent three times at intervals of two minutes, the calling must cease and must not be renewed until after an interval of fifteen minutes.

9. In § 81.304, paragraph (a) is amended by adding and revising entries in frequency numerical order to the "Carrier frequency" and "Conditions of use" columns of the frequency table, and paragraphs (b)(20), (b)(21) and (b)(22) are added to read as follows:

§ 81.304 Frequencies available.

(a) * * *

* * * * *		
Revised:		
2182.0 kHz	81.191, 81.305	1,14,15,20
* * * * *		
Added:		
2187.5 kHz	81.203, 81.305	22
* * * * *		
4188.0 kHz	81.203, 81.305	22
4357.0 kHz	81.203, 81.305	21
* * * * *		
6282.0 kHz	81.203, 81.305	22
6506.0 kHz	81.203, 81.305	21
* * * * *		
8375.0 kHz	81.203, 81.305	22
8718.5 kHz	81.203, 81.305	21
* * * * *		
12563.0 kHz	81.203, 81.305	22
13100.0 kHz	81.203, 81.305	21
13100.5 kHz	81.203, 81.305	21
* * * * *		
16750.0 kHz	81.203, 81.305	22
17232.0 kHz	81.203, 81.305	21
17232.5 kHz	81.203, 81.305	21
* * * * *		
22595.0 kHz	81.203, 81.305	21
22595.5 kHz	81.203, 81.305	21
* * * * *		
Revised:		
156.525 MHz	81.203, 81.305	21,22
* * * * *		

(b) * * *

(20) Use of this frequency is not authorized for digital selective calling techniques.

(21) This frequency is available to coast stations for general purpose calling using digital selective calling techniques.

(22) This frequency is available to coast stations for distress and safety calling, acknowledgement, and distress relay purposes using digital selective calling techniques under the conditions contained in CCIR Recommendation 541.

* * * * *

10. Section 81.305 is amended by adding paragraph (c) to read as follows:

§ 81.305 Frequencies for calling and distress.

* * * * *

(c) *Digital Selective Calling Frequencies:* Digital selective calling (DSC) frequencies are available for use as indicated:

(1) *Distress and Safety.* Section 81.304(b)(22) identifies frequencies available for distress and safety purposes using DSC techniques.

(2) *General Purpose Calling.* In addition to DSC general purpose calling frequencies identified by § 81.304(b)(21), working frequencies assigned to coast stations are authorized for DSC general purpose calling under the provisions of § 81.132(b).

11. Section 81.315 is added to read as follows:

§ 81.315 Digital selective calling operating procedures.

(a) Operating procedures for DSC equipment in the Maritime Mobile Service are contained in CCIR Recommendation 541.

(b) When calling ship stations by means of digital selective calling, the coast station must use the ship station identity and effect self-identification by use of a coast station identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission based upon a system of Maritime Identification Digits (MID's) designed to be compatible with international operations.

12. In Section 81.356, paragraph (a) is amended by adding the symbol "4" to the "Conditions of use" column of the frequency table opposite all frequency entries to the State Control, Commercial and Noncommercial categories. A new category, "Digital Selective Calling", is added to the frequency table below the Noncommercial category, paragraphs (b)(4) and (b)(5) are added to read as follows, and paragraph (b)(12) is removed.

(a) * * *

DIGITAL SELECTIVE CALLING

70	156.525	156.525	Coast to ship	4,5

(b) * * *

(4) Authorized for general purpose calls to ships by means of digital selective calling.

(5) Authorized for alerting purpose related to distress and safety using digital selective calling techniques.

* * * * *

13. In § 81.360, paragraph (f) is added to read as follows:

§ 81.360 Frequencies available below 27.5 MHz.

* * * * *

(f) The coast station frequencies identified by § 81.304(b)(21) are available for use by limited coast stations for general purpose calling using digital selective calling techniques. Working frequencies assigned to limited coast stations are authorized for DSC general purpose calling under the provisions of § 81.132(b).

14. Section 81.363 is added to read as follows:

§ 81.363 Digital selective calling operating procedures.

(a) Operating procedures for the use of DSC equipment in the maritime mobile service are contained in CCIR Recommendation 541.

(b) When calling ship stations by means of DSC the coast station must use the ship station identity and its assigned identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission. The numerals are compatible with international operations.

(c) DSC acknowledgement of DSC distress and safety calls are to be made by designated coast stations and such acknowledgement must be in accordance with procedures contained in CCIR Recommendation 541. Non-designated public and limited coast stations are to follow the guidance provided for ship stations in CCIR Recommendation 541 with respect to DSC "Acknowledgement of distress calls" and "Distress relays".

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

15. The authority citation for Part 83 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless

otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

16. Section 83.7 is amended by adding paragraphs (m) and (n) to read as follows:

§ 83.7 Technical.

* * * * *

(m) Selective Calling—A means of calling in which signals are transmitted in accordance with a prearranged code for the purpose of operating a particular automatic attention device at the selected station.

(n) Digital Selective Calling (DSC)—A system used to establish contact with a station or group of stations automatically by means of radio. It uses a synchronous ten bit digital code consisting of seven information bits and an associated three binary code for error detection. [The operational and technical characteristics of this system are contained in international Radio Consultative Committee (CCIR) Recommendation 493.]

17. Section 83.131 is amended by revising paragraph (a) and by adding a new paragraph (h) to read as follows:

§ 83.131 Authorized frequency tolerance

(a) Unless the particular instrument of authorization specifically provides otherwise, the frequency tolerance authorized for stations on board ships subject to this part must be as prescribed in paragraphs (b) through (h) of this section.

* * * * *

(h) Until January 1, 1995, the radio frequency tolerance for ship station transmitters using F1B and J2B emissions for Digital selective calling in the MF and HF bands is ±20 Hz. Thereafter, the radio frequency tolerance for ship station transmitters using F1B and J2B emissions for digital selective calling in the MF and HF bands is ±10 Hz.

18. In § 83.132, paragraph (b) is revised to read as follows:

§ 83.132 Authorized classes of emission.

* * * * *

(b) Authorization to use radiotelephone and radiotelegraph emissions is construed to include use of telegraphy (including keying only the modulating audio frequency), tone signals, digital selective calling, and other signalling devices for the sole purpose of establishing or maintaining communications provided:

(1) that these signalling techniques, other than digital selective calling, are not used on frequencies made available specifically for distress and safety DSC calling and general purpose DSC calling as identified by §§ 83.351(a)(53) and 83.351(a)(54),

(2) the authorized bandwidth for the class of emission is not exceeded; and

(3) harmful interference is not caused to services carried on by stations operating in accordance with the Radio Regulations.

* * * * *

19. Section 83.147 is added to read as follows:

§ 83.147 Selective calling equipment.

This section provides for the operational and technical characteristics of DSC equipment, the applicability of such equipment and an implementation plan.

(a) Selective calling equipment installed in ship radio stations subsequent to a date to be established by FCC order must be compatible with operational and technical specifications contained in CCIR Recommendation 493 except that:

(1) Station identification need only be numerical,

(2) The order of entry and readout for coordinates must be—first latitude and then longitude,

(3) In the MF/HF bands, dot patterns are to be included in calls from ship stations only in the case of distress calls or ship-to-ship calls,

(4) The dot pattern is not to be used on frequencies in the VHF band, and

(5) More restrictive technical provisions in these rules take precedence.

(b) Unless otherwise stated, reference to any CCIR Recommendation appearing in this Part means the most recent version of the CCIR Recommendation which has been approved by the CCIR and which does not prevent use of existing equipment.

(c) The requirement for use of DSC equipment, as contained in paragraph (a) to this Section, is not applicable to the following:

(1) Equipment used in conjunction with the Automated Maritime Telecommunications System (AMTS) in the band 216–220 MHz.

(2) Equipment which performs a selective calling function as a part of the Narrow Band-Direct Printing (NB–DP) system in accordance with CCIR Recommendation 476.

(d) The operational format of a DSC call sequence is:

Format specifier
Address
Category
Self-identification
Message 1
Message 2
.
.
End of sequence

DSC equipment shall have the following operational characteristics as a minimum:

(1) Minimum operational characteristics of the call sequence in order to receive a DSC call:

(i) Format specifier—

(A) Distress call; a separate and distinct aural alarm is required,

(B) All ships call,

(C) Selective call.

(ii) Address—

(A) Distress call,

(B) All ships call; the address information for "distress calls" and "All ships calls" is contained in the format specifier,

(C) Selective call; recognize the called ship numerical identification,

(D) Identification of a particular geographical area; except for VHF use.

(iii) Category—

(A) Distress call; the category information is contained in the format specifier,

(B) Priorities,

(*1*) Distress; the same separate and distinct aural alarm is required as set forth for distress calls in paragraph (d)(1)(i)(A),

(*2*) Urgency,

(*3*) Vital safety,

(*4*) Important safety,

(*5*) Ship business priority,

(*6*) Routine.

(**Note.**—The same aural or visual indicator may be used for urgency, vital safety, important safety, ship business priority and routine priorities.)

(iv) Self-identification; not applicable to the receiving mode—

(v) Messages; display a two digit channel number on VHF; otherwise, display a four digit channel number—

(vi) End of sequence; recognize the "end of sequence"—

(2) Minimum operational characteristics of the call sequence in order to transmit a DSC call:

(i) Format specifier,

(A) Distress call,

(B) All ship call,

(C) Selective call.

(ii) Address—

(A) Distress call,

(B) All ships call; the address information for "distress calls" and "all ships calls" is contained in the format specifier,

(C) Selective call transmit the called ship or coast identification.

(iii) Category—

(A) Distress call: the category information is contained in the format specifier.
(B) Priorities.
(1) Distress.
(2) Routine.
(iv) Self-identification: automatically transmit the ship station identity—
(v) Messages: transmit a two digit channel number on VHF; otherwise, transmit a four digit channel number—
(e) The technical format of the DSC call sequence is comprised of the following:

Dot pattern
Phasing sequence
Format specifier
Address
Category
Self-identification
Message 1
Separator (if required)
Message 2
Separator (if required)
.
.
.
End of sequence
Error check character

(f) When the following conditions are met, tone or synthesized selective calling equipment not in conformance with the technical characteristics of CCIR Recommendation 493 may be operated until a date to be established by FCC Order. The date will be a minimum of three
(1) The equipment must have been installed and operational by the date to be established in accordance with paragraph (a) of this section.
(2) The equipment must be used only at the same radio station where located and operational on the date to be established in accordance with paragraph (a) of this section.

20. In § 83.224, paragraph (c) is added to read as follows:

§ 83.224 Watch on 156.8 MHz.

* * * * *

(c) For a station on board a voluntarily equipped vessel fitted with digital selective calling (DSC) equipment, maintaining a continuous DSC watch on 156.525 MHz whenever such station is not being used for exchanging communications, and while such station is within the VHF service area of a U.S. Coast Guard radio facility which is DSC equipped to operate on 156.525 MHz.

21. In §83.315, paragraph (a) is revised to read as follows:

§ 83.315 Authorized frequencies.

(a) The tables in §§ 83.316, 83.317, 83.319, 83.320 and 83.321 set forth the carrier frequencies, which when authorized by a station license may be used by ship stations employing A1A Morse or narrow-band direct-printing radiotelegraphy for communications with ship or coast stations.

* * * * *

22. Section 83.318 is revised to read as follows:

§83.318 Digital selective calling frequencies.

(a) *Distress and safety calling.* The following frequencies are available for use by ship stations for distress and safety calls using digital selective calling techniques:

2187.5 kHz
4188.0 kHz
6282.0 kHz
8375.0 kHz
12563.0 kHz
16750.0 kHz
156.525 kHz

(b) *General purpose calling.* The frequencies in the following table are available for use by ship stations for general purpose calls to coast stations using digital selective calling techniques. The associated reply frequencies are also shown.

SHIP STATION

Transmit to coast—kHz (unless otherwise indicated)	Receive from coast—kHz (unless otherwise indicated)
4187.5	4357.0
6281.5	6506.0
8375.5	8718.5
12562.0	13100.0
12562.5	13100.5
16750.5	17232.0
16751.0	17235.5
22248.0	22595.0
22248.5	22595.5
156.525 MHz	156.525 MHz

(c) *Working frequencies.* Ship station working frequencies are authorized for DSC general purpose calling under the provisions of § 83.132(b).

23. Section 83.329 is revised to read as follows:

§ 83.329 Digital selective calling operating procedures.

(a) Operating procedures for DSC in the maritime mobile service are contained in CCIR Recommendation 541.
(b) When calling ship or coast stations by DSC, the ship station must use the appropriate nine digit ship or coast station identity and its assigned identity.

24. In § 83.330, paragraph (d) is revised to read as follows:

§ 83.330 Narrow-band direct-printing operating procedure.

* * * * *

(d) In calling the coast station by NB-DP, the ship station shall use the coast station identification number (4 digits) and effect self-identification by the use of the ship station selective calling number (5 digits). Calls to a coast station or other ship station must employ the following format: Coast station identification number, repeated twice; "DE", sent once; and ship station selective call number, repeated twice. When the coast station does not reply to a call sent three times at intervals of two minutes, the calling shall cease and shall not be renewed until after an interval of fifteen minutes. When it is known that the coast station maintains a watch on other frequencies for ship station calls by NB-DP, the ship station should make its initial NB-DP call on these frequencies.

* * * * *

25. In Section 83.351 the frequency table in paragraph (a) is amended by adding and revising "Frequencies" and "Conditions of use" in frequency numerical order, by revising paragraph (b)(1) and by adding paragraphs (b)(53) and (b)(54) to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Added:

2187.5 kHz	83.352(d)	19, 20, 54
* * * * *		
4187.5 kHz	83.353(b)	19, 20, 53
4188.0 kHz	83.352(d)	19, 20, 54
* * * * *		
6281.5 kHz	83.353(b)	19, 20, 53
6282.0 kHz	83.352(d)	19, 20, 54
* * * * *		
8375.0 kHz	83.352(d)	19, 20, 54
8375.5 kHz	83.353(b)	19, 20, 53
* * * * *		
12562.0 kHz	83.353(b)	19, 20, 53
12562.5 kHz	83.353(b)	19, 20, 53
12563.0 kHz	83.352(d)	19, 20, 54
* * * * *		
16750.0 kHz	83.352(d)	19, 20, 54
16750.5 kHz	83.353(b)	19, 20, 53
16751.0 kHz	83.353(b)	19, 20, 53
* * * * *		
22248.0 kHz	83.353(b)	19, 20, 53
22248.5 kHz	83.353(b)	19, 20, 53
* * * * *		

Revised:

156.525 MHz	83.352(d), 83.353(b), 83.359	19, 20, 53, 54
* * * * *		

(b) * * *

(1) The frequency 2182 kHz is authorized for use on a shared basis primarily by ship stations and secondarily by coast stations. Digital selective calling techniques are not authorized on 2182 kHz.

* * * * *

(53) This frequency is available for general purpose calling using digital selective calling techniques.
(54) This frequency is available for distress and safety alerting purposes using digital selective calling techniques.

* * * * *

26. In Section 83.352 paragraph (d) is added to read as follows:

§ 83.352 Frequencies for use in distress and search and rescue operations.

* * * * *

(d) The frequencies identified in § 83.351(b)(54) are available for use by ship stations for distress and safety calls using DSC.

27. Section 83.353 is revised to read as follows:

§ 83.353 Frequencies for calling.

(a) The frequency 2182 kHz is the international general calling frequency for radiotelephony; it may be used for this purpose by ship and aircraft stations operating in the maritime mobile service in the bands between 1605 and 4000 kHz. The frequency 156.8 MHz is the international distress, safety and calling frequency for maritime radiotelephony stations when using frequencies in the 156 and 174 MHz bands. In addition, these frequencies may be used for transmission of:

(1) The international urgency signal and very urgent message preceded by this signal concerning the safety of a ship, aircraft, or other vehicle, or the safety of some person on board or within sight of the ship, aircraft, or vehicle.

(2) The international safety signal and messages preceded by this signal concerning the safety of navigation or giving important meteorological warnings; however, safety messages must be transmitted on a working frequency after a preliminary announcement on 2182 kHz.

(3) Brief radio operating signals.

(b) Digital selective calling identified in Section 83.351(b)(53) may be used to establish radiotelephony communications. The frequencies are available for use by ship stations for general purpose calls to public coast stations using digital selective calling techniques.

28. Section 83.354 is amended by revising the section title, designating existing material as paragraph (a) and adding a new paragraph (b) as follows:

§ 83.354 Frequencies available for communication with public coast stations on frequencies between 4000 and 27,500 kHz.

* * * * *

(b) Ship station frequencies identified by § 83.351(b)(53) are available for general purpose calling using digital selective calling (DSC) techniques. Ship station working frequencies in the band 4000 to 27,500 kHz are authorized for DSC general purpose calling under the provisions of § 83.132(b).

29. Section 83.355 is revised by adding paragraph (c) as follows:

§ 83.355 Frequencies available for communications with public coast stations operating in the band between 1605 and 4000 kHz.

* * * * *

(c) Ship station working frequencies in the band 1605 to 4000 kHz are available for DSC general purpose calling under the provisions of § 83.132(b).

30. In § 83.359, paragraph (a) is amended by removing Channel 70 and all horizontal entries in the Noncommercial category of the frequency table; and by adding a new category, "Digital Selective Calling", to the frequency table below the Public Correspondence category, by revising the introductory text of paragraph (b) and by adding new paragraphs (c) and (d) to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

(a) * * *

DIGITAL SELECTIVE CALLING

70	156.525	156.525	Intership and ship to coast

(b) In addition to the limitations contained in § 83.351(b)(15), (b) (33) and (b)(44), aircraft may use the frequencies 156.3, 156.375, 156.4, 156.425, 156.450, 156.625, 156.8, 156.9 and 157.425 MHz under the following circumstances and subject to the following limitations:

* * * * *

(c) Working frequencies listed in the State Control, Commercial, Noncommercial and Public Correspondence categories are available for general purpose calling using digital selective calling techniques.

(d) Channel 70 (156.525 MHz) is available for both general purpose calls and for calls related to distress and safety using digital selective calling techniques.

31. Section 83.360 is amended by adding paragraph (b)(3) and revising (b)(6) to read as follows:

§ 83.360 Frequencies for business and operational purposes.

* * * * *

(b) * * *

(3) These frequencies are available for general purpose calling using digital selective calling (DSC) techniques under the provisions of § 83.132(b).

* * * * *

(6) The emission designator must be 2K80J3E. When digital selective calling techniques are being used the class of emission must be F1B or J2B.

32. Section 83.366 is amended by adding paragraph (k) to read as follows:

§ 83.366 General radiotelephone operating procedure.

* * * * *

(k) Digital selective calling. Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in CCIR Recommendation 541. When calling ship or coast stations by means of digital selective calling, the ship station shall use the appropriate nine digit ship or coast station identity and effect self-identification by use of a nine digit ship station identity.

PART 87—AVIATION SERVICES

33. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

34. Section 87.183 is amended by revising the introductory text of paragraph (j)(3) to read as follows:

§ 87.183 Frequencies available.

* * * * *

(j) * * *

(3) The frequencies 156.300, 156.375, 156.400, 156.425, 156.450, 156.625, 156.800 and 156.900 MHz may be used by aircraft stations to communicate with ship stations under these conditions:

* * * * *

[FR Doc. 85-19379 Filed 8-21-85; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Hutton Tui Chub and Foskett Speckled Dace

Correction

In FR Doc. 85-7358 beginning on page 12302 in the issue of Thursday, March 28, 1985, make the following corrections:

1. On page 12305, in the table in § 17.11(h), in the column headed "Special rules", both entries which now read "17.44(f)" should read "17.44(j)".

2. On page 12306, in the first column, in the first line, "paragraph (f)" should read "paragraph (j)".

3. On the same page, in the same column, in § 17.44 the paragraph now

designated as paragraph (f) is correctly designated as paragraph (j).

4. On the same page, in the same column, in correctly designated § 17.44(j)(4), in the fourth line, "(f)" should read "(j)".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 630

[Docket No. 50581-5127]

Atlantic Swordfish Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). This rule provides for (1) the framework for closing areas for specific times, and (2) the establishment of a data collection program in the Caribbean. The intended effect of the final rule is to maintain high landings in the form of larger fish that are preferred in the market, prevent growth overfishing, provide a buffer against possible recruitment overfishing, and obtain the information necessary to monitor the fishery and refine the management regime.

EFFECTIVE DATE: This rule is effective September 18, 1985 (except for § 630.4 which becomes effective January 1, 1986) through December 31, 1987. This rule is being issued prior to approval by the Office of Management and Budget (OMB) of the information collection requirements in § 630.5. When OMB approval is received, a notice will be published in the **Federal Register** making this section effective on September 18, 1985.

ADDRESS: A copy of the combined final regulatory impact review/regulatory flexibility analysis (RIR/RFA) may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Regional Director, Southeast Region, NMFS, initially approved the fishery management plan for the Atlantic Swordfish Fishery on July 19, 1985, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Proposed regulations to implement the FMP, prepared by the South Atlantic Fishery Management Council in cooperation with the Caribbean, Gulf of Mexico, Mid Atlantic, and New England Councils (Councils) were published on May 31, 1985 (50 FR 23159). Comments on the FMP and proposed rule were invited through July 12, 1985. The preamble to the proposed rulemaking contained a description of the swordfish fishery, the condition of the stocks, and fishing practices within the commercial and recreational sectors. Also discussed were problems in the fishery (i.e. increasing number of small fish in the landings and possible growth overfishing). These discussions are not repeated here.

Comments and Responses

Eighteen written comments were received addressing 45 issues. The sources of the comments were State natural resource agencies, the Department of State, a sports fishing organization, a foreign fishing association, Fishery Management Councils, a commercial fisherman's organization, law firms, a fishing tackle company, two members of Congress, and seven individuals.

Fishery Permits for Rod and Reel Fishermen

One state marine resource agency recommended that the requirement for rod and reel fishermen to possess fishing permits and report their catch in the Mid-Atlantic area (§ 630.4(a)(2) in the proposed rule) be extended to apply to rod and reel fishermen in all areas. Application of these requirements to rod and reel fishermen in only one area was considered inequitable, and because the Councils are considering implementing a comprehensive data gathering program, these requirements are unnecessary and NOAA has omitted them in the final rule. The same state agency suggested that these rod and reel permits remain valid until the permit owner requests otherwise or the vessel is sold. It was also recommended these permits be added to the bluefin tuna permit. Since the requirements for rod and reel permits and reporting by recreational fishermen have been deleted, these suggestions also are not applicable.

Prohibition of Imports

A law firm cited the need for import restrictions. The FMP provided for import restrictions during the variable season closure (VSC); however, that measure was disapproved, because it was not in compliance with Executive Order 12291, i.e. benefits and costs were not evaluated adequately. This measure may be readdressed and submitted for approval in the future.

A State marine resource agency recommended that the time period for the prohibition of imports after a variable season closure be the same (10 days) for all areas instead of varying from seven to 11 days. Because NOAA has deleted this measure, the agency's comments are not applicable.

Entanglement Nets

One recreational fishermen's organization questioned the authorization of the use of entanglement nets in the fishery. They expressed the opinion that the use of this gear would give a select few fishermen an excessive part of the resource and the non-selectivity of the gear would be harmful to other species such as marlin and sailfish. NOAA is gathering information on the effect of this gear. However, because of the lack of scientific information at this time regarding entanglement nets, no further restrictions on the use of this gear are proposed at this time.

Regional Director Authority

The same sportsmen's organization objected to the Regional Director's (RD), Southeast Region, authority to review and approve or disapprove recommendations made by the Councils under § 630.21(c). In their opinion, this allows the RD to disapprove the Councils' recommendations at his discretion, thereby denying the Secretary of Commerce (Secretary) the opportunity to review them. The RD has been delegated the authority to approve or disapprove FMPs by the Secretary and as such acts as the Secretary's designee. In addition, the RD may not arbitrarily disapprove a recommendation submitted by the Councils. To disapprove a recommendation, the RD must find that the recommendation is inconsistent with the objectives of the FMP, the Magnuson Act or other applicable law. Therefore, this measure is implemented as proposed.

Time Restrictions for Longliners

Restricting the fishing of longlines to the period 1800 hours to 0500 hours throughout the year was recommended by a recreational fishermen's group to mitigate the bycatch of billfish. However, to do so for other pelagic fisheries during the variable season closures would defeat the purpose of the measure because most swordfish are caught during these hours and to do so during the remainder of the year would

cause an unjustifiable restriction on the swordfish fishery.

Foreign Fishing Restrictions

The Department of State and one foreign tuna fishing association objected to the restriction for foreign tuna longline vessels in the proposed regulations. The Department of State and the association recommended deletion of the prohibition of nighttime pelagic longline fishing by foreign vessels, the cap on the foreign longline incidental catch of swordfish and the closure of the south Atlantic portion of the FCZ. They considered the prohibition of nighttime longline fishing furing the VSC by foreign fishermen to be excessively burdensome for the Japanese fishing fleet which operates far from its home base and to operate efficiently must fish 24 hours a day. In addition, they pointed out that only 20 swordfish were caught by the Japanese during 1984 in the area north of Cape Hatteras that was scheduled to be closed for 24 days under the VSC. With regard to the cap on the incidental take of swordfish, the State Department noted that the FMP does not provide statistical or other justification to illustrate how this measure will contribute directly to the objective of controlling the harvest of small swordfish. Also, the bycatch of swordfish by the Japanese longline fleet has dropped from 8,074 swordfish in 1980 to 402 swordfish in 1984. It was also indicated that in its opinion the closure of the southern portion of the FCZ was unnecessary because of the reduced effort by the Japanese fleet in the area in recent years and the corresponding decline in conflicts. NOAA concurs with the Department of State and the tuna association and the measures in the amendment to the Foreign Fishing Regulations at 50 CFR 611.60 and 611.61 disapproved by NOAA are omitted in this final rule.

Definition of Rod and Reel

A representative of one State agency recommended that the definition of rod and reel fishermen be modified to read "means any individual using a hand-held fishing rod with a manually operated reel attached." This would exclude the option of using rods with electrically operated reels. The commenter suggested that electric reels are not currently used but could be used to violate the proposed regulations. NOAA believes that this additional restriction would not be consistent with the intent of the Councils to exempt all legitimate rod and reel fishing from the closure.

Advance Notification

Representatives of two state agencies and one commercial fisherman commented that the requirement of a 10-day advance notification of departure for vessels selected to carry an onboard technician was impractical and unnecessary. They suggested that the notice period be reduced substantially. NOAA has disapproved the mandatory observer program for swordfish and § 630.5 as published in the proposed rule is modified in the final rule to reflect this disapproval. Therefore, these comments are no longer appropriate.

Fishing Outside Western North Atlantic Stocks

A representative of one State agency indicated that U.S. vessels occasionally fish for swordfish "outside the area identified as the Western North Atlantic Swordfish stock (zone)" and asked if fish from those areas could be possessed or landed during a closure. In a closed area (shoreward of the seaward boundary of the FCZ) swordfish could not be possessed at sea or landed during a closure. This same commenter asked if it was the intent of the FMP to force U.S. fishermen to land their catch in another country. This is not the intent of the FMP. The FMP is designed to reduce the harvest of swordfish less than 50 pounds dressed weight by closing areas at times when these small fish are predominate. These closures in the FCZ are also intended to encourage compliance among any fishermen fishing on the Western North Atlantic stock of swordfish. Any fishing effort applied during a closure to the same stock of swordfish would diminish the effectiveness of the FMP closures and, therefore, the benefits to the fishermen.

This commenter also asked how swordfish from the Western North Atlantic stock will be distinguished from the Eastern North Atlantic stock. There is no mechanism for differentiating these fish at this time. It is, in fact, this inability that underscores the necessity of prohibiting the possession at sea or landing of all swordfish in a closed area. An exception for swordfish harvested from other than the Western North Atlantic could easily preclude effective enforcement of a closure. NOAA believes that the need for effective enforcement of the closures outweighs the potential burden on the relatively few fishermen who occasionally fish beyond the boundary of the Western North Atlantic. Therefore, this regulation is implemented as proposed.

Fishery Management Councils' Comments

The New England Council requested that the Secretary implement the Swordfish FMP without the harpoon cap provision. The Council noted that this measure: (1) Does not contribute to any of the FMP's objectives; (2) is not necessary to enhance enforcement as implied; and (3) would result in unnecessary and excessive costs and burdens associated with recordkeeping. Further, the harpoon fishery selectively harvests large fish and is, therefore, consistent with the primary objective of the plan. NOAA concurs with these comments and has disapproved the measure on the basis that it is inconsistent with section 303(a)(1)(A) of the Magnuson Act and Executive Order 12291.

This Council also stated that in southern New England many recreational boats regularly use harpoons to take swordfish, billfish, and tuna and under § 630.5(a) could be required to accommodate an onboard technician. NOAA has disapproved the mandatory observer program. Therefore, these comments are no longer applicable.

The South Atlantic Council suggested a number of technical corrections to the proposed rule. The Council stated that the numerical expression of optimum yield, i.e. number of swordfish under 50 pounds dressed weight that can be harvested, should be changed from 33,750 to 30,250. The published number was incorrect because of an error in the original calculation. NOAA agrees that the revised number, 30,250, is accurate and reflects the Councils' intent of using the number of swordfish less than 50 pounds harvested in 1980 and has made the appropriate corrections in the final rule. A slight modification in the definition of "gangion" was also recommended, i.e. changing "ground line" to "main line." This change has been incorporated in the final rule. The Council suggested that under § 630.4(b)(9) wording can be added to require anyone indicating that he/she could not accommodate a technician to provide an explanation. This comment is no longer applicable because of NOAA's disapproval of the mandatory observer program.

The South Atlantic Council also questioned the wording added by NOAA to § 630.21(c)(6) that provided a 15-day public comment period after publication of the **Federal Register** notice implementing modifications to the VSC. In addition to the Council recommended that the wording of

§ 630.21(c)(5) be changed to read "Changes in the starting date and resulting lengths of closures as determined by the most recent year's data, and any other changes to the FMP must be approved by all five Councils'. In § 630.21, paragraph (c) *Adjustments* has been reserved to comply with disapproval of the provision requiring concurrence of all five Councils to establish or adjust the closures under the VSC. NOAA has designated the South Atlantic Council as the responsible Council for the management and Amendment of the FMP. The management measures to implement the closures under paragraph (c) as well as other necessary procedures will be implemented when the FMP has been amended to reflect this change in management responsibility. Therefore, the South Atlantic Council's comments are not appropriate.

The Council also requested that the wording in the first sentence of § 630.4(a)(1) be changed from commercial fishing vessel to . . . commercial longline fishing vessel and that corresponding language in the preamble be changed also. These changes are in the final rule. The Council further recommended that language be added to the preamble to indicate that existing data collection for the bycatch of swordfish by the foreign squid trawl fishery be continued as the U.S.-squid fishery shifts from joint ventures to ultimately a domestic fishery. Finally, the Council suggested minor modifications to the wording in sections of the proposed rule relating to foreign fishing measures and import restrictions. These comments are not applicable because these measures were disapproved and are deleted from the final rule.

Observer Requirements

A legal firm representing two commercial fishermen, a representative of a commercial fishermen's organization, and two members of Congress have expressed concerns about requiring observers aboard domestic vessels. All three commenters raised the issue of the vessel captain's liability regarding observers and stated that the government should bear the cost of necessary insurance and other associated costs. These commenters also noted that in some cases vessels lack sufficient space to accommodate observers and might be forced to reduce their customary crew size. This would reduce efficiency and could jeopardize safe working conditions. NOAA believes that there are legitimate reasons for concern about space, safety, liability, and crew size. Until these problems are resolved NOAA has disapproved implementation of the mandatory observer program.

The legal firm and the commercial fishermen's organization suggested that the observer program for entanglement nets is inconsistent with Executive Order 12291 and National Standard 7. The commenters also suggested that less costly alternatives for data collection, i.e. use of data collection forms, should be adopted. These comments are no longer appropriate since NOAA has disapproved implementation of the mandatory observer program and deleted it from the final rule.

Variable Season Closure

Comments on the VSC were received from nine sources including seven commercial fishermen, one law firm, and a representative of a fishng tackle company. The law firm suggested that the FMP and the variable season closure were based on insufficient data. The VSC was based on a combination of NMFS swordfish landings data and size frequency data provided by fishermen and dealers. The size frequency data were available for 1962–1984, with most emphasis on the period from 1980–1984. More than 8,400 trip sheets and 270,000 individual carcass weights from all areas of the fishery were analyzed. NOAA has concluded that the VSC and the FMP are based on the best scientific information available. The firm also recommended closing different areas at different times as opposed to the overlapping closures proposed in the FMP. The best available information indicates that the fall months are when most of the small fish are caught. Further, the fall closures would achieve the necessary reduction of small fish while minimizing the loss (delay) of total landings, and fall is the season of lowest value per pound. Staggered closures would encourage shifts in fishing effort to avoid closures and thereby reduce effectiveness of the closure and complicate enforcement. This same commenter suggested that fishermen know where and when small fish are concentrated and that an economic disincentive would deter the take of small fish. The VSC is an economic disincentive. To the extent that fishermen can voluntarily avoid small fish, the closure would be reduced and could be eliminated if the take of small fish did not exceed the 1980 level.

Five commercial fishermen stated that the proposed closure, based on 1984 data, would create an economic hardship for them, and four fishermen suggested that the shorter closure, based on 1983 data, be implemented. Implementation of the 1983 based closure would not result in achievement of optimum yield and would not be based on the best scientific information available and would, thus, violate national standards 1 and 2. Setting the closure during the fall months would minimize, to the extent possible, the reduction (delay) in total landings. The FMP also allows daytime longlining for tuna during the VSC to mitigate the short-term impacts of the closure.

One fisherman suggested that exempting harpoon fishermen from the VSC was unfair. The harpoon sector was exempted because it can and does selectively harvest large swordfish and, therefore, does not contribute to the problem of increasing harvest of small fish which necessitated the closure.

The representative of the fishing tackle company recommended that a minimum size be imposed instead of a seasonal closure. The Councils considered a minimum size limit but concluded, on the basis of a preliminary analysis by the Southeast Fisheries Center, that until mortality of small fish can be reduced significantly there would be no substantial benefit. Benefits would accrue only if fishermen would forgo trips where significant numbers of small fish would be encountered or if survival rates of small fish hooked and released were sufficiently high. Neither of these conditions currently would be met. The analysis indicated that too few trips would be avoided to reduce mortality. This commenter also stated that long closures in areas with primarily large fish defeats the economic objective of the plan. Such closures are less efficient than closures of areas with a higher ratio of small to large fish; however, the delay in harvest will produces overall gains.

The fisherman suggested that basing the closure on where small fish were landed rather than where they were caught is inappropriate. NOAA agrees, in principle, with this comment, but believes that the potential for error is minimal. The defined areas are very large thus minimizing the likelihood that vessels would fish in more than one area on a given trip. Further, much of the data supplied indicated area fished, e.g. logbooks, and area fished was determined by interviews with fishermen or dealers when possible.

Another fisherman stated that it was unfair to impose a closure in an area where the percentage of small fish landed had declined. NOAA disagrees. The effectiveness of the plan depends on reducing the total number of small fish landed. In the case cited by the commenter, the percentage of small fish landed declined slightly, but the total

number of small fish landed increased significantly. The swordfish stock is affected by the number of small fish killed, not by their percentage relative to total landings.

Two fishermen claimed that the proposed closures were in the wrong place at the wrong time. The Councils analyzed a substantial amount of landings and size frequency data from all areas of the fishery to determine the most appropriate closure dates. These data indicated that relatively more small fish were caught during the fall months in all areas. Also, the fall closures would minimize the length of the closure needed to achieve a given reduction in catch of small fish. Although some variation in individual's catch patterns would be expected, NOAA believes the available data support the Councils' decision for fall closures. Landings data will be updated and reevaluated annually.

Three fishermen and a representative of a tackle company suggested that closures should be increased in the southern areas or that some southern areas should be closed completely because of the preponderance of small fish. Even though the percentage of small fish was higher in the southern areas, large numbers of small fish were landed in all areas. As previously indicated, the stock is affected by the numbers of small fish landed, not necessarily the percentages. Closures in the southern areas were shorter because the landings of small fish were more concentrated within a discrete time period. The Councils are, however, considering options that would place more emphasis on closures in areas with higher ratios of small to large fish, i.e. the southern areas. The concept of total closures in some areas was rejected by the Councils. Since all areas landed substantial numbers of small fish, it was determined that all areas should contribute to the necessary reduction. Total closures would also have severe impacts on shore-based facilities and smaller, less mobile boats. Based on the available information, NOAA concurs with the Councils' determinations.

Comments relative to the proposed VSC closure dates are not applicable since no closure dates are implemented in the final rule. Any future closure dates will be implemented by publication of a notice in the Federal Register. A 15-day public comment period will be provided prior to implementation.

Changes From the Proposed Rule

The final rule differs from the proposed rule in the following respects, for the reasons discussed above and to clarify other minor aspects of the regulations:

Part 611

The amendment to Part 611 has been deleted to eliminate the additional requirements for the foreign fleet fishing for tuna and squid in the FCZ.

Part 630

Table of Contents is modified by omitting §§ 630.24 and 630.25 and numbering "§ 630.26 Specifically authorized activities" as § 630.24.

Section 630.2

The definition for rod and reel fishermen is clarified by including the phrase "(includes rod-holder)."

The definition for gangion is revised for clarification.

Definition of technician is deleted as the result of NOAA's disapproval of the mandatory observer program.

Section 630.4

In paragraph (a), the word "longline" is inserted between the words "commercial" and "vessel" to clarify the specific requirements for having a permit aboard a vessel.

Paragraph (a)(2) requiring permits for rod and reel fishermen in the Mid-Atlantic area is deleted.

Paragraph (b)(9) is deleted to conform with the disapproval of mandatory observer program.

Section 630.5

Paragraph (a) has been deleted as a result of NOAA's disapproval of the mandatory observer program.

Paragraph (c) requiring twenty percent of all swordfish fishermen (including commercial and recreational) to provide additional data by questionnaire is deleted. This corresponds with the deletion of the requirement of permits for rod and reel fishermen in the Mid-Atlantic area.

Paragraph (d) requiring dealers to make available records for harpoon harvested swordfish is deleted. This corresponds with the deletion of the harpoon quota § 630.24.

Section 630.7

Paragraph (a)(1) is modified to conform with the revision of § 630.4 regarding the deletion of the requirement of permits for rod and reel fishermen in the Mid-Atlantic area.

Paragraph (a)(3) is deleted to conform with NOAA's disapproval of the mandatory observer program.

Paragraph (a)(10) is deleted to correspond with the deletion of §630.25 Quotas.

Paragraph (a)(11) is deleted to reflect the deletion of § 630.25 Import restrictions. Paragraphs (a)(4) through (a)(20) are renumbered as (a)(3) through (a)(17).

Section 630.21

Paragraph (a) of this section has been revised to delete reference to the dates of variable seasonal closures until they are implemented by notice action under paragraph (c). This modification is necessary due to a lack of agreement among Councils for initially establishing closure dates based on available data.

In paragraph (b)(1) the wording "if the closure occurs between June and October" was deleted to conform with the deletion of § 630.24 Quota (harpoon quota).

Paragraph (c) is reserved pending amendment to the FMP described under "Fishery Management Councils' comments".

Classification

The Regional Director determined that the approved portions of the FMP are necessary for the conservation and management of the Atlantic swordfish fishery and that they are consistent with the Magnuson Act and other applicable law.

The Councils prepared a final environmental impact statement for this FMP; a notice of availability was published on August 9, 1985; 50 FR 32306.

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A summary was published at 50 FR 23161, May 31, 1985.

The Councils prepared a final regulatory flexibility analysis which describes the effects this rule will have on small entities. You may obtain a copy of this analysis at the address listed above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0149. The collection of information requirements subject to the PRA at § 630.5 has been submitted for approval by OMB.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of all the affected States. This determination was submitted for review by the responsible State agencies under section 307 of the

Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 19, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble Chapter VI of 50 CFR is amended as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 611.60 is amended by adding a new paragraph (a)(3) to read as follows:

§ 611.60 General provisions.

(a) * * *

(3) Regulations governing fishing for swordfish in the same geographical area by vessels of the United States are published as Part 630 of this chapter.

* * * * *

3. Section 611.61 is amended by adding a new paragraph (b)(3) to read as follows:

§ 611.61 Atlantic billfish and shark fishery.

* * * * *

(b) * * *

(3) *Gulf of Mexico.* [Reserved]

* * * * *

4. Part 630 is revised to read as follows:

PART 630—ATLANTIC SWORDFISH FISHERY

Subpart A—General Provisions

Sec.

630.1 Purpose and scope.
630.2 Definitions.
630.3 Relation to other laws.
630.4 Vessel permits.
630.5 Reporting requirements.
630.6 Vessel identification.
630.7 Prohibitions.
630.8 Facilitation of enforcement.
630.9 Penalties.

Subpart B—Management Measures

630.20 Fishing year.
630.21 Seasonal closures.
630.22 Harvest limitations.
630.23 Gear limitations.
630.24 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 630.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Atlantic Swordfish Fishery prepared by the South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils under the Magnuson Act.

(b) This part regulates fishing for swordfish by persons fishing on vessels of the United States shoreward of the seaward boundary of the fishery conservation zone (FCZ) in the Atlantic, Gulf of Mexico, and Caribbean.

(c) Regulations governing fishing by vessels other than vessels of the United States are published at 50 CFR Part 611, Subpart A and §§ 611.60 and 611.61.

§ 630.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meaning:

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carcass means a fish that has been gutted and the head and fins have been removed (dressed).

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; Telephone 305–361–5761, or a designee.

Commercial fisherman means a person who sells, trades, or barters any part of his or her catch of fish.

Councils means the following Regional Fishery Management Councils:

(a) South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407–4699, telephone, 803–571–4366;

(b) New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906;

(c) Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901;

(d) Caribbean Fishery Management Council, Suite 1108 Banco de Ponce Building, Hato Rey, Puerto Rico 00918; and

(e) Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Dressed weight (carcass weight) means the weight of a carcass after the fish is gutted and the head and fins are removed.

Fish in these regulations refers to the swordfish, *Xiphias gladius.*

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Gangion means one of the lines that bear hooks and which is attached at intervals along the main line of a longline. (Synonymous with leader.)

Gill net or *drift entanglement net* means a flat net suspended vertically in the water having meshes that entangle the head or other body parts of fish that attempt to pass through the net.

Handline gear means a fishing line set and pulled by hand that remains attached to the boat during fishing.

High flyer means a vertical pole that projects above the water attached to a longline that serves to mark its location.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

NMFS means the National Marine Fisheries Service.

Official number means the official documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(a) Any person who owns that vessel in whole or in part;

(b) Any character of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Pelagic longline means a type of fishing gear consisting of a length of line suspended horizontally in the water column above the bottom from lines attached to surface floats and to which gangions and hooks are attached.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Radio buoy means a buoy attached to a longline which transmits a radio signal for purposes of marking its location.

Regional Director means the Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone, 813-893-3141, or a designee.

Rod and reel fisherman means any individual using a hand-held (includes rod-holder) fishing rod with a manually or electrically operated reel attached.

Secretary means the Secretary of Commerce or a designee.

Swordfish means a fish of the species *Xiphias gladius*.

U.S. fish processors means facilities located within the United States for, and vessels of the United States, used for or equipped for, the processing or distribution of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Variable season closure (VSC) means the annual periods of closure for swordfish fishing in the five management areas as defined at § 630.21(a).

Vessel of the United States means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

Western North Atlantic swordfish stock means those swordfish in Food and Agricultural Organization statistical reporting areas 21 and 31. This area is bounded on the west by the North, Central, and South American land masses and on the east by a line running from the eastern coast of South America at 5°00' N. latitude out to 40°00' W. longitude, north to 36°00' N. latitude, west to 42°00' W. longitude, north to 59°00' N. latitude, west to 44°00' W. longitude, and continuing north to Greenland.

Whole fish means a fish that is not gutted and the head and fins are intact.

§ 630.3 Relation to other laws.

Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities. Certain responsibilities relating to enforcement and data collection may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 630.4 Vessel permits.

(a) *General.* Effective January 1, 1986, a vessel of the United States fishing for, possessing, retaining, or landing swordfish for sale, trade, or barter, or any commercial longline fishing vessel of the United States with a bycatch of swordfish, whether or not retained for sale, trade, or barter, operating in the Atlantic, Gulf of Mexico, or Caribbean FCZ must have onboard at all times the permit required by this part. Vessels fishing handline gear in the Caribbean and any vessels fishing rod and reel gear in the FCZ are exempt.

(b) *Application.* An application for a fishing vessel permit under this section must be submitted by the vessel owner or operator on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director and must contain the following information:

(1) Owner's name, mailing address, and telephone number;

(2) Vessel name, net tons, and length;

(3) Home port;

(4) State registration or Coast Guard documentation number;

(5) Target species;

(6) Gear type(s);

(7) Average trip length (in days); and

(8) Monthly distribution of fishing by area (e.g., Gulf of Mexico).

(c) *Issuance.* (1) Upon receipt of a properly completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following date of notification, the application will be considered abandoned.

(d) *Expiration.* A permit expires on December 31 of each year.

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified under Subpart D of 15 CFR Part 904.

(f) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the vessel and vessel owner for which it is issued.

(i) *Display.* Any permit issued under this part must be carried aboard the fishing vessel at all times. The permit must be prominently displayed in the pilot house or offered for inspection upon request of any authorized officer.

(j) *Sanctions.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part. As specified in Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or by this part; or if a civil penalty or criminal penalty imposed under the Magnuson Act has not been paid.

(k) *Fees.* No fee is required for any permit under this part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section, such as the vessel owner or gear type, must be reported to the Regional Director within

15 days of the change. If there is a change in vessel owner, the vessel may not fish for swordfish until a new permit has been issued.

(Approved by the Office of Management and Budget under OMB control number 0648-0149.)

§ 630.5 Reporting requirements.

Owners or operators of vessels of the United States who have been issued a permit under § 630.4 to fish for swordfish in the Caribbean and land swordfish in Puerto Rico or the U.S. Virgin Islands must report their catch to the Center Director by individual carcass weight by providing copies of their weigh-out sheets for all swordfish landed.

§ 630.6 Vessel identification.

(a) *Official number.* A vessel of the United States engaged in the commercial swordfish fishery shoreward of the seaward boundary of the FCZ in the Atlantic Ocean, Gulf of Mexico or Caribbean Sea must—

(1) Display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the documentation number issued by the Coast Guard for documented vessels, or the registration number issued by a State or the Coast Guard for undocumented vessels.

(2) The official number must be in block arabic numerals in contrasting color to the background.

(3) The official number must be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels.

(4) The official number must be permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of each fishing vessel must—

(1) Keep the official number clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel, its rigging, its fishing gear, or anything carried aboard obstructs the view of the official number from any enforcement vessel or aircraft.

§ 630.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(1) Fish for, possess, retain, or land swordfish without a valid permit required under § 630.4 aboard the vessel;

(2) Purchase, sell, barter, or trade any swordfish taken by a vessel that does not have a valid permit required under § 630.4;

(3) Falsify or fail to report information required to be submitted or reported as specified in § 630.5;

(4) Falsify or fail to affix and maintain vessel markings as required by § 630.6;

(5) Fish for, possess at sea shoreward of the outer boundary of the FCZ, or land swordfish in closed areas specified in § 630.21(a), except as provided in § 630.21(b);

(6) Land swordfish harvested in the commercial fishery except as specified under § 630.22;

(7) Fish in closed areas with pelagic longlines at times other than as specified in § 630.23(a);

(8) Possess swordfish in a closed area during a seasonal closure specified in § 630.21(a) aboard a vessel having gear other than harpoons, rod and reel, or (in the Caribbean area only) handlines capable of taking swordfish;

(9) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(10) Fail to comply immediately with enforcement and boarding procedures specified in § 630.8;

(11) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(12) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part;

(13) Interfere with, obstruct, delay, or prevent in any manner the seizure of illegally taken swordfish or the disposition of such swordfish through the sale of the swordfish;

(14) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a)(11) of this section;

(15) Resist a lawful arrest for any act prohibited by this part;

(16) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part; or

(17) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested swordfish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested swordfish.

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 630.8 Facilitation of enforcement.

(a) *General.* The operators or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signs, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessels signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop instantly.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer provide a manrope or safety line, and illumination for the ladder, and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" (. —, . —) [1] repeated is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (. — ., ——.— — —. — .— ., — . — —) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (. . ., — — . —, . . . — —) means "you should stop or heave to; I am going to board you."

(4) "L" (. — . .) means "you should stop your vessel instantly."

§ 630.9 Penalties.

Any person or fishing vessel found to be in violation of this part, the Magnuson Act, or any other regulation issued under the Magnuson Act is subject to the civil and criminal penalty provisions of the Magnuson Act, and to 15 CFR Part 904 (Civil Procedures), and other applicable law.

[1] (.) means a short flash of light; (—) means a long flash of light.

Subpart B—Management Measures

§ 630.20 Fishing year.

The fishing year is January 1 through December 31.

§ 630.21 Seasonal closures.

(a) *General.* Except as allowed by paragraph (b) of this section, no person may fish for, possess at sea, or land swordfish in the following areas during the variable seasonal closures (VSC) implemented by notice in the **Federal Register** under paragraph (c) of this section.

(1) New England and Mid-Atlantic area from the United States-Canada border to Cape Hatteras, North Carolina (35°15' N. latitude);

(2) South Atlantic area from Cape Hatteras, North Carolina (35°15' N. latitude) south to the Georgia-Florida border (30°42' N. latitude);

(3) Florida East Coast area from the Georgia-Florida border (30°42' N. latitude) south and then west to a line that begins at the intersection of the outer boundary of the FCZ and 83°00' W. longitude, proceeds north to 24°35'N. latitude, east to Marquesas Key, then through the Florida Keys and ends at the mainland;

(4) Gulf of Mexico area from a line that begins at the intersection of the outer boundary of the FCZ and 83°00' W. longitude, proceeds north to 24°35' N. latitude, east to Marquesas Key, then through the Florida Keys and ends at the mainland west to the Texas-Mexico border; and

(5) Caribbean area shoreward of the outer boundary of the FCZ adjacent to Puerto Rico and the U.S. Virgin Islands.

(b) *Exceptions.* Paragraph (a) of this section does not apply to the following:

(1) Swordfish greater than 125 pounds dressed weight that were harvested by harpoon. Fish must remain whole or as carcasses until landed;

(2) Swordfish harvested by rod and reel that are not traded, bartered, or sold; or

(3) Swordfish harvested with handline gear in the Caribbean area. A maximum of one swordfish per trip is allowed and may be sold in the Caribbean.

(c) *Adjustments.* [Reserved]

§ 630.22 Harvest limitations.

Swordfish harvested from the Western North Atlantic swordfish stocks in the commercial fishery must be landed in whole or dressed form.

§ 630.23 Gear limitations.

The following gear limitations apply within closed areas specified in § 630.21:

(a) Fishing with pelagic longlines and drift entanglement nets may be conducted only between 0500 and 1800 hours local time. Possession of swordfish is prohibited. Swordfish caught with longlines must not be removed from the water.

(b) All swordfish caught incidental to a directed fishery for other species must be released in such a manner as to ensure maximum probability of survival.

(c) Vessels landing or possessing swordfish cannot have aboard gear other than harpoons, rod and reel, or (in the Caribbean area only) handlines capable of harvesting swordfish. Such prohibited gear would include, but not be limited to, nets and longline gear including gangions, high flyers, and radio buoys. Longline reels are allowed aboard provided there are no gangions, high flyers, or radio buoys aboard.

§ 630.24 Specifically authorized activities.

The Secretary may authorize for the acquisition of information and data, activities which are otherwise prohibited by these regulations.

[FR Doc. 85-20142 Filed 8-19-85; 5:02 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 163
Thursday, August 22, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The United States Office of Personnel Management (OPM) is issuing revised regulations governing solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations under the authority of Executive Order No. 12353 (March 23, 1982), Charitable Fund-Raising, 47 FR 12785 (March 23, 1982), and No. 12404 (February 10, 1983), Charitable Fund-Raising, 48 FR 6685 (February 15, 1983).

These regulations provide a system for administering the annual charitable solicitation campaigns conducted by federal personnel in their Government workplaces and set forth ground rules under which charitable organizations may receive contributions from federal personnel through the Combined Federal Campaign.

DATE: Comments on this notice must be received by OPM no later than September 23, 1985.

ADDRESS: Comments should be submitted to: Joseph A. Morris, General Counsel, Office of Personnel Management, Room 5H30, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Joseph A. Morris, General Counsel of the Office of Personnel Management, (202) 632–4632, as to matters in litigation; and Ronald E. Brooks, Assistant to the Deputy Director for Regional Operations, (202) 632–5544, as to the Combined Federal Campaign in general.

SUPPLEMENTARY INFORMATION: On July 2, 1985, the United States Supreme Court handed down its decision in *Cornelius* v. *NAACP Legal Defense and Educational Fund, Inc.*, No. 84–312 (U.S. July 2, 1985). This long-awaited decision vindicates President Reagan's Executive Order No. 12404 (February 10, 1983), Charitable Fund-Raising, 48 FR 6685 (February 15, 1983, declared unconstitutional below in *NAACP Legal Defense and Educational Fund, Inc.* v. *Devine*, 567 F. Supp. 401 (D.D.C. 1983), aff'd on other grounds, 727 F.2d 1247 (D.C. Cir. 1984). Speaking for the court, Justice O'Connor reaffirmed the Government's right to limit participation in the CFC to traditional charities: "We conclude that the Government does not violate the First Amendment when it limits participation in the CFC in order to minimize disruption to the Federal workplace, to ensure the success of the fund-raising effort, or to avoid the appearance of political favoritism without regard to the viewpoint of the excluded groups. Accordingly, we reverse the judgment of the Court of Appeals that the exclusion of respondents was unreasonable . . . ." *Cornelius*, slip op. at 23–24.

Concluding that solicitation through the CFR is constitutionally protected speech, that the CFC (not the Federal workplace) is the relevant forum, that the CFC is a nonpublic forum, and the Government thus need only show that its decision to restrict access is reasonable, the Court found that there was ample evidence in the record to permit the Court to determine that the Government's decision was facially reasonable. The court agreed with OPM that the CFC "would be administratively unmanageable if access could not be curtailed in a reasonable manner . . . . The First Amendment does not demand unrestricted access to a nonpublic forum merely because use of that forum may be the most efficient means of delivering the speaker's message." *Id.* at 19–20.

Potential For Further Litigation

The Court observed that although the Government's posted reasons appear to be reasonable, the "existence of reasonable grounds for limiting access to a nonpublic forum, however, will not save a regulation that is in reality a facade for viewpoint-based discrimination." *Id.* at 22. As neither the District Court nor the Court of Appeals made a finding on this issue, the Supreme Court remanded the case so that the groups that challenged the Government's action will be free to pursue the issue whether their exclusion "was impermissible motivated by a desire to suppress a particular point of view." *Id.* at 23.

It was and is the Government's position there there is no such content-based discrimination. Justice O'Connor accurately restated the Government's position that "a decision to exclude all advocacy groups, regardless of political or philosophical orientation, is by definition viewpoint neutral . . . . Exclusion of groups advocating the use of litigation is not viewpoint based. [OPM] assets, because litigation is a means of promoting a viewpoint not a viewpoint in itself." *Id.* at 22. Further scrutiny of the Government's conduct of the CFC will, we are confident, clearly show that it has been the Government's intention to exclude all entities not directly rendering human health and welfare services, irrespective of their widely differing political views, and that there was not intention to exclude those of just one allegedly disfavored part of the political spectrum.

Proposed New Regulations

In light of the Supreme Court's ruling that upholds the constitutionality of President Reagan's Executive Order governing the CFC, OPM has a legal duty to issue implementing regulations. The rules governing the 1984–85 Campaign were promulgated pursuant to lower court decisions adverse to Executive Order No. 12404 and were issued expressly "without prejudice to its right or duty further to modify the rules in the event of a supervening direction from a court, the Congress, or the President." 49 FR 32735 (August 16, 1985). Accordingly, today we propose for public comment a new set of regulations substantially the same as those we published in 1983. Because of the familiarity of the CFC community with the 1983 regulations, our approach should be a familiar one to most interested parties.

Executive Order No. 12404

Executive Order No. 12404 makes clear that the Campaign's objectives are: "to lessen the burdens of government and of local communities in meeting needs of human health and welfare; to

provide a convenient channel through which Federal public servants may contribute to these efforts; to minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail; and to avoid the reality and appearance of the use of Federal resources in aid of fund-raising for political activity or advocacy of public policy, lobbying, or philanthropy of any kind that does not directly serve needs of human health and welfare."

In furtherance of these objectives, the President has provided precise criteria of admission to the Campaign. The Campaign is to be open to ". . . voluntary, charitable, health and welfare agencies that provide or support direct health and welfare services to individuals or their families. Such direct health and welfare services must be available to Federal employees in the local campaign solicitation area, unless they are rendered to needy persons overseas. Such services must directly benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. Such services must consist of care, research, or education in the fields of human health or social adjustment and rehabilitation; relief of victims of natural disasters and other emergencies; or assistance to those who are impoverished and therefore in need of food, shelter, clothing, education, and basic human welfare services."

To make as clear and as emphatic as possible that his intent is to focus the CFC on support for human health and welfare needs, the President has provided expressly that "(a)gencies that seek to influence the outcomes of elections or the determination of public policy through political activity or advocacy, lobbying, or litigation on behalf of parties other than themselves shall not be deemed charitable health and welfare agencies and shall not be eligible to participate in the Combined Federal Campaign." This is by no means a declaration that private support of advocacy, political activities or non-health-and-welfare philanthropies is in any way discouraged by the Federal Government. It is, rather, a decision by the President to apply scarce Federal resources, and to limit impositions on Federal employees, to those objects that the President has determined warrant the Government's most urgent attention. In the President's judgment, highest priority should go to the health and welfare needs of poor, needy, ill, and infirm human beings.

Following is a summary description of key elements of the proposed rulemaking.

Eligibility. Applicants for solicitation privileges would have to meet prescribed standards with respect to program objectives, eligibility, administrative integrity, and financial responsibility. Voluntary charitable agencies that wish to participate in local Campaigns would be required to demonstrate local presence in the community in which they plan to solicit funds through the CFC. (See discussion *infra.*) Eligible organizations that provide predominantly international services would be relieved of the burden to demonstrate local presence. The substantive eligibility requirements here proposed, at 5 CFR 950.303, are virtually identical to those promulgated at 48 FR 34915–34916 (August 1, 1983) and codified at 5 CFR 950.101 (1984) in OPM's initial effort at implementing Executive Order no. 12404.

Local presence rule. The local presence rule would again be applicable in local campaigns. There is a limit, of course, to how precisely the local eligibility criteria can be drawn. For this reason, we propose that local Federal Coordinating Committees should be guided, in their interpretation of "direct and substantial presence," by "the totality of the circumstances in each case, including, but not necessarily limited to," the factors listed in § 950.303(d). We would proceed with a local appeals process that purposely places a substantial degree of responsibility for control of the campaign in the hands of the local Federal Coordinating Committee. This provision is included in response to the concerns of local Federal officials and local charities that they be able to control their local campaigns. At the same time, the new appeals mechanism would contain time frames providing for expeditious action and ensures that all relevant parties have notice of appeals and of decisions thereon. This responds directly to criticisms of past campaigns in which appeals were taken without the knowledge of some parties and were decided on grounds of which some parties were unaware.

List of participating charities. Each local CFC would be required to publish a single list containing all of the names of the voluntary charitable agencies approved by the appropriate Federal officials for participation in the CFC.

Write-in designations. The system of write-in designations that applied during the 1984–85 CFC would be eliminated. The system proved costly to administer and is unnecessary in light of the eligibility procedures.

Scope

This Part governs all fund-raising by private voluntary charitable agencies among Federal employees and members of the uniformed services of the United States at their places of work or duty. Thus it is applicable to civilian and uniformed personnel in all Executive departments and agencies throughout the world.

E.O. 12291, Federal Regulation

After a careful review of the proposed rulemaking, including the analysis set forth below, for purposes of the Regulatory Flexibility Act, OPM has determined that this is not a major rule for purposes of Executive Order No. 12291, Federal Regulation, because it will not 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.

Regulatory Flexibility Act

(1) Reasons Why Action by Agency is Being Considered

OPM proposes these new rules because President Reagan's Executive Order No. 12404 has been held constitutional by the Supreme Court of the United States, thereby reversing an adverse decision in the Circuit Court of Appeals. OPM is now required to promulgate rules for charitable solicitation in the Federal workplace that conform to that Order and that, therefore, among other things, limit the privilege of solicitation to charities that help to lessen the burdens of government, lessen the disruption of the Federal workplace, and avoid the appearance of political favoritism by the Government without regard to the viewpoint of any excluded groups or agencies. The changes proposed in this new regulation will permit the Government once again to conduct the CFC in accordance with its traditional goals.

(2) Objectives of and Legal Basis for Rule

These regulations are issued under Executive Orders 12353 and 12404. The objective of these regulations is to

provide for a system of administering the annual charitable solicitation drives among Federal civilian and military employees in a single Combined Federal Campaign, and to set forth ground rules under which charitable organizations receive gifts through the CFC.

(3) Number of Small Entities Covered Under Rule

The rule would apply to all human health and welfare organizations that apply to participate in the Combined Federal Campaign.

(4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule

The new rules revive, for the most part, the reporting, recordkeeping, and other requirements that were issued as final rules in 1983. The paperwork burden is kept to the minimum necessary to be consistent with the governing Executive Orders.

Although the new rules require local Federal Coordinating Committees to publish official lists of qualified charities, the size of the lists will be manageable, insofar as the new regulations limit participation in the CFC to traditional human health and welfare charities. The information that must be supplied by the participating agencies is minimal and requires no additional collection of data.

The rules assure the free choice of the employee to contribute to those agencies authorized to participate in the CFC. Certainly, the Government has no obligation to subsidize charities that do not meet the human health and welfare standards set forth in the relevant Executive Order. These regulations in no way inhibit solicitations by any organization that may wish to conduct a fund-raising drive other than in the Federal workplace. Thus, there is no regulatory burden placed upon ineligible agencies and the burden imposed on participating organizations is minimal, especially in light of the extremely cost-efficient system provided for the solicitation of Federal personnel.

(5) Relevant Federal Rules Duplicating, Overlapping or Conflicting With the Rule

There are no duplicating, overlapping or conflicting Federal rules that apply to the CFC.

(6) Differing Compliance or Reporting Requirements

The campaign arrangements that were used in 1984 are fundamentally inconsistent with Executive Order No. 12404. In addition, the 1984 rules, which permitted nearly all tax-exempt charities to solicit funds through the CFC, proved unduly controversial, disruptive to the Federal workplace, and costly to administer.

(7) Clarification, Consolidation and Simplification of Compliance and Reporting Requirements

As has been noted, the new rules would revive the compliance and reporting requirements for small entities that were contained in the 1983 rules.

(8) Use of Other Standards

Appropriate alternative standards are not available that would impose less burdensome regulations.

(9) Exemption of Small Entities From Coverage

Exemptions from coverage for small entities is not practical because many of the eligible voluntary agencies are small entities, and exception for those groups would frustrate the major purposes of Executive Order No. 12404: To limit participation to human health and welfare agencies and to require that eligible organizations meet reasonable standards of financial integrity and public accountability. As a result of the above Regulatory Flexibility Analysis, I have determined that the rule will not have any significant detrimental economic impact on a substantial number of small entities.

List of Subjects in 5 CFR Part 950

Government employees, Charitable contributions.

Accordingly, OPM amends 5 CFR Part 950 by revising it to read, in its entirety, as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICES PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

Subpart A—General Provisions

Sec.
- 950.101 Definitions.
- 950.103 Establishment and objectives of the campaign.
- 950.105 General principles.
- 950.107 Federal policy on civic activity.

Subpart B—Organization of the Campaign

- 950.201 The Director.
- 950.203 Heads of Federal agencies.
- 950.205 Local Federal coordinating committees.
- 950.207 Principle combined fund organization.
- 950.209 Special provisions for overseas and military campaigns.
- 950.211 National coordination and reporting.
- 950.213 Appeals from decisions of local Federal coordinating committees.

Subpart C—Conduct of the Campaign

Sec.
- 950.301 Campaign periods.
- 950.303 Admission of eligible voluntary agencies.
- 950.305 Application procedures.
- 950.307 Special rules applicable to the American Red Cross.
- 950.309 Prohibition of misleading identification.

Subpart D—Solicitation and Campaign Materials

- 950.401 Contributor's information leaflet.
- 950.403 Order of listing of voluntary agencies.
- 950.405 Other campaign publicity materials.
- 950.407 Coincident non-campaign activities.

Subpart E—Contributions, Distributions, and Accounting

- 950.501 Designation of contributions.
- 950.503 Privacy of contributions.
- 950.505 Election as to means of giving.
- 950.507 Contribution card.
- 950.509 Central receipt and accounting for contributions.
- 950.511 Payroll withholding.

Authority: E.O. No. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982), 3 CFR, 1982 Comp., p. 139, and E.O. No. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983).

Subpart A—General Provisions

§ 590.101 Definitions.

(a) "Combined Federal Campaign" or "Campaign" or "CFC" shall mean the fund-raising program established and administered by the Director pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of such program;

(b) "Community" shall mean a community that is defined either by generally recognized geographic bounds or by its relationship to an isolated government installation;

(c) "Direct Contributions" shall mean gifts, in cash or in donated in-kind material, given by individuals and/or other non-governmental sources directly to the spending health and welfare organization.

(d) "Director" shall mean the Director of the United States Office of Personnel Management, or his delegate;

(e) "Domestic Area" shall mean the several United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(f) "Employee" shall mean any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service and in the uniformed services;

(g) "Federation" or "Federated Group" shall mean a voluntary charitable health and welfare agency consisting of two or more other voluntary charitable health and welfare agencies and organized for

purposes of supplying common fund-raising services to its constituent members.

(h) "Indirect Contributions" shall mean gifts, in cash or in donated in-kind material, given to the spending health and welfare organizations by another health and welfare organization, but not transfers, dues, or other funds from affiliated organizations or local, State, or Federal governments.

(i) "Local Federal Coordinating Committee or "LFCC" shall mean the group of Federal officials designated by the Director to conduct the CFC in a particular community.

(j) "Overseas Area" shall mean areas other than the domestic area.

(k) "Overseas Service Organization" shall mean a voluntary charitable health and welfare agency whose services are rendered exclusively or in substantial preponderance either in the overseas area or in direct support of the rescue, relocation, and lawful resettlement of persons recognized by the United States Government as refugees or as grantees of political asylum.

(l) "Principal Combined Fund Organization" shall mean the federated group in a local Combined Federal Campaign that has been selected to manage and administer the local Combined Federal Campaign, subject to the direction and control of the local Federal Coordinating Committee and the Director.

(m) "Voluntary Charitable Health and Welfare Agency" or "Voluntary Charitable Agency" or "Voluntary Agency" shall mean a private, non-profit, philanthropic organization, support for which is consistent with the objectives of the Combined Federal Campaign as set forth in Executive Order No. 12404 and § 950.103(b) of these rules, and which meets all eligibility requirements under this Part.

§ 950.103 Establishment and objectives of the campaign.

(a) *Establishment.* The Combined Federal Campaign shall be the single, comprehensive, annual charitable fund-raising appeal conducted in Federal workplaces, both civilian and military, around the world. It shall be conducted each year under the leadership of the President and the supervision of the Director. In communities where there are 200 or more Federal personnel, there shall be conducted a local Combined Federal Campaign, and no other solicitations for the benefit of philanthropy shall be permitted in Federal workplaces. In communities where there are fewer then 200 Federal personnel, a Combined Federal Campaign may be conducted at the discretion of the Federal managers and commanders in charge. Each local CFC shall be overseen by the Director, conducted by the local Federal Coordinating Committee, and managed by an organization designated as the Principal Combined Fund Organization. The local Federal Coordinating Committee for each local CFC shall establish administrative arrangements providing for the individual recognition of each participating voluntary charitable agency, the description of each voluntary charitable agency's services, and the allocation of contributions in accordance with the epxress instructions of donors. Solicitions shall be conducted exclusively by Federal personnel and only Federal personnel shall be solicited.

(b) *Objectives.* The objectives of the Combined Federal Campaign shall be to lessen the burdens of government and of local communities in meeting needs of human health and welfare; to provide a convenient channel through which Federal public servants may contribute to these efforts; to encourage maximum participation and generous giving; to minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail; and to avoid the reality and the appearance of the use of Federal resources in aid of fund-raising for political activity or advocacy of public policy, lobbying, or philanthropy of any kind that does not directly serve needs of human health and welfare.

§ 950.105 General principles.

(a) *On-the-Job Solicitation.* In order to have only one on-the-job solicitation by Federal personnel and of Federal personnel in the Federal workplace each year, individual appeals shall be combined into a single Combined Federal Campaign on behalf of charitable purposes in conformance with the policies and procedures prescribed in this Part.

(b) *Campaign Arrangements Established Nationally.* Basic campaign arrangements shall be established by the Director. Local Federal agency heads and local Federal Coordinating Committees shall not vary from the arrangements established by the Director except to the extent that local variations are expressely provided for in this Part.

(c) *Number of Solicitations.* Not more than one on-the-job solicitation of Federal personnel on behalf of charitable purposes shall be made in any year at any Federal location, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Solicitation Methods.* Employee solicitations shall be conducted during duty hours using methods that permit true voluntary giving and reserve to the individual the option of disclosing any gift or keeping it confidential.

(e) *Off-the-Job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility established by Executive Order No. 12404. Such volunatry agencies may solicit Federal employees at their homes and elsewhere outside the Federal workplace as they do other citizens of the community, including through union, veteran, civic, professional, political, legal defense, philanthropic, and other private organizations, in addition, limited arrangements may be made for off-the-job solicitations on military installations and at entrances to Federal buildings, as follows:

(1) *Family Quarters on Military Installations.* Voluntary agencies may be permitted to solicit at private residences or at family quarters in unrestricted areas of military installations at the discretion of the local commander. Such solicitation shall not, however, be conducted by military or civilian personnel in their official capacities, whether during duty or non-duty hours, nor may such solicitation be conducted as a project officially sponsored by the command. This restriction is not intended to prohibit or to discourage military and civilian personnel from participating as private citizens in the activities of voluntary agencies during their off-duty hours.

(2) *Public Entrances of Federal Buildings and Installations.* Voluntary agenices that engage in limited or specialized methods of solicitation, including, but not limited to, the sale of poppies and similar tokens by veterans' organizations, may be permitted to solicit at public entrances or in public concourses of Federal buildings or installations that are normally open to the general public. Solicitation privileges in such cases shall be governed by rules and policies of the General Services Administration pursuant to the Public Buildings Cooperative Use Act of 1976, Pub. L. 94-541, 40 U.S.C. 490(a)(17), as amended; 41 CFR Subpart 101-20.3—Conduct on Federal Property; 41 CFR Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings; or other applicable legal authorities.

(f) *Prohibited Discrimination.* The Campaign is a means for promoting true voluntary charity among members of the Federal community. Because of the participation of the Government in organizing and carrying out the Campaign, all kinds of discrimination prohibited by law to the Government must be proscribed in the Campaign. Accordingly, discrimination for or against any individual or group on account of race, color, religion, sex, national origin of citizens, age, handicap, or political affiliation is prohibited in all aspects of the management and execution of the Campaign. Nothing herein shall deny eligibility to any voluntary agency, which is otherwise eligible under this Part to participate in the Campaign, merely because such voluntary agency is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

(g) *Prohibited Coercion.* True voluntary giving is of the essence of Federal fund-raising activities. Actions that do not allow free choices or create the appearance that employees do not have a free choice to give or not to give, or to publicize their gifts or to keep them confidential, are contrary to Federal fund-raising policy. The following activities, in particular, offend Federal fund-raising policy and are not permitted in the Combined Federal Campaign:

(1) Solicitation by supervisors of employees supervised;

(2) Setting 100% participation goals;

(3) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and installment pledges;

(4) Establishing personal dollar goals and quotas; and

(5) Developing and using lists of noncontributors.

(h) *Responsible Conduct.* In the event that a voluntary agency fails to adhere to the requirements or to the policies and procedures established in and under this Part, upon reasonable notice and an opportunity to be heard, its privilege to receive gifts through a local Combined Federal Campaign may be withdrawn by a local Federal Coordinating Committee, and its privileges with respect to one, several, or all local Campaigns may be curtailed or withdrawn by the Director.

§ 950.107 Federal policy on civic activity.

Federal personnel shall be encouraged to participate actively in the work of voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with law, Federal agency policy, and prudent use of official time. They shall also be encouraged to devote private time to such volunteer work.

Subpart B—Organization of the Campaign

§ 950.201 The Director.

(a) *Policy-making.* Under Executive Orders No. 12353 (March 23, 1982), Charitable Fund-Raising, and No. 12404 (February 10, 1983), Charitable Fund-Raising, the Director shall establish charitable fund-raising policies and procedures in the Executive Branch and may, in consultation with designated leaders from the Legislative and Judicial Branches, coordinate the activities of the Executive Branch with the charitable fund-raising programs conducted in the other Branches. The Director may, from time to time, seek the advice of Executive Branch departments and agencies and of appropriate and interested persons and organizations. The Director may authorize the conduct of demonstration CFC projects in one or more communities to test arrangements differing from those specified in this Part for the conduct of fund-raising activities in Federal agencies.

(b) *Operations.* In accordance with applicable law and these regulations, the Director shall:

(1) Establish general policy governing the Combined Federal Campaign;

(2) Determine the annual general Campaign period and fix the times when all applications and other submissions permitted and required by the Part shall be filed;

(3) Establish local Combined Federal Campaigns and establish or recognize local Federal Coordinating Committees;

(4) Certify the eligibility of applicant federated groups and overseas service organizations;

(5) Decide timely, perfected appeals taken from decisions of local Federal Coordinating Committees;

(6) Report periodically to the President and to the men and women of the armed and civilian services on the accomplishments of the Combined Federal Campaign; and

(7) Exercise general supervision over all operations of the Combined Federal Campaign, and take all steps that may be necessary and proper to ensure the achievement of its objectives.

§ 950.203 Heads of Federal agencies.

(a) *National Level.* In accordance with applicable law and these regulations, and in consultation with, and under the guidance of, the Director, the head of each Federal Executive department and agency shall:

(1) Ensure that voluntary fund-raising within the Federal agency is conducted in accordance with the policies and procedures prescribed by this Part;

(2) Designate a top-level representive as Fund-Raising Program Coordinator to work with the Director as necessary in the administration of the fund-raising program within the Federal agency;

(3) Ensure full participation and cooperation in local fund-raising campaigns by all installations of the Federal agency;

(4) Ensure that the policy of voluntary giving and clear employee choice is upheld during the fund-raising campaign; and

(5) Provide a mechanism to hear and adjust employee complaints of undue pressure and coercion in Federal fund-raising. Federal agencies shall establish procedures and assign responsibility for the investigation of such complaints. Personnel offices shall be responsible for informing employees of the proper organization channels for pursuing such complaints.

(b) *Local Level.* In accordance with applicable law and these regulations, and under the guidance of the Director, heads of local Federal offices and installation shall:

(1) Cooperate with the Director and with representatives of the local Federal Coordinating Committee, the Principal Combined Fund Organization, and local Federal officials in organizing local Federal campaigns;

(2) Undertake official campaigns within their offices or installations and provide active and vigorous support with equal emphasis for each authorized campaign;

(3) Ensure that personal solicitations on the job are organized and conducted in accordance with these regulations; and

(4) Ensure that authorized campaigns are kept within reasonable administrative limits of official time and expense.

§ 950.205 Local Federal coordinating committees.

(a) *Establishment.* The Director shall, from time to time, designate local Federal communities for purposes of the Combined Federal Campaign, and shall establish for each such local community a local Federal Coordinating Committee. The Director may designate a Federal Executive Board, a Federal Executive Association, a Federal Business Association, a Fund-Raising Program Coordinating Committee, or a similar body as a local Federal Coordinating

Committee. There shall be only one local Federal Coordinating Committee for each local Combined Federal Campaign; subject to the approval of the Director, two or more local Federal Coordinating Committees may enter into agreements respecting the coordination of their respective campaigns and the sharing of administrative resources. No person shall serve on a local Federal Coordinating Committee who is not an officer or employee of the United States, nor shall any person holding any position of leadership, trust, or profit in the Principal Combined Fund Organization serve on a local Federal Coordinating Committee.

(b) *Representation of Management and Employee Organizations.* Because the Combined Federal Campaign represents the philanthropic undertaking of the Federal community as a whole, it is appropriate for the local Federal Coordinating Committee to include among its members the heads and commanders of major Federal officers and installations within the local CFC community and the leaders of major Federal unions and other employee organizations, or their respective delegates. In cases where a body designated by the Director to serve as the local Federal Coordinating Committee does not include such representation, it is appropriate for that body to invite such leaders to serve with it as the local Federal Coordinating Committee.

(c) *Powers and Duties.* In accordance with applicable law and these regulations, and under the guidance of the Director, local Federal Coordinating Committees shall:

(1) Be known for purposes of the CFC as the "Federal Coordinating Committee for the Combined Federal Campaign of ————," where the name of the local community is set out in lieu of the blank space;

(2) Elect such officers, form such committees, and keep such books and records as shall be necessary and proper;

(3) Designate and supervise the Principal Combined Fund Organization, and determine or approve the amount, or the formula for determining the amount, of the defrayal of its administrative expenses provided that said amount shall not be determined as a percentage of contributions;

(4) Fix the specific period, with the general period fixed by the Director, for the conduct of the local CFC;

(5) Accept the certifications of the Director of the eligiblity of federated groups and overseas service organizations;

(6) Grant the applications for admission of eligible voluntary charitable agencies;

(7) Publish a Contributor's Information Leaflet containing a list of all eligible voluntary charitable agencies;

(8) Publish a Contribution Card;

(9) Organize networks of solicitors;

(10) Disseminate information about the Campaign;

(11) Arrange for the proper receipt, distribution, and accounting of gifts and pledges;

(12) Police the local Campaign to ensure its freedom from coercive, unfair, or misleading conduct and its compliance with these regulations;

(13) Report the results promptly and accurately to the Director and to the men and women of the armed and civilian services in the local Federal community;

(14) Adhere to the decisions and instructions of the Director; and

(15) Exercise general supervision over all operations of the local Combined Federal Campaign, and take all steps that may be necessary and proper to ensure the achievement of the objectives thereof.

§ 950.207 Principal combined fund organization.

(a) *Designation of PCFO.* (1) The local Federal Coordinating Committee each year shall designate as the Principal Combined Fund Organization whichever applicant organization that it finds to be, at the time of application, the federated group present in the local CFC community that—

(i) Provides through one specific, annual public solicitation of funds in that community the greatest support for voluntary charitable agencies that depend upon public subscriptions for support; and

(ii) In the judgment of the local Federal Coordinating Committee, will provide most effectively and least expensively such campaign services and administrative support as may be necessary for the achievement of the objectives of the Combined Federal Campaign.

(2) In making its findings, the local Federal Coordinating Committee shall consider the following factors—

(i) The information required to be furnished in the application for designation as Principal Combined Fund Organization; and

(ii) Such other information as the local Federal Coordinating Committee shall deem appropriate.

(3) No local Federal Coordinating Committee shall serve as a Principal Combined Fund Organization.

(4) The Principal Combined Fund Organization shall be known as the "Principal Combined Fund Organization for the Combined Federal Campaign of ————," where the name of the local community is set out in lieu of the blank space.

(b) *Contents of PCFO Application.* Applications for designation as Principal Combined Fund Organization shall include the following:

(1) The names of the voluntary agencies in the community that rely on the applicant organization for financial support and that meet the eligibility criteria set forth in this Part;

(2) The boundaries of the area covered by the public donation solicitation of the applicant organization;

(3) The number of dollars raised in the local CFC community by the applicant during its last completed annual public solicitation for funds;

(4) The percentage of such dollars disbursed to the voluntary agencies;

(5) A statement of its agreement to transmit contributions, as designated by Federal employees, to all voluntary agencies admitted to the local Campaign, less only the sums approved for the defrayal of administrative costs;

(6) A certification that it and its participating member organizations are in compliance with all applicable requirements specified in this Part;

(7) A statement or description of the amount, or formula for determining the amount, if any, proposed to be charged by the applicant organization for defrayal of its administrative costs; and

(8) A statement that the applicant is organized, able, and willing to provide all necessary services and support to the local Federal Coordinating Committee for the successful conduct of the local Combined Federal Campaign in conformance with the requirements of this Part and the policies and procedures prescribed hereunder.

(c) *Functions.* In accordance with applicable law and with these regulations, and under the guidance and control of the Director and the local Federal Coordinating Committee, the Principal Combined Fund Organization shall:

(1) Print and distribute the local Campaign literature and contribution card;

(2) Receive and account for contributions from donors;

(3) Transmit donations to beneficiaries;

(4) Defray proper administrative expenses from Campaign proceeds, in accordance with agreements with, and

the instruction of, the local Federal Coordinating Committee;

(5) Report completely and promptly to the local Federal Coordinating Committee on all activities;

(6) Manage the Campaign fairly and equitably, consider advice from other voluntary charitable agencies, respond to reasonable requests for information from other voluntary agencies and the general public, and consult periodically, without favoritism, with other voluntary charitable agencies;

(7) Keep its own organizational funds, accounts, and activities strictly separate from its funds, accounts, and activities as Principal Combined Fund Organization;

(8) Receive all gifts not otherwise designated for other recipients and distribute such gifts in accordance with its internal policies and the needs of the local CFC community; and

(9) Perform such other tasks as the Director and the local Federal Coordinating Committee may, from time to time, direct.

(d) *Audits.* The records and accounts of the Principal Combined Fund Organization shall be audited annually for the benefit of the local Federal Coordinating Committee. The costs of such audit shall be deemed a proper Campaign expense and defrayed by Campaign proceeds. The audit may be performed by an accountant retained generally by the Principal Combined Fund Organization provided that such accountant be a certified public accountant; otherwise the audit shall be performed by an independent auditor selected by the local Federal Coordinating Committee.

(e) *Revocation of designation.* In the event that the Principal Combined Fund Organization fails to discharge its functions lawfully or properly, or fails to manage the Campaign fairly and equitably, then the local Federal Coordinating Committee or the Director may revoke its designation as the Principal Combined Fund Organization.

§ 950.209 Special provisions for overseas and military campaigns.

(a) *Overseas Campaign.* A Combined Federal Campaign shall be authorized for all activities and installations of the Department of Defense in the overseas area.

(1) The local Federal Coordinating Committee for the DOD Overseas CFC shall designate the Principal Combined Fund Organization for the DOD Overseas CFC, which may be the National Voluntary Organizations Campaign Committee or any voluntary agency that the local Federal Coordinating Committee for the DOD Overseas CFC deems, in its discretion, mostly likely to meet the standards set forth herein for the designation of a Principal Combined Fund Organization.

(2) A voluntary charitable agency that meets all eligibility criteria applicable under this Part, other than those criteria pertaining to local eligibility, and that is also a member of a national federated group certified under § 950.303(e)(1) may, upon application, be admitted to the DOD Overseas CFC.

(3) For good cause, and upon application by the Secretary of Defense or the local Federal Coordinating Committee for the DOD Overseas CFC, the Director may waive the applicability to the DOD Overseas CFC of a regulation prescribed in this Part.

(b) *Overseas Campaigns Among Civilian Personnel.* Federal agencies, other than the Department of Defense, that have heretofore deemed their overseas personnel to be located in the National Capital Area for purposes of the Combined Federal Campaign may continue to do so. Agencies, other than the Department of Defense, that have not heretofore done this, may also do so.

(c) *On-Base or On-Post Health and Welfare Activities.* On-base or on-post morale, health, welfare, and recreational activities confined to a military installation may be supported through the CFC.

§ 950.211 National coordination and reporting.

(a) The Office of the Assistant to the Deputy Director for Regional Operations (*hereinafter,* "Office of Regional Operations"), of the United States Office of Personnel Management, shall be responsible, under the Director, for CFC arrangements.

(b) Each local Federal Coordinating Committee is required to notify the Office of Regional Operations of its campaign area, its chariman's name and address, and the name and address of the organization centrally receiving and accounting for contributions.

(c) All chairmen of local Federal Coordinating Committees shall furnish, in the form prescribed by the Director, reports of campaign results to the Office of Regional Operations by January 15 of each year.

(d) All local activities shall be coordinated with the national campaign under policies and procedures issued by the Director through the Federal Personnel Manual system, a handbook of instructions, and other appropriate instruments.

§ 950.213 Appeals from decisions of local Federal coordinating committees.

(a) Any decision of a local Federal Coordinating Committee that is appealed to the Director by any charitable agency or charitable federated group, or by any applicant for solicitation privileges in a local campaign, shall be given due weight by the Director.

(1) any such appeal shall be looked upon with disfavor unless it raises a sustantial question of fairness, construction of these regulations, or application of the policies, procedures, directives, and guidance of the Director.

(2) Unless the Director orders otherwise, all burdens of proof, of persuasion, and of going forward shall be borne by the appellant.

(3) an appeal may be dismissed as untimely unless it is received by the Director within ten (10) days after the date of which the appellant has received actual or constructive notice of the decision from which the appeal is taken.

(4) Every appeal shall be submitted in writing and shall set forth: (i) A concise statement of the decision from which the appeal is taken; (ii) the grounds for the appeal; and (iii) the relief sought by the appellant.

(5) Every appeal shall be accompanied by written certification that copies thereof have been served upon the local Federal Coordinating Committee and any other proper party in interest whose participation in the appeal may be appropriate for the just disposition thereof.

(b) The local Federal Coordinating Committee and any other proper party in interest may respond to the appeal.

(1) Every response, to the timely, shall be received by the Director within five days after the date of which the respondent has received actual or constructive notice of the appeal.

(2) Every response shall be submitted in writing and shall set forth a concise statement of the facts and arguments that the respondent believes are material.

(3) Every response shall be accompanied by written certification that copies thereof have been served upon the appellant and any other proper party in interest.

(c) A decision of a local Federal Coordinating Committee appealed to the Director shall be considered affirmed if the Director does not reverse or modify that decision within 10 days of OPM's receipt of the appeal or of the timely response of the local Federal Coordinating Committee, whichever occurs later.

(d) The Director may, for good cause, extend or shorten the time limits set forth in this section and waive requirements for written submissions and proofs of service.

(e) The Director may, in his sole discretion, review any decision of a local Federal Coordinating Committee and stay any decision of a local Federal Coordinating Committee pending his review thereof. All decisions of the Director shall be final, and shall be executed forthwith by the local Federal Coordinating Committee, or by such other person or entity as the Director may direct to do so.

(f) In computing any period of time prescribed or allowed under this Part, the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Subpart C—Conduct of the Campaign

§ 950.301 Campaign periods.

The general period during which local Combined Federal Campaigns shall be conducted shall commence on September 1 of each year and shall end on November 30 thereof, unless the Director shall, in a particular year, fix other dates for the general period and publish notice thereof in the **Federal Register**. Each local CFC shall be conducted for a specific period of six weeks, fixed by the local Federal Coordinating Committee, during the general period. No local CFC shall commence before the beginning date of the general period, nor shall any local CFC conclude after the ending date of the general period. The Director may, for good cause, extend the general period during which any or all local CFCs shall be conducted; notice thereof shall be published in the **Federal Register** as soon as is practicable after the Director has determined to extend such general period. A local Federal Coordinating Committee may, for good cause, extend beyond the time of six weeks the specific period within the general period during which the local Campaign is conducted.

§ 950.303 Admission of eligible voluntary agencies.

(a) *General Provisions.* All eligible voluntary charitable agencies that apply for admission to the Combined Federal Campaign shall be admitted. Admission shall entail the privileges, in accordance with these regulations, of being listed and described in CFC literature and of receiving all gifts, less amounts necessary to the defrayal of administrative expenses, designated by donors for the recipient.

(b) *Substantive Eligibility Requirements.* (1) To be eligible for admission to the Combined Federal Campaign in any community, an organization shall, in addition to satisfying any other applicable eligibility criteria:

(i) Be organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services directly to, and for the direct benefit of, human beings:

(A) Delivery of health care to ill or infirm individuals;

(B) Education and training of personnel for the delivery of health care to ill or infirm individuals;

(C) Health research for the benefit of ill or infirm individuals;

(D) Delivery of education, training, and care to physically and mentally handicapped individuals;

(E) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(F) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;

(G) Neighborhood and community-wide services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;

(H) Legal aid services that are provided to needy, poor, and indigent individuals solely because of their inability to afford legal counsel and without a policy or practice of discrimination for or against the kind of cause, claim, or defense of the individual;

(I) Protection of families that, on account of need, poverty, indigence, or emergency, are in long-term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

(J) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;

(K) Relief of needy, poor, and indigent adults and of the elderly;

(L) Assistance, consistent with the mission of the Department of Defense, to members of the armed forces and their families;

(M) Assistance, consistent with the mission of the Federal agency or facility involved, to members of its staff or service who, by reason of geographic isolation, emergency conditions, injury in the line of duty, or other extraordinary circumstances, have exceptional health or welfare needs; or

(N) Lessening of the burdens of government with respect to the provision of any of the foregoing services;

(ii) Meet all eligibility requirements established in this Part; and be able to show that it met all such requirements for the full fiscal year of the organization for the period immediately preceding the closing date established by the Director for the submission of its application for admission to the Combined Federal Campaign for a particular year;

(iii) Be organized under the laws of the United States or of a State; be subject to the jurisdiction and laws of the United States; be an organization described in, and qualifying under, 26, U.S.C. 501(c)(3); not be an "action organization" with the meaning of 26 CFR 1.501(c)(3)–1(3); and be organizations to which contributions may be tax deductible to the donor under 26 U.S.C. 170;

(iv) Not participate in, or intervene directly or indirectly in any political campaign of behalf of or in opposition to any candidate for public office, or on behalf of any side or position in a public referendum, initiative, or similar procedure; and

(v) Except as provided in 5 CFR 950.303(b)(4), have articles of organization that do not expressly empower the organization to, and the organization does not, expend more than the proportions set forth in 5 CFR 950.303(b)(2) of its total expenditures on any or all of the following activities:

(A) Activities that are not in furtherance of the purposes set forth in 5 CFR 950.303(b)(1)(i);

(B) Activities (other than activities directly related to the organization's participation in the Combined Federal Campaign) for purposes of influencing legislation or rulemaking at any level of Federal, State, or local government; and

(C) Activities for purposes of litigation (including contributing to the expenses thereof), other than litigation undertaken as a necessary part of the provision of legal aid services as set forth in 5 CFR 950.303(b)(1)(i)(H); provided that the activities described in this subsection (5

CFR 950.303(b)(1)(v)(C)) shall not include activities to protect the existence of the organization, its tax exempt status, its participation in the Combined Federal Campaign, or its own direct and private interests, as opposed to the interests of the causes or policy goals that it supports.

(2) The maximum level of expenditures permitted without disqualifying an organization from participation in the Comnbined Federal Campaign shall be 15% of the organization's total annual expenditures; provided that the level of expenditures thus made in the aggregate, or any and all activities identified in 5 CFR 950.303(b)(1)(v) may not, in any one year, exceed the sum of $1,000,000; and *provided further that* no more than one-fourth of the maximum level of expenditures thus made may be expended in any one year as grass roots expenditures.

(3) For purposes of the preceding paragraph (5 CFR 950.303(b)(2)), the following definitions shall apply:

(i) The term "influencing legislation" shall have the same meaning that it has in 26 U.S.C. 4911(d);

(ii) The term "influencing rulemaking" shall have the same meaning that the term "influencing legislation" in 26 U.S.C. 4911(d) would have if the term "rulemaking" were substituted therein for the term "legislation", and the term "government agency" were substituted therein for the term "legislative body";

(iii) The term "rulemaking" shall have the same meaning that the term "rule making" has in 5 U.S.C. 551(5);

(iv) The term "expenditures" shall mean all money expended or debts incurred by the organization;

(v) The term "total annual expenditures" shall mean all expenditures made by the organization in its fiscal year; and

(vi) The term "grass roots expenditures" shall mean all expenditures made by the organization for the purposes described in 26 U.S.C. 4911(d)(1)(A) and for the purposes that would be described in 26 U.S.C. 4911(d)(1)(A) if the term "rulemaking" were substituted therein for the term "legislation."

(4) An organization that has been notified by the Director or the local Federal Coordinating Committee, as the case may be, that it does not satisfy the requirements of 5 CFR 950.303(b)(1)(v) may nonetheless petition the Director or the local Federal Coordinating Committee, whichever was the decision-maker in the first instance, for inclusion in the Combined Federal Campaign. The Director shall, from time to time, announce through the Federal Personnel Manual System or other appropriate instruments the time, place, and manner in which such a petition may be filed with him; the local Federal Coordinating Committee shall similarly make known such arrangements to applicants and participants in the local Campaign. The petition shall set forth specific facts and circumstances in support thereof. The Director or the local Federal Coordinating Committee, as the case may be, shall grant the petition if the decision-maker determines that the organization's activities described in subparagraphs (A), (B), and (C) of 5 CFR 950.303(b)(1)(v), taken as a whole:

(i) do not significantly exceed the limits described in 5 CFR 950.303(b)(2), taking into account other indices of activity not adequately accounted for by the measurement of expenditures (such as the use of volunteer services or in-kind contributions); and

(ii) are in direct furtherance of the organization's activities described in 5 CFR 950.303(b)(1)(i). Any such favorable determination by the Director or the local Federal Coordinating Committee shall be in writing, shall succinctly state the basis for the determination, and shall be available to the public.

(c) *Operational eligibility requirements.* To be eligible for admission to the Combined Federal Campaign in a local community, an organization shall, in addition to satisfying any other applicable eligibility criteria:

(1) Demonstrate that it is a non-profit, tax-exempt charitable organization, supported by voluntary contributions from the general public, and providing direct and substantial health and welfare services all of which shall be consistent with the laws and policies of the United States Government;

(2) Demonstrate that, except in the case of a voluntary agency whose revenues are affected by unusual or emergency circumstances, it has received at least 50 percent of its revenues from sources other than the Federal Government, or at least 20 percent of its revenues from direct and/or indirect voluntary public contributions, in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign;

(3) Show that it is directed by an active board of directors, a majority of whose members serve without compensation;

(4) Show that it adopts and employs the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and was, in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign, audited by a certified public accountant;

(5) Demonstrate, if its fund-raising and administrative expenses in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign exceeded 25 percent of its total public support, that its expenses for such purposes were reasonable in light of all the circumstances;

(6) Affirm that its publicity and promotional activities are based upon its actual program and operations, are truthful, and include all material facts;

(7) Affirm that its operations guard against the unauthorized use of contributor lists, permit no payments of commissions, kickbacks, finders fees, percentages, bonuses, overrides; or bribes for fund-raising, and allow no general telephone solcitation of the public;

(8) Show that it publishes an annual report to the general public that includes a full description of its activities and finances and that identifies its directors and its principal administrative personnel; and

(9) Demonstrate, in the case of a voluntary agency that represents or comprises more than one subunit, that its annual report includes all operational and financial reporting for all of its components, including, in the case of national federations and overseas service organizations, any and all international, national, and subnational units and affiliates, and that the same, in its entirety, was prepared in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations.*

(d) *Local Eligibility Requirements.* To be eligible for admission to the Combined Federal Campaign in a particular community, an organization shall, in addition to satisfying any other applicable eligibility criteria, have a direct and substantial presence in the local Campaign community, meaning that Federal employees and their families are able to receive, within a reasonable distance from their duty stations or homes, services that are directly provided by the voluntary agency or that demonstrably depend upon, or derive from, the specific research, educational, support, or similar activities of the particular voluntary agency. Demonstration of direct and substantial presence in the local campaign community, including adequate documentation thereof, shall at all times, and for all purposes, be the burden of the voluntary agency. Such direct and substantial presence shall be

determined in the light of the totality of the circumstances in each case, including, but not necessarily limited to, consideration of the following factors:

(1) The availability of services, such as examinations, treatments, inoculations, preventative care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing, to persons working or residing in the local campaign community;

(2) The presence within the local campaign community, or within reasonable commuting distance thereof, of a facility at which services are rendered or through which they may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider; or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof;

(3) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service; and

(4) Awareness within the local Federal community of the existence, activities, and services of the voluntary charitable agency; *provided* that voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth in this Part except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for admission to each local Campaign of the Combined Federal Campaign.

(e) *Admission standards.*—(1) *National Federated Groups.* To be admitted to the Combined Federal Campaign in a local community, a national federated group shall first be certified by the Director. Such certification as a national federated group shall be conclusive for purposes of every local Combined Federal Campaign and shall entitle the national federated group to be admitted, in its own corporate name, to every local Campaign upon a showing that, with respect to that local Campaign, it meets the local eligibility criteria set forth at 5 CFR 950.303(d); and further, it shall entitle the national federated group, in turn, to certify to any local Federal Coordination Committee that a member of the national federated group meets the substantive eligibility criteria set forth at 5 CFR 950.303(b) and the operational eligibility criteria set forth at 5 CFR 950.303(c). Such certification may be obtained by submitting an application in the form, and within the time, prescribed from time to time by the Director, demonstrating that the applicant meets all substantive eligibility critiera set forth at 5 CFR 950.303(b) and all operational eligibility criteria set forth at 5 CFR 950.303(c), and showing that it represents or federates at least 10 individual voluntary charitable agencies in at least 300 local combined philanthropic campaigns in the United States.

(2) *Overseas Service Organizations.* To be admitted to the Combined Federal Campaign in a local community, an overseas service organization shall first be certified by the Director. Such certification as an overseas service organization shall be conclusive for purposes of every local Combined Federal Campaign and shall entitle the overseas service organization to be admitted, in its own corporate name, to every local Campaign. Such certification may be obtained by submitting an application in the form, and within the time, prescribed from time to time by the Director, demonstrating that the applicant is an overseas service organization as defined at 5 CFR 950.101(k) and meets all substantive eligibility criteria set forth at 5 CFR 950.303(b) and all operational eligibility criteria set forth at 5 CFR 950.303(c). No showing of satisfaction of the local eligibility criteria set forth at 5 CFR 950.303(d) shall be required of an overseas service organization.

(3) *Other Organizations.* To be admitted to the Combined Federal Campaign in a local community, a voluntary agency other than a national federated group or an overseas service organization shall apply in the form, and within the time, prescribed from time to time by the Director, to the local Federal Coordinating Committee for the CFC of the local community, demonstrating that the applicant meets all substantive eligibility criteria set forth at 5 CFR 950.303(b), all operational eligibility criteria set forth at 5 CFR 950.303(c), and, with particular respect to that local community, all local eligibility criteria set forth at 5 CFR 950.303(d). If the applicant is a member of a federated group, then the federated group may certify as to the applicant's satisfaction of the substantive eligibility criteria set forth at 5 CFR 950.303(b) and the operational eligibility criteria set forth at 5 CFR 950.303(c); but the applicant shall, in all cases, particularly demonstrate to the local Federal Coordinating Committee that it satisfies the local eligibility criteria set forth at 5 CFR 950.303(d).

§ 950.305 Application procedures.

(a) *Application Form.* Applications shall include the following information and documents:

(1) The corporate name and fiscal year;

(2) Statement of origin, purpose, and structure of organization, including information to show clearly that the voluntary agency meets each of the applicable eligibility requirements of this Part;

(3) A list of chapters, affiliates, or representatives in alphabetical order by State; and under the State, a list of cities with chapter, affiliate, or representative by names and addresses;

(4) For national federated groups, acceptability of the organization throughout the United States;

(5) An outline of the applicant's program or programs, particularly the nature of the direct services provided by the applicant voluntary agency and under what provisions of 5 CFR 950.303(b)(1)(i) the applicant claims to provide human health and welfare services;

(6) A description of the activity of the board of directors over the preceding year, accompanied by a list of the names, addresses, and businesses or occupations of the current members of the board of directors;

(7) A certification by a certified public accountant that the applicant uses an acceptable financial system and that it adopts the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations;*

(8) A copy of its latest annual report;

(9) A copy of its latest external audit by an independent certified public accountant; and

(10) A special report, consistent with the reporting requirements of the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations,* including the applicant's sources of funds, expenditures by program service and supporting services with fund-raising and other expenditures listed separately. The report shall cover the most recent fiscal year and present a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from private sector federated groups and federated campaigns, from the Combined Federal Campaign, and the total from all other sources, including transfers, dues, or other funds from affiliated organizations, shall be separately identified and shown. All entries shall be reported both in dollars and in percentage of total contribution. The report shall be furnished in

accordance with the format shown in the appendix to this Section.

(b) *Place of obtaining information and forms and place of filing with the Director.* Information about general eligibility requirements; copies of application forms; lists of addresses of local Federal Coordinating Committees; and other facts about the Combined Federal Campaign may be obtained from; and all documents required by these regulations to be filed with or served upon the Director shall be mailed or delivered to:

National CFC Headquarters, Office of the Assistant to the Deputy Director for Regional Operations, United States Office of Personnel Management, Room 5532, 1900 E Street, NW., Washington, DC 20415.

All documents required by these regulations to be filed with or served upon the local Federal Coordinating Committee shall be delivered to the appropriate local Federal Coordinating Committee, and service upon the Director shall not substitute therefor.

(c) *Applications and Submissions as Public Records.* All applications and related documents submitted to the Director and the local Federal Coordinating Committees in connection with the Combined Federal Campaign shall be available, at reasonable times and places, and in accordance with other rules generally applicable to public records, for public inspection and copying.

(d) *Proceedings Before the Director.* Proceedings before the Director shall be conducted on the basis of the written record furnished by the applicant and by opponents of the application, if any. The applicant shall be given a reasonable opportunity to reply in writing to any submissions in opposition to its application. In his discretion, the Director may give public notice and request public comment upon an application or convene a public hearing thereon.

(e) *Proceedings before local Federal Coordinating Committees.* All proceedings of local Federal Coordinating Committees on consideration of applications for admission to the local Campaign shall be public, with reasonable notice given thereof, and, subject to such fair and uniform rules of procedure as the local Federal Coordinating Committee may adopt, proponents and opponents of every application shall be given an opportunity to be heard thereon.

(f) *Investigations Authorized.* The Director shall be authorized to investigate facts and circumstances relating to questions of eligibility under this Part.

(g) *Forms Prescribed.* The Director may prescribe and publish, through the Federal Personnel Manual System and such other instruments as may be appropriate, such forms and documents as may be necessary and proper.

Appendix A to 5 CFR 950.305—Source of Funds and Cost Report (for the year ending____)

Organization: _____

Public support (dollars)	
Received Directly:	_____
Contributions	
Special Event (net of direct benefit costs of $_____)	
Legacies and bequests	_____
Subtotal	_____
Received Indirectly:	_____
Federated campaigns (e.g., United Way)	_____
Federal service campaigns	_____
Other Contributions	_____
Subtotal	_____
Total Support from the Public	_____
Revenue:	
Grants from Federal government agencies (including grants in-kind)	_____
Grants from state or local government agencies (including Medicaid)	_____
Memberships	_____
Program service fees (including Medicare)	_____
Sales of materials and services to member units (net of direct expenses)	_____
Sales of materials and services to the public (net of direct expenses)	_____
Transfers, dues, etc. from affiliated organizations, etc.	_____
Investment transactions	_____
Gains on investment transactions	_____
Other Income	_____
Total revenue	_____
Total public support and revenue	_____
Expenses	
Program services	
(program)	_____
(program)	_____
(program)	_____
(program)	_____
Subtotal	_____
Supporting services	
Management and general	_____
Fund raising	_____
Subtotal	_____
Total expenses	_____
Excess (deficiency) of public support and revenue over expenses	_____

Appendix B to 5 CFR 950.305—Certificate

Name of Organization _____

I certify that the above-named organization has adopted, and has prepared its financial statements in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* (1974 Edition) prepared and published by the National Health Council, Inc., the National Assembly of National Voluntary Health and Social Welfare Organizations, Inc. and the United Way of America.

Signature: _____
Address: _____
Telephone: _____

§ 950.307 Special rules applicable to the American Red Cross.

In recognition of the unique status conferred by Act of Congress upon the American Red Cross, the American Red Cross shall be, and hereby is, certified as a national federated group. In local communities where the American Red Cross is not a participating member of another federated group, it shall be deemed a separate federated group in the local Campaign. As with all other organizations, in the event that a local American Red Cross chapter chooses not to participate in the CFC, it shall not be authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

§ 950.309 Prohibition of misleading identification.

Solicitation on behalf of a cause, such as "mental health" or "heart disease," shall be prohibited. All solicitation shall be undertaken on behalf of specifically identified organizations. No two organizations with the same name shall be admitted to the same local Campaign; if the parties involved cannot reach agreement on the names that they shall use, respectively, then the local Federal Coordinating Committee may, in its discretion, decide the matter. No organization shall be admitted to the Campaign with a name that is deceptive as to the true nature and activities thereof.

Subpart D—Solicitation and Campaign Materials

§ 950.401 Contributor's information leaflet.

The local Federal Coordinating Committee in each local Campaign shall publish a Contributor's Information Leaflet that shall be fair in its presentation respecting all admitted voluntary agencies; shall be designed to contain or be disseminated as a single package with the Contribution Card; shall be as clear and as readable as

possible; and shall set forth the following information:

(a) A notice as required by the Privacy Act;

(b) A statement that all gifts made through the Combined Federal Campaign must be specifically designated to a particular recipient; that all gifts not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign, which shall be expressly identified; and that any gift designated to an organization not admitted to the local Campaign shall be returned to the donor;

(c) A statement that the Principal Combined Fund Organization shall remit all designated gifts to their particular recipients, with an approved amount deducted to defray administrative costs and shrinkage, if applicable;

(d) A statement that the Contributor's Information Leaflet is accompanied by a Contribution Card (or "pledge" card), and that gifts can be made through the Combined Federal Campaign only by using an official Contribution Card;

(e) A statement that the donor has the right to make his gift confidentially in a sealed envelope that will be delivered unopened to the headquarters of the Principal Combined Fund Organization and will not be seen by a Federal official;

(f) A statement that a Federal employee may make a gift of a single payment of cash, a gift of periodic payments through the payroll deduction system, or no gift at all; and

(g) A list of the names of all voluntary agencies, including federated groups, admitted to the local Campaign, arrayed as set forth in 5 CFR 950.403, and each accompanied by a description, written by the local Federal Coordinating Committee on the basis of information received from each voluntary agency and not exceeding 30 words in length, of the nature and activities of the voluntary agency and of the uses to which it puts the funds obtained through the Combined Federal Campaign.

§ 950.403 Order of listing of voluntary agencies.

The Contributor's Information Leaflet shall list, in an order to be determined each year by lot by the local Federal Coordinating Committee, the following approved categories of charitable services: Acquisition of knowledge and skills; basic needs and economic opportunity; children and family services; community coordination and referral services; health services/services to handicapped persons; international services; local Federal personnel services; neighborhood services; youth and delinquency prevention services; and specialized and miscellaneous services. Under these rubrics shall be listed, in accordance with their programs and in orders determined each year by lot by the local Federal Coordinating Committee, the names of the voluntary agencies admitted to the local Campaign, accompanied by descriptions, as provided in 5 CFR 950.401, and by unique numbers, all of the same number of digits. The name of each voluntary agency may be followed, at its election, by the initials, set off in parentheses, of the federated group admitted to the local Campaign, if any, with which it is affiliated. These lists shall be followed by a list, under the heading of "Campaign Organizations," of all federated groups admitted to the local Campaign, set out in an order determined each year by lot by the local Federal Coordinating Committee. The names of the federated groups shall also be accompanied by descriptions and numbers, and the numbers assigned to federated groups shall be keyed in some recognizable way, such as by the first digit of a three-digit number, to the numbers assigned to all the individual voluntary agencies admitted to the local Campaign that are affiliated with the federated group.

§ 950.405 Other campaign publicity materials.

In accordance with the provisions of this Part, and under the guidance issued from time to time by the Director, local Federal Coordinating Committees may prepare, for use in their respective local Campaigns, other Campaign publicity materials. No such materials shall unfairly advantage or disadvantage any voluntary agency or category of voluntary agencies admitted to the Campaign. All such materials should be produced in consultation with the leaders of interested federated groups and voluntary agencies. No such materials may be used in connection with a local Campaign without the prior approval of the local Federal Coordinating Committee. All materials prepared for national distribution and use in connection with the Combined Federal Campaign shall be subject to review and approval by the Director, and no such material shall be used without the prior approval of the Director.

§ 950.407 Coincident non-campaign activities.

During the time when the local Campaign is underway, voluntary agencies should not make unusual or unfair displays of activity in the Federal workplace. Customary, bona fide, health and welfare services rendered by voluntary agencies in the Federal workplace may certainly continue, but they should not be enhanced or emphasized for purposes of gaining an advantage in the Campaign. All such activities should be coordinated with occupational health officials or similar such officials, and should not, in any way, be conducted by or with keyworkers, solicitors, and similar functionaries of the Combined Fedeal Campaign.

Subpart E—Contributions, Distributions, and Accounting

§ 950.501 Designation of contributions.

All contributions made through the Combined Federal Campaign shall be specifically designated to a particular recipient. Any gift not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign. Any contribution designated to an organization not admitted to the local Campaign shall be returned to the donor.

§ 950.503 Privacy of contributions.

A donor shall not be required to disclose to coworkers the amount or the recipients of his contributions. If a donor so desires, his contribution, including his Contribution Card, shall be placed in a sealed envelope and transmitted unopened to the Principal Combined Fund Organization, which shall open and process the gift without disclosing the same to any Federal officials, save a payroll office if such disclosure is required by the donor's election of a gift by means of payroll deduction.

§ 950.505 Election as to means of giving.

Each donor shall have a choice among giving by means of a one-time payment by check or with cash, giving through the payroll deduction system, or not giving at all.

§ 950.507 Contribution card.

(a) *Purpose and prescription of form.* Each local Federal Coordinating Committee shall publish a Contribution Card for the local Campaign, using such form as the Director may, from time to time, prescribe. The Contribution Card shall be the sole valid means of conveying the donor's instructions to the Central Receipt and Accounting Point, the Principal Combined Fund Organization, and the relevant payroll office. The Contribution Card shall be designated to furnish an automatic copy

of the record of the transaction to the employee, and shall further be designed to foil attempts at fraudulent alteration of the donor's actions or at frustrating his intentions.

(b) *Contents.* The Contribution Card shall contain, at a minimum, three boxes on which a donor may record designated gifts, and shall state on its face, and on every copy thereof, in a typeface and a color of ink that are both distinctive, that all gifts not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign. It shall set forth the name and mailing address of the organizations centrally receiving and accounting for local Campaign contributions. It shall clearly identify the year of the Campaign and the community in which it is conducted (*e.g.*, "1985 Chicago Combined Federal Campaign"). It may contain a box for notation of the donor's social security number, employee number, or other similar identification number.

(c) *Copies.* The Contribution Card shall be designed to provide an original and two duplicate copies. In the event that the donor effects a pledge for payment through payroll deduction, the original card shall be transmitted to the donor's payroll office. In all cases the first duplicate copy shall be transmitted to the organization centrally receiving and accounting for contributions and the second duplicate copy shall be retained by the donor and shall constitute a receipt for the donor's gift.

§ 950.509 Central receipt and accounting for contributions.

(a) The Principal Combined Fund Organization shall receive and account for all contributions. It may arrange for an appropriate financial institution to provide such service on its behalf, under the direction of the local Federal Coordinating Committee. Any fees charged by such institution for its services shall be the responsibility of the Principal Combined Fund Organization and shall be included in the latter organization's administrative costs.

(b) The Principal Combined Fund Organization shall tabulate all contributions designated to specified agencies on the contribution cards and then tabulate the contributions designated to the Principal Combined Fund Organization. The amounts payable to the specified voluntary agencies are subject to deductions for (1) shrinkage (*i.e.*, contributions pledged but not received) and (2) the approved fee, if any, for *pro rata* reimbursement of administrative costs to the Principal Combined Fund Organization.

(c) The Principal Combined Fund Organization shall provide for an audit by a certified public accountant of the local Campaign in the event that its receipts exceed the sum of $100,000. Copies of the audit report shall be submitted to the members of the local Federal Coordinating Committee, transmitted to the Director, and made available at reasonable times and places for inspection by the public.

(d) In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding shall be authorized for members of the uniformed services and civilian personnel at CFC locations. Any other form of collection of pledges, including the collection of installment pledges by keyworkers, shall be prohibited.

§ 950.511 Payroll withholding.

The provisions of this section are intended to be consistent, and shall be read in conjunction, with the regulations prescribed by the Office of Personnel Management governing Pay Administration, codified at 5 CFR Part 550.

(a) *Applicability.* Federal departments and agencies shall authorize voluntary payroll allotments for payment of charitable contributions to local Combined Federal Campaigns.

(b) *Allotters.* The allotment privilege shall be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment shall be eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing Federal agency determines that the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(2) Members of the uniformed services shall be eligible, excluding those on only short-term assignment (less than 3 months).

(c) *Authorization.* (1) Allotments shall be wholly voluntary and shall based upon contributors' individual written authorizations.

(2) Authorization forms in standard format shall be printed by the Principal Combined Fund Organization at each location. The forms and other campaign materials shall be distributed to employees when contributions are solicited.

(3) Completed authorization forms should be transmitted to the contributors' servicing payroll offices as promptly as possible, preferably by December 15 of each year. Forms received thereafter shall nonetheless be accepted and processed by payroll offices.

(d) *Duration.* Authorizations shall be in the form of a term allotment for one full year, starting with the first pay period beginning in January and ending with the last pay period that begins in December. The fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining to make administration of the allotment practicable.

(e) *Amount.* (1) Allotters shall make a single allotment, which shall be apportioned into equal amounts for deductions during each pay period in the year.

(2) The minimum amount for allotment shall be determined by the local Federal Coordinating Committee, but shall be not less than $1.00 bi-weekly or $2.00 monthly.

(3) No change of allotment shall be authorized during the term of an allotment.

(4) No deduction shall be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment shall be made in subsequent periods to make up for deductions missed.

(f) *Remittance.* (1) One check shall be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the organization centrally receiving and accounting for contributions to the local CFC.

(2) Each check shall be accompanied by a statement identifying the agency and the number of employee deductions, but no individual allotter, including an allotter discontinuing an allotment, shall be identified.

(g) *Discontinuance.* (1) Allotments shall be discontinued automatically:

(i) On expiration of the one-year withholding period; or

(ii) On death, retirement, or separation of the allotter from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance shall be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment shall not be reinstated.

(h) *Transfer.* (1) When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different department or agency, his allotment authorization shall be transferred to the new payroll office.

(2) When there is a delay in receiving the transferred authorizaton in the new payroll office, or when the allotter moves to a location covered by another CFC, the allotter shall be permitted to complete a new authorization for the remainder of the one-year withholding period, which will supersede and revoke his previous authorization.

(3) When the allotter moves to a duty station not included in a CFC, the allotment shall automatically be terminated unless expressly continued by the individual.

(i) *Accounting.* (1) Federal payroll offices shall oversee establishment of individual allotment accounts, deductions each pay period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office shall be responsible for the accurancy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The Principal Combined Fund Organization shall be responsible for the accuracy of transmittal of contributions.

(i) It shall transmit at least monthly for campaigns of $100,000 or more, or quarterly if less than that amount, less only the shrinkage factor and approved fee for defrayal of administrative costs.

(ii) It shall remit contributions, less approved administrative costs and shrinkage, to each agency or to the federated group, if any, of which the agency is a member, if all member agencies of that federated group participate in the local Campaign agree.

(iii) It shall notify the federated groups, as soon as practicable after the completion of the campaign (but in no case more than 60 days thereafter), of the amounts, if any, designated to them and their member agencies and of the amounts of deemed-designated contributions, if any, allocated to them and their member agencies.

(3) Federated and national voluntary agencies, or their designated agents, shall be responsible for:

(i) The accuracy of distribution among the voluntary agencies of remittances from the Principal Combined Fund Organization; and

(ii) Arrangements for independent audit agreed upon by the participating voluntary agencies.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 85-20054 Filed 8-21-85; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Suspension of Prescribed Date for Producers To Apply for Additional Allotment Bases

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites comments on suspending § 985.53(d)(2) of the marketing order for spearmint oil produced in the Far West. These provisions require producers to file applications for additional allotment base with the Spearmint Oil Administrative Committee on or before December 1 of the marketing year preceding the marketing year for which the additional allotment bases will be made available. The Committee has found it necessary to issue additional allotment bases earlier than December 1 to give producers receiving the allotment bases sufficient time to plan their cultural practices. The intent of the proposed suspension is to allow the Committee to administer the order in a more effective manner by completing the application and allotment base issuance process earlier than December 1 of each year. This action was recommended by the Committee, which works with USDA in administering the marketing order. This proposed suspension also necessitates conforming changes in § 985.153(h) of the Subpart—Administrative Rules and Regulations.

DATE: Comments must be received by September 13, 1985.

ADDRESSES: Send two copies of comments to the Office of the Docket Clerk, Room 2069, South Building, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250. Comments should reference the date and page of this issue of the **Federal Register** and will be available for public inspection in the office of the docket clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This proposed action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and § 985.72 of the Order. It would suspend § 985.53(d)(2) of Marketing Order No. 985 (7 CFR Part 985) regulating the handling of spearmint oil produced in the Farm West. Section 985.53(d)(2) requires new and existing producers desiring additional allotment base to file applications with the Spearmint Oil Administrative Committee on or before December 1 of the marketing year preceding the year for which the base could be used. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Also proposed in this action are changes in § 985.153 of Subpart—Administrative Rules and Regulations (7 CFR Part 985.104-985.156). Section 985.153 is effective pursuant to § 985.53 of the order and contains procedures used in determining the distribution of additional allotment bases. The proposed changes are necessary to reflect the suspension of § 985.53(d)(2) and to remove obsolete provisions in that section.

As provided in the order, since 1982-83, the Committee has been making additional allotment bases available to new and existing growers in an amount not to exceed one percent of the total of all allotment bases for each class of oil (Class 1-Scotch Spearmint Oil; Class 3-Native Spearmint Oil). Fifty percent must be made available to new growers and the remaining 50 percent must be made available to existing growers.

Spearmint roots are normally planted in early spring. However, in some areas, the crop performs better if planted in the fall. Both fall and spring planted crops are harvested the following summer. In recognition of the fact that some growers plant spearmint roots in the fall of each year, and to give other growers enough time to make planting decisions, the Committee, since 1982, has been accepting applications, and issuing

additional allotment bases, as early as September even though the order provides for the receipt of applications as late as December 1.

However, if a producer filed an application by December 1 it would have to be considered under the current provisions even though the base had already been issued. Because the amount of base available for distribution is limited by the order, the Committee would have to repeat the additional allotment base distribution procedures. That would result in wasted time and expense but more importantly it would be inequitable to those producers who planted spearmint roots in the fall based on the earlier issuance because they would not be assured of receiving additional base when the procedures were repeated.

The proposed suspension of § 985.53(d)(2) would allow the committee to administer the order more effectively and would allow completion of the application and allotment issuance process earlier than December. Thus, the administrative problems that accompany the existing application deadline of December 1 would be avoided.

As mentioned earlier, several changes are necessary in § 985.153 in recognition of the suspension of § 985.53(d)(2), and because several provisions in § 985.153 are now obsolete. Consistent with § 985.53(d)(2), § 985.153(b) requires that requests for additional allotment base be made to the Committee by December 1 prior to the marketing year for which such base will be made available. Because a date earlier than December 1 is more desirable as far as spearmint oil producers are concerned and § 985.53(d)(2) is to be suspended, that date should be removed from paragraph (b) and the phrase "by a date specified by the Committee" should be inserted in its place. In addition, this change will recognize current industry practices and give the Committee more flexibility to handle changes which may occur in the future. Paragraph (b) also includes an obsolete proviso dealing with 1982–83 marketing year additional allotment base applications, and that proviso is proposed to be removed.

In additional, § 985.153(c)(2)(i) includes provisions for bringing the allotment bases of existing producers which were less than economic enterprises when the order was established in 1980 up to economic levels during the 1982–83, 1983–84, and 1984–85, marketing years. These provisions are obsolete and are proposed to be deleted.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders; and Spearmint oil.

The proposal is as follows:

1. The authority citation for 7 CFR Part 985 continues to read as follows:

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

§ 985.53 [Amended]

2. Section 985.53(d)(2) of Part 985 is suspended.

3. Section 985.153 of Subpart—Administrative Rules and Regulations (7 CFT Part 985.156) is amended by revising paragraph (b), removing paragraph (c)(2)(i), and redesignating paragraph (c)(2)(ii) as paragraph (c)(2) to read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

* * * * *

(b) *Requests.* Any new or existing producer desiring additional allotment base for any class of oil made available by the Committee pursuant to § 985.53(d)(1) shall request such base by a date specificed by the Committee prior to the marketing year for which such base will be made available.

(c) * * *

(1) * * *

(2) *Existing producers.* Each existing producer of a class of spearmint oil who requests additional allotment base and has the ability to produce additional quantities of that class of spearmint oil shall be elibible to receive a share of the additional allotment base for that class of oil. Additional allotment base to be issued by the Committee for a class of oil shall be distributed equally among the eligible producers for the class. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate.

* * * * *

Dated: August 16, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–20050 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Suspension of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of a rule.

SUMMARY: This notice invites written comments on a proposal to continue a suspension of certain standards for regulating plants that are operated by cooperative associations under the Southwest Plains order. The proposed action for September 1985 through February 1986 would continue a prior suspension that removed the requirement that certain plants operated by cooperative associations need to be located in the marketing area or a county adjacent to the marketing area to be eligible for regulation under the order. The continuing action was requested by Mid-America Dairymen, Inc. (Mid-Am) a cooperative association that operates supply plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri that became regulated under the Southwest Plains order when the adjacent St. Louis-Ozarks order was terminated on April 1, 1985. The cooperative association contends that without the suspension costly and inefficient movements of milk would have to be made solely for the purpose of assuring that dairy farmers, who supply the fluid milk needs of southwest Missouri plants, will have their milk priced and pooled under the order.

DATE: Comments are due not later than August 29, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of September 1985 through February 1986.

In § 1106.7(c) the words "located in the marketing area or in a county adjacent to the marketing area".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the Federal Register. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures to include the month of September 1985 in the suspension period.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The order provides for the pooling of cooperative association plants that are located in the marketing area or a county adjacent to the marketing area if 50 percent or more of the cooperative's producer milk is physically received at distributing plants. The proposed suspension, for September 1985–February 1986, would continue a current suspension that removed the location requirement as a basis for pooling eligibility for plants operated by a cooperative association during the months of April-August 1985.

Continuation of the suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that operates plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri. The distributing plants in this area, and the supplies of producer milk associated with such plants, became associated with the Southwest Plains order when the adjacent St. Louis-Ozarks order was terminated on April 1, 1985. Mid-Am states that supplemental milk has historically been furnished to these distributing plants from Mid-Am's supply plants located in southwest Missouri.

Mid-Am contends that during the upcoming fall and winter months there will be a sufficient supply of milk available to furnish the fluid milk needs of the distributing plants on a direct-shipped basis. Since most of southwest Missouri is outside the Southwest Plains marketing area, Mid-Am contends that it would not be able to utilize the provisions for pooling a cooperative association plant under the order on the basis of direct farm to distributing plant shipments of milk. Thus, Mid-Am contends that absent a continuation of the suspension, costly and inefficient movements of milk would have to be made solely for the purpose of assuring that dairy farmers, who constitute the source of supply for distributing plants in southwest Missouri, will continue to have their milk pooled and priced under the order.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1106 continues to read as follows:

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

Signed at Washington, D.C. on: August 16, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–20130 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Temporary Revision of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of a rule.

SUMMARY: This notice invities written comments on a proposal to continue a reduction of a pooling standard in the Southwest Plains Federal milk order. The proposed action would reduce through February 1986 the percentage of milk marketed by cooperative associations that must be physically received at pool distributing plants during each month in order for plants operated by cooperative associations to qualify for pool status. The action was requested by Mid-America Dairymen, Inc., a cooperative association that operates plants and represents producers who supply milk to the market, in order to prevent uneconomic movements of milk.

DATE: Comments are due not later than August 28, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1106.7(d) of the order, the revision of a certain pooling provision of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for extension through February 1986.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should send two copies of such material to Dairy Division, AMS, Room 2968, South Building, United States Department of Agriculture, Washington, DC 20250, not later than 7 days after publication of this notice in the **Federal Register.** The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include September 1985 is the revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hour (7 CFR 1.27(b)).

Statement of Consideration

The pooling provision proposed to be revised during September 1985 through February 1986 is the delivery percentage applicable to milk marketed by cooperative associations that is set forth in § 1106.7(c). The revision would reduce the percentage of milk marketed by a cooperative association that must be physically received at pool distributing plants during the month by 10 percentage points, from the present 50 percent to 40 percent, for plants operated by cooperative associations to qualify for pool status under the order. Section 1106.7(d) of the Southwest Plains milk order provides that the Director of the Dairy Division may increase or decrease the delivery percentage by up to 10 percentage points to obtain needed shipments or to prevent uneconomic shipments of milk. Due to significant changes in the market environment as a result of the termination of the St. Louis-Ozarks

order, the delivery percentage was reduced by 10 percentage points, from 50 to 40 percent, during the months of May through August 1985.

Mid-America Dairymen, Inc. (Mid-Am), a cooperative association which represents producers supplying the Southwest Plains market, has requested that the lower 40 percent pooling standard be continue during the months of September 1985 through February 1986. Mid-Am contends that a continuing application of the lower delivery percentage is needed to accommodate the efficient pooling of milk supplies associated with the market. Because of recent changes in the market's structure, Mid-Am contends that a return to the higher 50 percent standard on September 1 would require a greater amount of milk to be physically received at distributing plants than is necessary to meet the fluid milk needs of the market. Thus, Mid-Am contends that without the lower delivery percentage during the upcoming months of September 1985 through February 1986, costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who supply the market.

Therefore, it may be appropriate to reduce the aforementioned provision of § 1106.7(c) by 10 percentage points for the months of September 1985 through February 1986 to prevent uneconomic shipment of milk.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

PART 1106—[AMENDED]

The authority citation for 7 CFR Part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Signed at Washington, DC, on: August 16, 1985.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 85–19989 Filed 8–21–85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Notice of Proposed Suspension of Certain Provisons of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend portions of the Eastern Colorado Federal Milk order for the months of September through December 1985. Provisions proposed to be suspended relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also proposed to be suspended for the same period is the limit on the period of automatic pool plant status for a supply plan which met pool shipping standards during the previous September through February. A third provison that is proposed to be suspended is the "touch-base" requirement that each producers' milk be received at least three times each month at a pool distributing plant. Suspension of the provisons was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than August 29, 1985.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Room 2968, South Building: U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC. 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is herby given that, pursuant to the provions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisons of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered for September through December 1985:

1. In the second sentence of $1137.7(b), the words "of March through August".

2. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing plant".

3. In the second sentence of § 1137.12(a)(1), the words "20 percent", "of", and "distributing".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1985 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Mid-America Dairymen, Inc: (Mid-Am), an association of producers that supplies some of the market's fluid milk needs and handles some of the market's reserve milk supplies, requested the suspension. The suspension would relax for September through December 1985 the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and remove the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month. The suspension would also remove the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during the previous September through Febraury.

The order now provides that a cooperative may divert a quantity of milk not in excess of 20 percent of the cooperative association's member milk received at pool distributing plants. Suspension of the requested language would allow up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

Mid-Am states that 1985 producer receipts pooled under the Eastern Colorado order increased 12.2 percent, 20.5 percent and 15.5 percent in April, May and June, respectively, over the same months of the previous year. At the same time, the cooperative states, producer milk in Class I has risen only slightly. Mid-Am estimates that approximately 100 loads of producer milk per month will have to be shipped from the Denver area to surplus outlets in Eastern Kansas and Nebraska during the September through December period. For the same period, the cooperative estimates that it would have to make approximately 40 shipments of milk per month from farms in Kansas and Nebraska to Eastern Colorado pool

distributing plants in order to qualify Mid-Am producers for continued pool status. The cooperative states that these shipments would displace Denver area milk, which would have to be moved to surplus handling plants. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested suspension the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1137 continues to read as follows:

Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, D.C., on August 19, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–20129 Filed 8–21–85; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[LR–119–83]

Excise Taxes on Gasohol and Other Alcohol Mixture Fuels, Tires, Tread Rubber, and Inner Tubes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the excise tax on gasohol and other alcohol mixture fuels. This document also contains proposed regulations relating to the rate of excise tax on tires, tread rubber, and inner tubes. Changes to the applicable regulations relating to gasohol and other alcohol mixture fuels and tires are necessary due to amendments made by the Highway Revenue Act of 1982 and the Tax Reform Act of 1984. These regulations would provide necessary guidance to Internal Revenue Service personnel who administer the Code and members of the public who are subject to these laws.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 21, 1985. The regulations relating to alcohol fuels are proposed to be effective generally for sales or uses made on and after April 1, 1983. The regulations relating to tires are proposed to be effective for sales or uses on and after January 1, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–119–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Margaret M. O'Connor of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–556–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Excise Tax Regulations (26 CFR Part 48) under sections 4041, 4071, 4081, 6420 and 6427 of the Internal Revenue Code of 1954 (Code) and are issued under the authority contained in sections 511(d)(1)(A) and 511(d)(2) of the Highway Revenue Act of 1982 (1982 Act) (Pub. L. 97–424, 96 Stat. 2171) and sections 732(a)(1), 912(a) and 912(b) of the Tax Reform Act of 1984 (1984 Act) (Pub. L. 98–369, 98 Stat. 976 and 1007). The amendments are proposed to conform the regulations to sections 511 (b), (d), (e), (f) and 514 of the 1982 Act and sections 732(a), 912(a), 912(b), 912(d), 912(f) and 913 of the 1984 Act.

Taxation of Qualifying Alcohol Mixture Fuels

In General

Prior to the passage of the 1982 Act, certain qualifying alcohol mixture fuels under section 4041(k) and section 4081(c) were entirely exempt from the tax imposed by sections 4041(a), relating to special fuels, and 4081(a), relating to gasoline. Sales of gasoline in order to produce a qualifying alcohol mixture fuel were also exempt from tax under section 4081(c). To qualify for the exemptions under either section 4041(k) or 4081(c), the alcohol mixture fuel was required to contain at least 10% alcohol by volume.

Under the 1982 Act, the tax on diesel fuel, special fuel and gasoline was increased from 4 cents per gallon to 9 cents per gallon. In addition, the 1982 Act eliminated the complete exemption for sales and uses of qualifying alcohol mixture fuels so that gasohol and alcohol mixture fuels sold or used after March 31, 1983, are taxed at a reduced rate. The 1984 Act, effective for sales or uses after December 31, 1984, amended the reduced rate of tax on gasohol and alcohol mixture fuels produced from special fuels to 3 cents per gallon and changed the rate of tax on alcohol mixture fuels produced from diesel fuels to 9 cents per gallon. These amendments increased the differential in tax rate between the qualifying alcohol mixture fuels and the fuels not containing the required mixture of alcohol to six cents per gallon. The proposed regulations clarify that the tax on qualifying alcohol mixture fuels is assessed upon the total volume of the mixture and not merely upon the nonalcohol content of mixture.

Under technical amendments made by the 1984 Act (effective as if included in the 1982 Act), section 4081(c) also provides that gasoline sold for blending into gasohol is subject to a tax of 4⅓ cents per gallon of gasoline. By applying this rate of tax, the total tax upon the sale of gasoline to be blended into gasohol is equivalent to the total tax of 4 cents per gallon which otherwise would be imposed upon the sale of the gasohol ultimately produced, assuming the gasohol contains 10% alcohol by volume. In this way, if tax has been paid upon the gasoline sold for blending into gasohol, no further tax will be imposed upon the subsequent sale or use of the gasohol produced. The 1984 Act decreased the tax upon gasoline sold for blending into gasohol to 3⅓ cents per gallon for sales after December 31, 1984, to conform this tax rate with the reduction in the rate of tax on gasohol.

Under the proposed regulations a producer of gasohol qualifies as a producer as defined in section 4082 of the Code and may register as such. If the producer is registered, the sale of gasoline to such producer of gasohol may be tax free under the rules of section 4083. If the sale of gasoline is tax free due to the application of section 4083, the tax will be imposed at the applicable rate upon the gasohol produced.

The proposed regulations specify that in order to determine whether the alcohol mixture contains at least 10% alcohol, the volume of each component in the fuel will be adjusted to its volume at a standard temperature of 60° Fahrenheit. This uniform temperature is necessary in order to take into account changes in volume and density of motor fuels and alcohol which occur with changes in temperatures. Such changes occur at different rates and at different temperatures for different fuels. Consequently, if temperature is not standardized, variations can occur in the percentage physical makeup of alcohol mixtures with identical mixture ratios, due to differences in the temperatures of the components.

Separation of or Failure to Blend Qualifying Alcohol Mixture Fuel

The 1982 Act and the 1984 Act also amended provisions regarding the tax consequences of separating the non-alcohol components of a qualifying alcohol mixture fuel or failing to blend gasoline into alcohol. Under prior law, if the sale of a qualifying alcohol mixture was tax free under section 4041, separation of the liquid fuel would be treated as a sale subject to the 4 cents per gallon tax imposed on fuels not containing the required alcohol mixture. In addition if the sale of a qualifying mixture of alcohol and gasoline or the sale of gasoline for use in producing a qualifying mixture had been tax free under section 4081(c), the person who separated the gasoline from the gasohol or failed to blend the gasoline into gasohol would be considered the producer of such gasoline and would be subject to a tax of 4 cents per gallon upon its sale. In order to conform these provisions with the changes in the taxation of alcohol mixture fuels, the 1982 Act provides that the separation of the special fuel or diesel fuel from a qualifying mixture is treated as a sale subject to the applicable tax imposed upon the type of fuel which has been separated, reduced by any tax previously paid on the fuel. Thus, if special fuel has been separated from an alcohol mixture, it is subject to a 9 cents per gallon tax reduced by the tax paid on the mixture. If diesel fuel has been separated from an alcohol mixture before August 1, 1984, it is subject to a 9 cents per gallon tax reduced by the tax previously paid. If diesel fuel has been separated after July 31, 1984, it is subject to a 15 cents per gallon tax, reduced by the tax previously paid.

The proposed regulations also provide that a person who separates or fails to blend gasoline into a qualifying mixture will be considered a producer subject to, upon the sale of the gasoline, a tax of 9 cents per gallon if the mixture or gasoline had been purchased tax-free, 4⅝ cents per gallon if the mixture or gasoline had been purchased at the reduced rate of tax in effect before January 1, 1985, or 5⅝ cents per gallon if the mixture had been purchased at the reduced rate of tax in effect after December 31, 1984.

Credits and Refunds

The 1982 Act and the 1984 Act also revised section 6427(f), which relates to refunds or credits available to gasohol producers where the gasoline used to produce gasohol had been previously taxed at the higher rates imposed by section 4081(a). Under prior law, the gasohol producer was entitled to a full refund or credit. Under both the 1982 Act and the 1984 Act and the proposed regulations, the refund or credit is equal to the excess of the tax paid upon the sale of gasoline over the tax which would have been paid on gasoline sold in order to produce gasohol. Thus, under the 1982 Act, if a blender purchases tax-paid gasoline subject to tax at a rate of 9 cents per gallon and uses it to blend qualifying gasohol, then the blender will be entitled to a credit of 4⅝ cents per gallon of gasoline so used upon the sale of the gasohol or its use in the trade or business of the blender before January 1, 1985. Under the 1984 Act, if the mixture produced from gasoline taxed at a rate of 9 cents per gallon is sold or used in the blender's trade or business after December 31, 1984, the blender is entitled to a credit of 5⅝ cents per gallon of gasoline so used.

Exemptions From Fuel Tax

The 1982 Act also extended the refund provisions previously available to the ultimate purchaser for fuel used by aerial applicators for farming purposes under sections 6420 and 6427 to other applicators as well. Thus, under the proposed regulations, the ultimate purchaser of fuel who uses such fuel in the aerial application or other application of fertilizers, herbicides, pesticides, and other farm processes is entitled to a refund of the tax paid on the motor fuels.

A new exemption from all the fuel taxes was also created by the 1982 Act under section 4041(b)(2) for sales and uses of fuels consisting of at least 85% methanol, ethanol or other alcohols derived from sources other than petroleum or natural gas. The exemption is effective for sales and uses after March 31, 1984. The proposed regulations explain this new exemption and provide standards for qualification for this exemption.

A partial exemption from fuel tax was added by section 913(a) of the 1984 Act. Under section 4041(m) sales and uses of fuels consisting of at least 85% methanol, ethanol or other alcohols produced from natural gas will be taxed at a reduced rate of 4½ cents per gallon. This partial exemption is effective for sales and uses after July 31, 1984. Because these fuels are produced from natural gas, they do not qualify for the full exemption under section 4041(b)(2). Prior to the amendment made by the 1984 Act, such fuels were taxed at the rates imposed by section 4041(a) relating to diesel and special motor fuels or 4081(a) relating to gasoline.

Manufacturer's Tax on Tires

These proposed regulations update the tax rate tables applicable to tires sold after December 31, 1983, and conform the regulations to section 514(a) of the 1982 Act which repealed the tax on nonhighway tires, laminated tires, inner tubes and tread rubber, effective January 1, 1984. The proposed regulations also provide that the determination of the weight of tires for purposes of the excise tax may be based upon averages computed by any method approved by the Commissioner rather than solely by averages published by the tire industry. See existing § 46.4071-2(b).

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20303. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Margaret M. O'Connor of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and Ammunitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods and tires.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

PART 48—[AMENDED]

Paragraph 1. The authority for Part 48 continues to read in part:

Authority: 26 U.S.C. 7805. * * * Section 48.4041-18 also issued under 26 U.S.C. 4041(k)(1); § 48.4041-2 also issued under 26 U.S.C. 4081(c)(1). * * *

Par. 2. Section 48.4041-14 is redesignated as § 48.4041-18 and revised to read as set forth below.

§ 48.4041-18 Fuels containing alcohol.

(a) *In general*—(1) *Sale or use after December 31, 1984 and before January 1, 1993.* Under section 4041(k) the rate of tax applicable to the sale or use after December 31, 1984 and before January 1, 1993, of any liquid fuel described in section 4041(a) (1) or (2) which consists of at least 10% alcohol by volume is:

(i) 9 cents for each gallon of alcohol mixture sold or used in the case of mixtures described in section 4041(a)(1); or

(ii) 3 cents for each gallon of alcohol mixture sold or used in the case of mixtures described in section 4041(a)(2).

The amount of tax is based upon the total volume of fuel and not merely upon the volume of the nonalcohol components of such fuel. However, see section 4041(b)(2) and § 48.4041-19 for rules relating to the complete exemption from taxes imposed by section 4041(a) where at least 85% of the fuel consists of alcohol produced from certain sources.

(2) *Sale or use after March 31, 1983, and before January 1, 1984.* For rules relating to the rate of tax imposed on the sale or use after March 31, 1983, and before January 1, 1984 of any liquid fuel described in section 4041(a) (1) or (2) which consists of at least 10% alcohol by volume, see section 4041(k) prior to the enactment of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 1007).

(3) *Sale or use before April 1, 1983.* No tax is imposed upon the sale or use of any liquid fuel described in section 4041 (a)(1) or (a)(2) which consists of at least 10% alcohol if the sale or use occurs after December 31, 1978 and before April 1, 1983.

(b) *Alcohol mixture fuels qualifying for special tax treatment.* In order to qualify for the reduced rates of tax described in paragraphs (a)(1) and (a)(2) of this section or the exemption from tax described in paragraph (a)(3) of this section, at least 10% of an alcohol mixture fuel must consist of alcohol as defined in section 4081(c) and § 48.4081-2(a)(3) of the regulations. To determine the percentage of alcohol present in a fuel, the actual gallonage of each chemical component will be adjusted to equivalent gallonage at 60° Fahrenheit.

(c) *Later separation.* If a person separates out the alcohol from a mixture which has been taxed under the rates of section 4041(k), such separation will be treated as a sale of the liquid on the date separated and is subject to tax at the rates set forth under section 4041(a) (1) or (2). The tax liability incurred upon the separation is reduced by the amount of any tax previously imposed under section 4041. Thus, if Y buys 1000 gallons of alcohol mixture fuel taxed at the rate of 3 cents per gallon under section 4041(k) and later separates the fuel into 900 gallons of special motor fuel and 100 gallons of alcohol, the separation is treated as a sale of 900 gallons of special motor fuel, taxed at the rate of 9 cents per gallon under section 4041(a), and a sale of 100 gallons of alcohol, exempt from tax under section 4041(b)(2). The tax of $81 on the deemed sale of special motor fuel is reduced by the tax of $30 previously paid on the sale of the alcohol mixture fuel.

(d) *Exemption from tax for alcohol mixture fuels sold or used in an aircraft in noncommercial aviation*—(1) *In general.* No tax is imposed upon the sale or use of any liquid fuel described in section 4041 (a)(1) or (a)(2) which consists of at least 10% alcohol if such fuel is sold to or used by an owner, lessee or other operator of an aircraft as fuel in such aircraft in noncommercial aviation. See section 4041(c)(4) and the regulations thereunder for the definition of noncommercial aviation.

(2) *Failure to use alcohol mixture fuel in an aircraft in noncommercial aviation.* If fuel which is exempt from tax under paragraph (d)(1) of this section is not used as fuel in an aircraft in noncommercial aviation, any other use or sale of such fuel will be considered the use or sale of an alcohol mixture fuel subject to tax according to the rules of this section.

(e) *Refunds relating to diesel, special motor and noncommercial aviation fuels.* See section 6427 for rules which relate to the allowance of a refund or credit to a person who uses tax-paid diesel, special motor or noncommercial aviation fuels to produce an alcohol mixture fuel.

(f) *Alcohol mixture fuel within the tank of a vehicle*—(1) *Mixtures within the tank of a vehicle before April 1, 1983.* If an alcohol mixture fuel is put into the tank of a vehicle prior to April 1, 1983, the fuel is considered used prior to that date. Thus, such fuel will not be subject to the tax described in paragraph (a)(2) of this section and will be exempt from tax according to the provision of paragraph (a)(3) of this section.

(2) *Mixture within the tank of a vehicle before January 1, 1985.* If an alcohol mixture is put into the tank of a vehicle prior to January 1, 1985, the fuel is considered used prior to that date. Thus, such fuel is subject to the tax described in paragraph (a)(2) of this section.

Par. 3. A new § 48.4041-19 is added to read as set forth below.

§ 48.4041-19 Exemption for qualified methanol and ethanol fuel.

(a) *In general.* Under section 4041(b)(2), the tax imposed upon the sale or use of motor fuels under section 4041(a) does not apply to the sale or use of qualified methanol or ethanol fuel.

(b) *Qualified methanol or ethanol fuel defined.* For purposes of section 4041(b)(2) and this section, qualified methanol or ethanol fuel is liquid motor fuel, 85% of the volume of which consists of alcohol, as defined in section 4081(c) and § 48.4081-2(a)(3) of the regulations as modified by the following sentence. For purposes of section 4041(b)(2) and this section, the alcohol contained in a qualified methanol or ethanol fuel may be produced from coal. In determining whether the 85 percent alcohol requirement has been met with respect to a mixture, the actual gallonage of each chemical component will be adjusted to equivalent gallonage at 60° Fahrenheit.

(c) *Refunds relating to fuels used to produce qualified fuels.* See section 6427 for rule which relate to the allowance of a refund or credit to a person who uses tax-paid diesel, special motor or noncommercial aviation fuels to produce a qualified methanol or ethanol fuel and section 6416 for rules which relate to the allowance of a refund or credit to a

person who uses tax-paid gasoline to produce a qualified methanol or ethanol fuel.

(d) *Later blending.* If a qualified methanol or ethanol fuel is blended with other motor fuel in a mixture less than 85 percent of which consists of alcohol, the subsequent sale or use of such alcohol mixture fuel is taxable under the provisions of section 4041 or section 4081 subject to the requirements, limitations and exemptions of those sections. Thus, if the alcohol mixture fuel is at least 10% alcohol by volume, sale or use of the fuel is taxed at the rates provided in section 4041(k) or section 4081(c), but if the fuel is less than 10% alcohol, sale or use of the fuel is taxed at the rates provided in section 4041(a) or section 4081(a).

(e) *Effective date.* Section 4041(b)(2) applies to sales or uses after March 31, 1983, and before October 1, 1988.

Par. 4. A new § 48.4041–20 is added to read as set forth below.

§ 48.4041–20 Partially exempt methanol and ethanol fuel.

(a) *In general.* Under section 4041(m), the sale or use of partially exempt methanol or ethanol fuel is taxed at the rate of 4½ cents per gallon of fuel sold or used. The amount of tax is based upon the total volume of fuel and not merely upon the nonalcohol portion of the fuel.

(b) *Partially exempt methanol or ethanol fuel defined.* For purposes of section 4041(m) and this section, partially exempt methanol or ethanol fuel is liquid motor fuel, 85% of which by volume consists of alcohol, as defined in section 4081 and § 48.4081–2(a)(3) of the regulations, as modified by the following sentence. For purposes of section 4041(m) and this section, the alcohol contained in partially exempt methanol or ethanol fuel must be produced from natural gas. In determining whether the 85 percent alcohol requirement has been met with respect to a mixture, the actual gallonage of each chemical component will be adjusted to equivalent gallonage at 60° Fahrenheit.

(c) *Refunds relating to fuels.* See section 6427 for rules which relate to the allowance of a refund or credit to a person who uses tax-paid diesel, special motor or noncommercial aviation fuel to produce a partially exempt methanol or ethanol fuel and section 6416 for rules which relate to the allowance of a refund or credit to a person who uses tax-paid gasoline to produce a partially exempt methanol or ethanol fuel.

(d) *Later blending.* If a partially exempt methanol or ethanol fuel is blended with other motor fuel in a mixture less than 85 percent of which consists of alcohol, the subsequent sale or use of such blended motor fuel is taxable under the provisions of section 4041(a) or section 4081(a), subject to the requirements, limitations and exemptions of those sections.

(e) *Effective date.* Section 4041(m) applies to sales and uses after July 31, 1984. If methanol or ethanol fuel meeting the requirements of paragraph (b) of this section was put into the tank of a vehicle prior to August 1, 1984, the fuel is considered used prior to that date and is subject to the tax described in paragraph (a) of section 4041.

Par. 5. Section 48.4071–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b)(1) is revised to read as set forth below.

(c) Paragraph (b)(2) is redesignated paragraph (b)(3).

(d) A new paragraph (b)(2) is added to read as set forth below.

§ 48.4071–1 Imposition and rate of tax.

(a) *Imposition of tax*—(1) *Imposition of tax before January 1, 1984.* Section 4071 imposes a tax at the rates set forth in paragraph (b)(1) of this section on tires made wholly or in part of rubber, inner tubes (for tires) made wholly or in part of rubber and tread rubber which are sold by the manufacturer thereof before January 1, 1984.

(2) *Imposition of tax after December 31, 1983.* Section 4071 imposes a tax at the rates set forth in paragraph (b)(2) of this section on tires of the type used on highway vehicles and made wholly or in part of rubber which are sold by the manufacturer thereof after December 31, 1983.

(3) *Definitions.* For definitions of the terms "tires," "inner tubes," "tread rubber," "rubber" and "manufacturer," see § 48.4072–1 of the regulations.

(b) *Rates and computation of tax*—(1) *Rates of tax before January 1, 1984.*

(i) *Tires:*

(A) Of the type used on highway vehicles:

(*1*) For the period July 1, 1965 to December 31, 1980, inclusive—10 cents per pound

(*2*) For the period January 1, 1981 to December 31, 1983, inclusive—9.75 cents per pound.

(B) Of the type used on other than highway vehicles:

(*1*) For the period July 1, 1965, to December 31, 1980, inclusive—5 cents per pound.

(*2*) For the period January 1, 1981 to December 31, 1983, inclusive—4.875 cents per pound.

(C) Laminated tires for the period July 1, 1965 to December 31, 1983, inclusive—1 cent per pound.

(ii) *Inner tubes:*

For the period July 1, 1965 to December 31, 1983, inclusive—10 cents per pound.

(iii) *Tread Rubber:*

For the period July 1, 1965 to December 31, 1983, inclusive—5 cents per pound.

(2) *Rates of tax on or after January 1, 1984.* Tires of the type used on highway vehicles:

(i) Tires weighing not more than 40 pounds—0 cents.

(ii) Tires weighing more than 40 pounds but not more than 70 pounds—15 cents for each pound in excess of 40 pounds.

(iii) Tires weighing more than 70 pounds but not more than 90 pounds—$4.50 plus 30 cents for each pound in excess of 70 pounds.

(iv) Tires weighing more than 90 pounds—$10.50 plus 50 cents for each pound in excess of 90 pounds.

* * * * *

§ 48.4071–2 [Amended]

Par. 6. Paragraph (b) of § 48.4071–2 is retitled "*Alternative method of determining the weight of tires after December 31, 1983*" and is amended by removing "and inner tubes" wherever it appears and by removing in the first sentence the phrase "shown in schedules published by the tire industry".

Par. 7. Section 48. 4081–2 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b) is revised to read as set forth below.

(c) The heading of paragraph (c) is revised to read as set forth below.

(d) Paragraph (c)(1) is amended by removing the first sentence of the paragraph and inserting in lieu thereof the sentence set forth below and by removing the word "exempt" in the fifth sentence.

(e) Paragraph (c)(2) is amended by removing "tax free" wherever it appears and inserting in lieu thereof "at the reduced rate (or tax free for sales before April 1, 1983)".

(f) Paragraph (e)(1) is revised to read as set forth below.

(g) Paragraph (e)(2) is retitled to read as set forth below and is amended by removing the last sentence of the paragraph and inserting in lieu thereof the two sentences set forth below.

(h) A new paragraph (e)(3) is added to read as set forth below.

(i) Paragraph (f)(1) is retitled and is revised to read as set forth below.

(j) The heading and text of paragraph (f)(2) are amended by inserting "and less than 85 percent alcohol" after "40 percent alcohol" wherever it appears.

(l) A new paragraph (f)(3) is added to read as set forth below.

(m) Paragraph (g) is revised to read as set forth below.

(n) Paragraph (h) is amended by removing "tax free" wherever it appears and inserting in lieu thereof "at the reduced rate (or tax free for sales before April 1, 1983)".

(o) Paragraph (i) is removed.

§ 48.4081-2 Gasoline mixed with alcohol.

(a) *In general*—(1) *Sale after March 31, 1983, and before October 1, 1988.* Under section 4081(c), the rate of tax applicable to the sale of qualifying gasohol (as defined in paragraph (a)(4) of this section) and on the sale of gasoline for the purpose of producing qualifying gasohol is:

(i) For sales occurring after December 31, 1984, and before October 1, 1988, 3 cents per gallon of fuel in the case of the sale of qualifying gasohol and 3⅓ cents per gallon of fuel in the case of the sale of gasoline purchased for the purpose of producing qualifying gasohol.

(ii) For sales occurring after March 31, 1983, and before January 1, 1985, 4 cents per gallon of fuel in the case of the sale of qualifying gasohol and 4⅔ cents per gallon of fuel in the case of the sale of gasoline purchased for the purpose of producing qualifying gasohol.

(2) *Sale before April 1, 1983.* For sales before April 1, 1983 no tax is imposed upon the sale of qualifying gasohol or on the sale of gasoline to produce qualifying gasohol.

(3) *Alcohol defined.* For purposes of this section and section 4081(c), the term "alcohol" generally includes methanol, ethanol, and any other alcohol, whether produced domestically or imported, which is not produced from petroleum, natural gas, or coal. In the case of alcohol mixture fuels sold after December 31, 1984, alcohol produced from peat is considered alcohol produced from coal. The term alcohol, for purposes of this section and section 4081(c), does not include alcohol with a proof of less than 190° of proof (determined without regard to added denaturants). Thus, in determining what percentage of any mixture consists of alcohol, the volume of alcohol includes the volume of any impurities that reduce the purity of the alcohol to not less than 95% (190 degrees of proof), determined without regard to denaturants, unless such impurities consist of gasoline or the other non-alcohol fuel with which the alcohol is mixed. In addition, the volume of alcohol includes the volume of any denaturants (including gasoline or other non-alcohol fuel denaturants) which are added under any formula approved by the Secretary to the extent that the volume of such denaturants does not exceed 5% of the volume of the alcohol (including the denaturants). If the volume of such denaturants exceeds 5% of the volume of the alcohol, the excess over 5% is considered part of the non-alcohol content of the fuel. For certain requirements imposed on producers of alcohol (ethanol) under chapter 51 of the Code relating to distilled spirits, see 27 CFR Part 201. For certain requirements imposed on purchasers of specially denatured alcohol (ethanol), see 27 CFR Part 211.

(4) *Qualifying gasohol.* Qualifying gasohol (hereinafter referred to as gasohol) is a blend of gasoline and alcohol in a mixture at least 10 percent of which is alcohol. The actual gallonage of each component of the gasohol is adjusted to its equivalent gallonage at 60° Fahrenheit in order to determine whether the 10% alcohol requirement has been met.

(b) *Sale of gasoline to produce gasohol.* The sale of gasoline for use in producing gasohol is subject to the provisions of section 4081(c) rather than section 4081(a) only if the sale is in bulk quantities for delivery into a bulk storage tank of a gasohol producer as defined in this paragraph (b). For purposes of this section, the term "gasohol producer" means any person who, in the ordinary course of his or her trade or business, regularly buys gasoline and alcohol in bulk quantities for blending into gasohol for the use in the trade or business or for resale. Thus, an isolated purchase of gasoline for blending into gasohol does not qualify the seller of such gasoline for taxation under section 4081(c) and this section. A person who qualifies as a gasohol producer for purposes of this section will also qualify as a "producer" for purposes of section 4082. Accordingly, the sale of gasoline to a gasohol producer, whether or not for use in producing gasohol, may be exempt from tax under section 4083 (relating to certain exempt sales to producers). If the sale of gasoline for use in producing gasohol is taxed at the rate provided in section 4081(c), no tax will be imposed upon the sale of the gasohol produced with such gasoline. In addition, if the sale of gasoline for use in producing gasohol is taxed at the rate provided in section 4081(c) applicable to sales before January 1, 1985, and such gasoline is blended into gasohol after December 31, 1984, no refund or credit is allowed for the difference between the tax imposed and the lower tax which would have been imposed if such gasoline had been taxed at the rate applicable to sales after December 31, 1984.

(c) *Requirements for gasohol producers purchasing at lower rates or tax free*—(1) *Certificate of Registry.* A person qualifying as a gasohol producer under paragraph (b) of this section who wishes to purchase gasoline taxed at a reduced rate (or exempt from tax in the case of sales prior to April 1, 1983) under section 4061(c)(1)(B) must be registered with the district director for the district in which his principal place of business is located, unless the person is exempt from registration requirements under section 4222(b). * * *

* * * * *

(e) *Special rules*—(1) *Limitation on sales taxed at lower rates.* The reduced rate of tax (or the exemption from tax in the case of sales prior to April 1, 1983) under section 4081(c)(1)(B) only applies to the sale of gasoline for use in producing gasohol. Therefore, unless the sale is exempt from tax or is taxed at a reduced rate under another provision of the Code, the producer of the gasoline may sell at the reduced rate of tax provided in section 4081(c), only that portion of the gasoline that is intended for use in producing gasohol.

(2) *Sales to exempt users.* * * * Therefore, where the ultimate vendor sells both tax-paid gasoline and tax-paid gasohol and the sales of the two types of fuel are not clearly distinguished, the producer of the gasoline and gasohol will not be entitled to a full credit or refund with respect to these fuels, if the amounts of each type sold by the ultimate vendor to tax-exempt users cannot be established. If the producer cannot distinguish the amount of each type sold, the credit allowed will be equal to the credit that would have been allowed if all the fuel sold had been tax-paid gasohol.

(3) *Later blending.* If gasohol is blended with other motor fuel, the subsequent sale or use of such blended motor fuel is taxable under the provisions of section 4041(a) or 4081(a) if the resulting blend is less than 10% alcohol by volume.

(f) *Refunds and credits*—(1) *Tax-paid gasoline under section 4081(a) used to produce gasohol.* See section 6427(f) for rules which relate to the allowance of a refund or credit to a blender of gasohol where the blender uses tax-paid gasoline to produce the gasohol.

* * * * *

(3) *Mixture of gasoline and alcohol containing at least 85% alcohol.* If a person uses tax-paid gasoline in blending a mixture of gasoline and alcohol containing at least 85% alcohol by volume that qualifies for the exemption from tax under section 4041(b)(2) for qualified methanol or ethanol fuels, the refund provisions under section 6416 apply.

(g) *Later separation and failure to blend*—(1) *In general.* Any person who fails to use gasoline which was taxed at a reduced rate (or was exempt from tax in the case of sales prior to April 1, 1983) under section 4081(c) to make gasohol or who separates gasoline from gasohol which was taxed, if at all, under section 4081(c), is treated as a producer of gasoline (as defined under section 4082), and is subject to tax upon the subsequent sale of such gasoline. If gasoline is purchased under section 4081(c) for use in producing gasohol, and the amount purchased is in excess of the amount of gasoline that the purchaser is able to establish has actually been used to produce gasohol by the records required under paragraph (h)(3) of this section, then the purchaser is treated as having failed to use the excess gasoline to produce gasohol. In such a case, any of the excess gasoline that is not in the purchaser's possession is treated as having been disposed of by sale or by a use considered a sale. See section 7201 for criminal penalties relating to a willful attempt to evade or defeat tax, and section 6651 for additions to tax for failure to file a return or pay tax.

(2) *Rates of tax.* If gasoline or gasohol described in the preceding paragraph was purchased tax free prior to April 1, 1983, the person who is treated as separating the gasohol or failing to use the gasoline to produce gasohol is taxed as a producer at the applicable rate of tax in effect under section 4081(a) at the time of the sale of the gasoline by such person. If the gasoline or gasohol was purchased at the rate of tax applicable to sales after March 31, 1983, and before January 1, 1985, the rate of tax imposed upon the person treated as separating the gasohol or failing to use the gasoline to produce gasohol is 4⅝ cents per gallon. If the gasoline or gasohol was purchased at the reduced rate of tax applicable to sales after December 31, 1984, the rate of tax imposed upon the person treated as separating the gasohol or failing to use the gasoline to produce gasohol is 5⅜ cents per gallon.

(3) *Examples.* The requirements of this paragraph are illustrated by the following examples.

Example (1). A gasohol blender *X* produces 10,000 gallons of gasohol using 9,000 gallons of gasoline and 1,000 gallons of alcohol. Because of a lack of demand for the gasohol, *X* separates the gasoline and sells it. *X* will be treated as the producer of the gasoline.

(i) If the gasoline was previously subject to a 9 cents per gallon tax under section 4081(a), or $810, the sale of the separated gasoline is not subject to any additional tax.

(ii) If the gasoline was previously subject to a 4⅝ cents per gallon tax under section 4081(c), or $400, *X* will be subject to a 4⅝ cents per gallon tax upon the sale or gasoline, or $410.

(iii) If the gasoline was previously subject to a 3⅛ cents per gallon tax under section 4081(c), or $300, *X* will be subject to a 5⅜ cents per gallon tax upon the sale of gasoline, or $510.

(iv) Assume that *X* never blended the 9,000 gallons into gasohol but instead sold the gasoline. *X* will be treated as the producer of the gasoline. If the gasoline had been subject to a 9 cents per gallon tax, *X* will not be subject to any additional tax. If the gasoline had been taxed at a rate of 4⅝ cents per gallon, or $400, *X* will be subject to a 4⅝ cents per gallon tax upon the sale of the gasoline, or $410. If the gasoline had been taxed at a rate of 3⅛ cents per gallon, or $300, *X* will be subject to a 5⅜ cents per gallon tax upon the sale of the gasoline, or $510.

* * * * *

§ 48.6420-4 [Amended]

Par. 8. Section 48.6420-4(i) is amended by inserting "or other applicator" after "an aerial applicator" wherever if appears.

§ 48.6427-1 [Amended]

Par. 9. Section 48.6427-1(a)(2)(iv) is amended by inserting "or other applicator" after "an aerial applicator" wherever it appears.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-20149 Filed 8-21-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

Permanent State Regulatory Program of Mississippi

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for public comment on its proposed action to postpone a review of the Mississippi program provisions in light of revisions to the Federal regulations.

OSM has initiated a review of all State permanent regulatory programs, approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act 1977 (SMCRA), in light of extensive revisions to the Federal regulations. Such a review results from the requirements of the Federal regulations at 30 CFR 732.17(d), which provide that OSM notify the State regulatory authority of all changes in SMCRA and the Federal regulations thereunder, which will require an amendment to the approved State program to conform the State's program to the Federal standards; and consistency of the State and Federal standards is required by SMCRA.

Since its permanent regulatory program was approved by the Secretary, Mississippi has not had any surface coal mining activities in the State, nor does the State anticipate any coal mining to occur before 2000 A.D. Further, Mississippi has indicated in writing that when coal mining is anticipated or develops, it will amend its State program provisions to be consistent with the Federal regulations in existence at the time. This notice sets forth the public comment period during which time interested persons may submit written comments on OSM's proposed action to postpone at this time its review of the State program provisions and the State's subsequent revision of its surface coal mining regulations.

DATE: Comments not received by September 23, 1985 at the address below, no later than 4:00 will not necessarily be considered in this proposed action.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. John T. Davis, Field Office Director, Birmingham Field Office, Office of surface Mining, 228 West Valley Avenue, 3rd Floor, Room 302, Homewood, Alabama 35209.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Davis, Field Office Director, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Room 302, Homewood, Alabama 35209; Telephone: (205)254-0809.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the State of Mississippi submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. On May 27, 1980, Mississippi resubmitted its program. On September 4, 1980, following a review of the program resubmission, the Secretary of the Interior approved the Mississippi program (45 FR 58520-58526). Background information on the State program and the Secretary's findings

can be found in the September 4, 1980 **Federal Register** notice.

In the latter part of 1983, OSM completed the last in a series of final rules, thus completing its regulatory reform effort for the Federal regulations at 30 CFR Chapter VII. On November 10, 1983, the Director, OSM, provided all States, with approved permanent regulatory programs, with a preliminary list of revised Federal rules which may necessitate changes in the approved State programs. Thus, OSM initiated the procedures required by the Federal regulations at 30 CFR 732.17(d), which provide that OSM notify the State regulatory authority of all changes in SCRA and the Federal regulations which will require an amendment to the State's program to conform state program provisions to the Federal standards. Consistency of the State and Federal standards is required by section 503(a) of SMCRA and the Federal regulations at 30 CFR 732.15(a). To date eight States have been notified formally by the Director under 30 CFR 732.17 that specific provisions of the respective State programs are now inconsistent with the Federal regulations and must be revised by the States.

With regard to the Mississippi program, the Director is considering an indefinite postponement of the review of the State program in light of the revised Federal regulations. This action is proposed for several reasons. On July 23, 1985, Mississippi responded to an inquiry from OSM concerning the status of coal mining in the State. Mississippi said that there is no coal mining in the State. Further, no coal (lignite) mining is anticipated in the near future, probably not before the year 2000 A.D. Also, the letter stated that in the event mining is anticipated or if mining does develop, the rules and regulations of the Mississippi program will at that time be amended to be consistent with the Federal regulations in existence at such time.

This action is also proposed in part because of the plain reading of section 503(a) of SMCRA in conjunction with the Federal regulations at 30 CFR 736.11(a). Under these provisions it would not have been necessary for Mississippi to have a State program or for the Director to promulgate a Federal program in the State inasmuch as he does not reasonably expect coal exploration or surface coal mining operations to exist on non-Federal and non-Indian land within the State at any time in the near future.

Therefore, the Director invites public comment on the proposed action to postpone the regulatory reform review of the Mississippi program and the resulting requirement of State revisions to its program until such time as mining is anticipated or mining does develop in the State. If, after considering public comments on this proposed action, the Director makes a final decision to postpone the review, he would revise the Federal rules at 30 CFR Part 924 codifying decisions concerning the Mississippi program to implement the action. Specifically, a new § 924.16 would be added to codify the requirement that Mississippi, in the event mining is anticipated or does develop, will amend its program prior to any mining to be consistent with the Federal regulations in existence at the time.

Additional Determinations

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

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

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

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

List of Subjects in 30 CFR Part 924

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

Dated: August 14, 1985

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 924—MISSISSIPPI

30 CFR Part 924 is proposed to be amended as follows:

1. The authority citation for Part 924 continues to read as follows:

Authority: Pub. L. 95-87 (30 U.S.C. 503).

2. 30 CFR Part 924 is proposed to be amended by adding a new § 924.16 as follows:

§ 924.16 Required program amendments.

Pursuant to 30 CFR 732.17, Mississippi, prior to allowing coal exploration or surface mining operations in the event such activities should develop, shall submit and have approved by the Office of Surface Mining, amendments to its permanent regulatory program to be in accordance with SMCRA and consistent with the Federal regulations at 30 CFR Chapter VII in existence at the time.

[FR Doc. 85-19932 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-83; RM-4884]

FM Broadcast Station in Kodiak, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: Action taken herein dismisses the request of Kodiak Broadcasting Company, Inc. to allocate Channel 272A to Kodiak, Alaska, as that community's second local commercial FM service. The petitioner failed to state a continuing interest in the channel.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

In the Matter of Amendment of §73.202(b), Table of Allotments, FM Broadcast Stations. (Kodiak, Alaska) MM Docket No. 85-83, RM-4884.

Adopted: August 12, 1985.

Released: August 20, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 12584, published March 29, 1985, proposing the allocation of Channel 272A to Kodiak, Alaska, as that community's second local commercial FM service, at the request of Kodiak Broadcasting Company, Inc. ("petitioner"). Comments were filed by Peninsula Communications, Inc.

("Peninsula"), requesting that a different frequency be allocated to avoid interference to its proposed translator station on Channel 272A at Kodiak. No Comments were received by the petitioenr and no other party filed comments stating an intention to apply for the channel, if allocated.

2. Absent an expression of interest in the use of a proposed channel, it is the Commission's general policy to refrain from making a new allocation to a community. See, *e.g., Williams, Arizona,* 47 FR 20827, published May 14, 1982, and paragraph 2 of the Appendix to the *Notice.* Therefore, since there has been no such interest here, we will dismiss petitioner's proposal.

3. In view of the foregoing, it is ordered, that the petition of Kodiak Broadcasting Company, Inc., requesting the allocation of Channel 272A to Kodiak, Alaska, is hereby dismissed. It is further ordered, that this proceeding is terminated.

4. For further information concerning this proceeding, contract Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20041 Filed 8-21-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 87

[PR Docket No. 85-112; FCC 85-189]

Portable Aircraft Station Licenses, Aeronautical Utility Mobile Station Frequencies and Frequencies Used for Activation of Airport Lights

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to make three unrelated amendments to the Aviation Services rules. The first proposal specifically provides for the licensing of portable aircraft radio stations which can be temporarily installed on board an aircraft. The second proposal would permit the frequency 122.9 MHz to be used by aeronautical utility mobile stations at airports without towers, flight service stations or aeronautical advisory stations (unicoms). The final proposal would permit the frequency 122.9 MHz to be used to activate airport runway lights. This action was initiated as a result of inquiries from members of the aviation community and is intended to improve aviation communications services.

DATES: Comments must be submitted on or before September 19, 1985, and reply comments on or before October 4, 1985.

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

FOR FURTHER INFORMATION CONTACT: Loretta J. Garcia, Private Radio Bureau, Aviation and Marine Branch, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 87

General Aviation, Airborne Stations Aeronautical Utility Mobile Stations.

This document was released by the Commission on April 19, 1985. Due to oversight, it was never published in the **Federal Register.** However, the comment/reply comment period has been extended to allow **Federal Register** readers sufficient time in which to file comments.

In the matter of amendment of part 87 of the rules concerning portable aircraft licenses, aeronautical utility mobile station frequencies and frequencies used for activation of airport lights; PR Docket No. 85-112, FCC 85-189.

Adopted: April 15, 1985.
Released April 19, 1985.

By the Commission.

1. This notice proposes to make three unrelated changes in Part 87 (Aviation Services) of the rules. These changes concern new portable aircraft station licenses, frequencies available for use by aeronautical utility mobile stations and frequencies available for activation of airport runway lights.

Portable Aircraft License

2. Currently there is no provision in Part 87 which permits the licensing of portable aircraft radio stations. When an applicant requests to temporarily operate portable radio equipment in different U.S. registered aircraft, the request is reviewed on a case-by-case basis. In the past such requests for portable aircraft stations were rare and this was a suitable approach. However, with the introduction of relatively inexpensive portable aircraft radio equipment in the marketplace, the number of applicants seeking to license this equipment is increasing.

3. We believe that specifically providing for portable aircraft stations in the rules will be more convenient for the aviation community and prevent a lengthening of processing time as such applications become more common. A similar type of portable station license is available in the maritime services and has proven to be useful for vessel operators. Accordingly, we propose to amend § 87.29 to specifically provide for the licensing of portable aircraft stations.

Aeronautical Utility Mobile Stations

4. In order to improve safety at airports which do not have an operating control tower, the Federal Aviation Administration (FAA) has recommended that aircraft flying into or out of these uncontrolled airports transmit/receive on a common traffic advisory frequency (CTAF). The assigned CTAF depends on the facilities located at a particular airport. The CTAF is usually the part-time control tower frequency, the flight service station frequency, the aeronautical advisory station frequency or, where none of the above facilities exists, 122.9 MHz.[1] Vehicles which operate at an airport are usually equipped with aeronautical utility mobile stations for safety communications related to the movement of ground traffic on the airport. For example, maintenance vehicles, snowplows and crash equipment used aeronautical utility mobile radio stations. The frequencies assigned to these utility stations at uncontrolled airports correspond to the CTAF except that 122.9 MHz is not currently included in the list of available frequencies.

5. We have received a number of rule waiver requests to permit utility stations which operate at airports without any control tower, flight service station or aeronautical advisory stations to use the airport CTAF 122.9 MHz. State and local aeronautical agencies which inspect and help maintain many of these uncontrolled airports most often make such requests. We feel that making 122.9 MHz routinely available to utility stations operating at these airports will enhance safety and improve communications capabilities. Accordingly, we propose to amend § § 87.431 and 87.433 of the rules to make 122.9 MHz assignable to aeronautical utility mobile stations operating at airports without a control tower, flight service station or aeronautical advisory station for communications related to safety such as runway conditions and hazards on the airport.

Activation of Airport Runway lights

6. Section 87.183 (cc) of the rules permits aircraft stations to transmit brief

[1] The frequency 122.9 MHz is also assignable to aeronautical multicom stations for communications pertaining to activities of a temporary, seasonal or emergency nature which depend on aircraft for the successful or safe conduct of the activity.

keyed RF signals [2] to activate airport lights. Frequencies assigned to aeronautical stations at the airports are available for this purpose provided no harmful interference is caused to voice communications. The frequency 122.9 MHz was not made available for the activation of airport lights because it would not normally be assigned to a station located at an airport. However, with the increasing use of 122.9 MHz as the CTAF at airports without an aeronautical radio station, we have received a number of inquiries concerning use of 122.9 MHz to activate airport lights. This would allow the pilot to remain on the recommended CTAF frequency when approaching these airports at night, rather than having to switch to another frequency to activate the airport lights. We believe that at many airports the use of 122.9 MHz for this purpose would be more convenient for the flying public without causing any negative effect. Accordingly, we propose to amend § 87.183(cc) to make the frequency 122.9 MHz available for the activation of airport lights at airports where no aeronautical station utilizing any of the other available frequencies is located.

7. Additionally we propose to remove language in § 87.183(j) which became obsolete after January 1, 1985.

8. The proposed amendments to the Commission's rules, as set forth in the attached Appendix, are issued under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

9. Under procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before September 19, 1985 and reply comments on or before October 4, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comment should file an original and 11 copies. Members of the general public who wish to express their comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any writtten or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepared a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

12. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase burden hours imposed on the public.

13. We have determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because if promulgated, it will not have a significant economic impact on a substantial number of small entities. The changes proposed herein will have a minor beneficial effect on the aviation community. These changes allow greater flexibility and will not cause a significant economic impact on any entity.

14. It is ordered, That a copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

15. Regarding questions on matters covered in this document, contact Loretta J. Garcia, 202-632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read:

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

2. Section 87.29 is amended by adding new paragraph (a)(7) to read as follows:

§ 87.29 Application for aircraft radio station license.

(a) * * *

(7) An applicant may apply for a portable aircraft radio station license to operate a portable transmitter when temporarily installed in different U.S. aircraft. The applicant must show a need to operate the same equipment on more than one aircraft.

* * * * *

3. Section 87.183 paragraph (j) is amended by removing the last sentence of subparagraph (3)(ii), and § 87.183 paragraph (cc) is amended by removing the last sentence in subparagraph (3), and by adding new subparagraph (4) to read as follows:

§ 87.183 Frequencies available.

(cc) * * *

(3) Any aviation instructional frequency (121.95, 123.3 and 123.5 MHz) listed in § 87.341.

(4) The frequency 122.9 MHz when no station utilizing any of the available

[2] The transmitter is keyed by momentarily depressing the microphone "push-to-talk" button without voice or audio tone transmissions.

frequencies is located at the concerned airport.

4. In § 87.431, paragraph (d) is redesignated as (e) and a new paragraph (d) is added to read as follows:

§ 87.431 Frequencies available.

* * * * *

(d) At landing areas which have *no* airdrome control tower, flight service station or aeronautical advisory station, the frequency 122.9 MHz is assignable to aeronautical utility mobile stations.

* * * * *

§ 87.433 [Amended]

5. In § 87.433(b) the words "or the frequency 122.9 MHz" are added after the words "aeronautical advisory station frequency".

[FR Doc. 85-19931 Filed 8-21-85; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 163
Thursday, August 22, 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

Agricultural Stabilization and Conservation Service

1985 Crop Soybean Preliminary Loan and Purchase Rate

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of determination of 1985 crop soybean preliminary level of price support.

SUMMARY: The purpose of this notice is to announce that the preliminary level of price support for the 1985 soybean crop is $5.02 per bushel. This determination is required to be made by section 201(g)(1) of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013, Telephone (202) 447–4417. Since this is a preliminary determination calculated in accordance with a statutory formula, it has been determined that an Impact Analysis is not necessary.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated "not major." It was designated "not major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibilty Act is not applicable to this notice since the Commodity Credit Corporation 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.

Section 201(g)(1) of the Agricultural Act of 1949, as amended, provides that the price of soybeans for each of the 1982 through 1985 marketing years shall be supported through loans and purchases at a level equal to 75 percent of the simple average price received by farmers for soybeans for each of the preceding five marketing years, excluding the high and low valued years, except that the support price may not be less than $5.02 per bushel. However, if the Secretary of Agriculture determines that the average price received by producers for soybeans in any marketing year is not more than 105 percent of the level of loans and purchases for such marketing year, the support level may be reduced for the next marketing year by the amount which is determined to be necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 10 percent in any year nor below $4.50 per bushel.

Section 201(g)(1) also provides that the Secretary must make a preliminary announcement of the level of price support not earlier than 30 days prior to September 1, the beginning of the marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available on prices for the five years perceding the beginning of the marketing year for which the level of support is determined. The final level of price support must be announced no later than October 1, of the marketing year to which the announcement applies. The final level of support cannot be less than that of the preliminary announcement.

Determination

The simple average price received by farmers for soybeans for each of the preceding five years, excluding the high and low valued years, is $6.47 per bushel. This determination is based on the following data:

(1)

Simple-Average Soybean Prices ($/Bu.)

1980	7.50
1981	6.05
1982	5.83
1983	7.67
1984	5.85 (projected)

(2) Average of the five years, excluding the low valued year (1982) and the high valued year (1983): ($7.50 + $6.05 + $5.85)/3 = $6.47 per bushel.

(3) The preliminary price support level calculation is $6.47 × .75 = $4.85. The calculated preliminary price support level of $4.85 per bushel is less than the statutory minimum level of $5.02 per bushel. The average price of soybeans received by producers during the marketing year 1984 ($5.85) exceeded 105 percent of the 1984 price support level for soybeans ($5.02 × 1.05 = $5.27). There is, therefore, no basis for reducing the preliminary price support level for soybeans below the statutory minimum level of $5.02 per bushel. Accordingly, the preliminary 1985-crop soybean price support level is $5.02 per bushel.

(Sec. 201(g)(1) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446 (g)(1))

Signed at Washington, D.C. on August 19, 1985.

John R. Block,
Secretary.

[FR Doc. 85–20081 Filed 8–21–85; 8:45 am]
BILLING CODE 3410–05–M

Commodity Credit Corporation

Cotton Storage Agreement; Annual Contract Fees

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination of 1985–86 contract fees.

SUMMARY: The purpose of this notice is to propose a schedule of contract fees to be charged non-federally licensed warehousemen requesting renewal of an existing Cotton Storage Agreement (CSA) or requesting initial approval of a

CSA. The fees would partially defray the costs of warehouse examinations which are conducted by Commodity Credit Corporation (CCC).

DATE: Comments must be received on or before—September 23, 1985—in order to be assured of consideration.

ADDRESS: Send comments to Paul W. King, Director, Warehouse Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4018.

FOR FURTHER INFORMATION CONTACT: Steven Closson, Chief, Storage Contract Branch, Warehouse Division, ASCS, USDA, Room 5962–South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 382–8053.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." This action has been classified "not major" since implementation of these proposed determinations will not 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 governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program/activity is not subject to the provisions of Executive Order 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 29915 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is required.

The Commodity Credit Corporation (CCC) Charter Act (15 U.S.C. 714) provides authority for CCC to conduct a number of operations to stabilize, support, and protect farm income and prices.

Section 4(h) of the CCC Charter Act provides that CCC shall not acquire real property in order to provide storage facilities for agricultural commodities, unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, section 5 of the CCC Charter Act provides that, in carrying out the Corporation's purchasing and selling operations, and in the warehousing, transporting, processing, or handling of agricultural commodities, CCC is directed to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce. Pursuant to these provisions, CCC enters into Cotton Storage Agreements (CSA) with private warehousemen which provide for the storage of commodities owned by CCC or pledged to CCC as security for a price support loan.

CCC examines all warehouses which are subject to a CSA, or for which a warehouseman has requested approval for a new CSA, to determine whether quantities of CCC-owned cotton, CCC loan-cotton and other depositor cotton are totally accounted for and whether the warehouse will provide adequate protection for all cotton in storage and all cotton to be placed in storage.

CCC now pays all examination costs for those warehouses for which a CSA has been approved or for which a warehouseman is seeking approval of a new CSA, but which are not licensed under the United States Warehouse Act. If the warehouse examination disclosures that—(1) All cotton is accounted for, (2) the facility provides, or will provide, adequate protection for all cotton, and (3) the warehouseman and warehouse meet the financial and other requirements of the Standards of Approval—an existing CSA may be renewed for the warehouse or a new CSA may be approved for he warehouse. Since the warehouseman also derives a direct benefit from the warehouse examination, it has been determined that the warehouseman and CCC should each pay approximately 50 percent of the examination costs.

Accordingly, a proposed amendment to the Standards for Approval of Warehouses for Cotton or Cotton Linters (7 CFR Part 1427) has been published which provides that each warehouseman who has a non-federally licensed warehouse must pay a contract fee to CCC to partially offset the warehouse examination costs for each warehouse for which there is a request for a renewal of a GSA or for which there is a request for approval of a new CSA. The proposed amendment to 7 CFR Part 1427 provides that a Schedule of Fees to be charged cotton warehousemen by CCC will be published annually in the **Federal Register.** The purpose of this notice is to request comments from interested persons with respect to the schedule of fees proposed for the 1985–1986 contract year.

The proposed fee is designed to partially offset the total cost incurred by CCC in conducting an examination of a non-federally licensed warehouse for which the warehouseman has requested renewal of an existing CSA or approval of a new CSA.

For those warehouses for which the warehouseman has requested approval of a new CSA and for those warehouses for which the warehouseman has requested renewal of an existing CSA, the fee will be calculated to take into account the amount of storage activity at each warehouse. The proposed contract fee will equal the total of the following:

(1) A fee of $100 for each warehouse examined to help offset certain fixed costs associated with examinations which do not tend to vary according to storage activity, such as travel and staff hours devoted to discussions with warehouse personnel concerning general warehouse procedures;

(2) A charge of 1¢ for each bale handled at the warehouse during the twelve months of the calendar year preceding assessment of the fee in order to partially defray the costs associated with tracking and accounting for each bale handled at the warehouse; and

(3) A charge of 1.5¢ times the average number of bales in storage in the warehouse at the end of each month during the 12 months of the calendar year preceding assessment of the fee to partially offset the cost of the counting of bales that actually are in the warehouse at the time of the examination.

The proposed determination also specifies that a tag check fee of 10¢ per bale will be charged a warehouseman whenever CCC conducts a tag check of the warehouse. The tag check is not a part of the standard warehouse examination. Tag checks are conducted by CCC whenever the examiner's bale count is not within ½ of one percent of the total number of bales which should be in the warehouse as determined by outstanding warehouse receipts and all other storage and non-storage obligations.

Proposed Determinations

Accordingly, comments are requested on the following determinations with respect to contract fees and the method

used to determine the fee which the Commodity Credit Corporation (CCC) proposes to charge during the 1985–86 contract year for non-federally licensed cotton warehouses for which a warehouseman requests the renewal of an existing Cotton Storage Agreement (CSA) or approval of a new CSA:

A. There shall be charged and collected from the warehouseman for each warehouse for which the warehouseman requests the renewal of an existing CSA or approval of a new CSA, a contract fee, equal to the total of:

1. A charge of $100;

2. A charge of 1¢ a bale for each bale handled at the warehouse during the 12 months of the calendar year preceding assessment of the fee; and

3. A charge of 1.5¢ times the average number of bales in storage in the warehouse at the end of each month during the 12 months of the calendar year preceding assessment of the fee.

B. If CCC determines that tag check of the bales stored in an approved warehouse is warranted, CCC will charge the warehouseman an additional tag check fee of 10¢ per bale checked. A tag check shall be deemed to be warranted whenever the examiner's bale count is not within ½ of one percent of the total number of bales which should be in the warehouse as determined by outstanding warehouse receipts and all other storage and non-storage obligations.

Signed at Washington, D.C., on August 16, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85-20131 Filed 8-21-85; 8:45 am]

BILLING CODE 3410-05-M

1985-Crop Sugar Beets and Sugarcane Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture proposes to determine and announce the price support loan rates with respect to the 1985 crop of sugar beets and sugarcane. The determination of these loan rates is required to be made in accordance with provisions of section 201(h) of the Agricultural Act of 1949.

DATE: Comments must be received on or before September 23, 1985 to be assured of consideration.

ADDRESS: Interested persons may send comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447–8460. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing the selected option is available from Thomas W. Fink, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with the provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified as "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, land use, and appearance. Accordingly, neither an Environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 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 title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

Section 201(h) of the Agricultural Act of 1949 provides that the Secretary of Agriculture is required to support the price of the 1982 through 1985 crops of sugarcane and sugar beets through nonrecourse loans. Section 201(h) further provides that the price of the 1985 crop of sugarcane shall be supported at such level as the Secretary determines to be appropriate but not less than 18 cents per pound for raw cane sugar. The price of the 1985 crop of sugar beets shall be supported at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

This notice proposes a national average loan rate for the 1985 crop of sugarcane of 18 cents per pound, which is the minimum statutory loan rate.

It is further proposed that the loan rate for the 1985 crop of refined beet sugar be determined generally using the same methodology which was used in determining the loan rate for the 1983 and 1984 crops. This was set forth in the supplementary information to the regulations for the Price Support Loan Program for the 1983 through 1985 Crops of Sugar Beets and Sugarcane, published on October 5, 1983, at 48 FR 45374. Under that methodology, the loan rate for refined beet sugar is calculated by multiplying the raw cane sugar loan rate times a determined factor and then adding the fixed marketing expenses (which are incurred by beet processors regardless of the disposition of the sugar). The factor referred to in the formula is determined by comparing the weighted average net returns for beet sugar (i.e., gross returns less all marketing expenses) to the weighted average New York spot price (#12 contract) for raw cane sugar for a specified number of years. In determining the loan rate for the 1984 crop, the weighted average New York spot price for the years 1975 through 1982 was utilized. For the 1985 crop, the weighted average New York spot price for the years 1975 through 1983 will be used.

In addition, the national average loan rate for both raw cane sugar and refined beet sugar will be further adjusted to reflent location differentials by region. The application of location differentials to loan rates are common to most price support programs administered by CCC.

Under the provisions of the regulations governing the Price Support Loan Program for the 1983 through 1985 Crops Sugar Beets and Sugarcane, the 1985 crop sugar loan rates must be announced on or before October 1, 1985. The 1985 crop is defined as the sugar processed from domestically-produced sugar beets and sugarcane during the 1985 crop year, which is the period from July 1, 1985, through June 30, 1986.

It has been determined that the 1985 crop sugar loan rates should be announced as early as possible to permit sugar processors to make adequate plans with respect to the 1985 crop. Accordingly, comments with respect to this notice must be received within 30 days from the date of publication of this notice in the **Federal Register** in order to be assured of consideration. This will allow sufficient time to properly evaluate and consider the comments received before announcing the final 1985 crop loan rates for sugar beets and sugarcane.

Accordingly, it is proposed that the following determination will be made with respect to the 1985 crop of sugarcane and sugar beets:

Proposed Determination

A national average loan rate of 18 cents per pound, which is the statutory minimum loan rate, will be applicable to the 1985 crop of sugarcane.

The loan rate for refined beet sugar will be calculated by multiplying the raw cane sugar loan rate times a determined factor and then adding the fixed marketing expenses (which are incurred by beet processors regardless of the disposition of the sugar). The factor referred to in the formula will be determined by comparing the weighted average net returns for beet sugar (i.e., gross returns less all marketing expenses) to the weighted average New York spot price (#12 contract) for raw cane sugar for the years 1975 through 1983.

The loan rates which are determined for both raw cane sugar and refined beet sugar will be further adjusted to reflect the processing location of the sugar offered as collateral for a price support loan. These adjustments (i.e., location differentials) will be calculated in the same manner as they have been for the three previous crop years. The loan rates for sugar processed in specific regions will be based upon the transportation costs associated with moving that sugar to the markets that are normal for those regions.

Comments with respect to the national average loan rate for the 1985 crop of sugarcane and the methodology used for determining the national average loan rate for the 1985 crop of sugar beets are invited.

Signed at Washington, D.C., on August 19, 1985.

John R. Block,

Secretary.

[FR Doc. 85-20080 Filed 8-21-85; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Environmental Statements; Doyle Township Park Shore Erosion Control RC&D Measure, Michigan

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: 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 Doyle Township Park Shore Erosion Control RC&D Measure, Schoolcraft County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: barrier posts, adapted grasses and trees, rock riprap, and topsoil. Total construction cost is estimated to be $120,000, of which RC&D funds will pay $72,500 and local funds $47,500.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will be not to initiated 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: August 9, 1985.

Homer R. Hilner,

State Conservationist.

[FR Doc. 85-20068 Filed 8-21-85; 8:45 am]

BILLING CODE 3410-16-M

Environmental Statements; Lower Des Plaines Tributaries Watershed, Illinois

AGENCY: Soil Conservation Service; USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: John J. Eckes, responsible Federal official for projects administered under the provision of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Illinois, is hereby providing notification that a record of decision to proceed with the installation of the Lower Des Plaines Tributaries Watershed project is available. Single copies of this record of decision may be obtained from John J. Eckes at the address shown below.

FOR FURTHER INFORMATION CONTACT: John J. Eckes, State Conservationalist, Soil Conservation Service, 301 North Randolph, Champaign, Illinois 61820, telephone 217-398-5271.

(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 consultation with State and local officials)

Dated: August 14, 1985.

John J. Eckes,

State Conservationist.

[FR Doc. 85-20067 Filed 8-21-85; 8:45 am]

BILLING CODE 3410-16-M

Environmental Statements; Marquette Area District Schools Critical Area Treatment RC&D Measure, Michigan

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmenal 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 Marquette Area District Schools RC&D Measure, Marquette County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: critical area seeding on 7.5 acres with seeding, fertilizing, mulching, sod and wood chips being developed. Total conctruction cost is estimated to be $40,500, of which RC&D funds will pay $26,500 and local funds $14,000.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address

Implementation of the proposal will not be initiated 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: August 9, 1985.

Homer R. Hilner,

State Conservationist.

[FR Doc. 85–20071 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–16–M

Environmental Statements; Shamrock Park Critical Area Treatment RC&D Measure, Michigan

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: 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, US. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Shamrock Park RC&D Measure, Berrien County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigna 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: two acres of critical area planting (seed, fertilizer and mulch), 3,900 tons of rock riprap, 6,500 cu. yd. of excavation and one sign. Total construction cost is estimated to be $194,000, of which RC&D funds will pay $126,000 and $68,000 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated 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: August 9, 1985.

Homer R. Hilner,

State Conservationist.

[FR Doc. 85–20069 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–16–M

Environmental Statements; Van Cleve Park Erosion Control Critical Area Treatment RC&D Measure, Michigan

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: 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 Van Cleve Park Erosion Control RC&D Measure, Delta County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation

Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Office and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: six acres of critical area seeding, 160 trees (seedlings), 60 trees (3'), 370 barrier posts, 1,465 ft. of rustic fence and one sign. Total construction cost is estimated to be $50,000, of which RC&D funds will pay $30,000 and local funds $20,000.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated 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: August 9, 1985.

Homer R. Hilner,

State Conservationist.

[FR Doc. 85–20070 Filed 8–21–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; University of Maryland at Baltimore et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 83–212. Applicant: University of Maryland at Baltimore, Dental School, 666 W. Baltimore Street, Baltimore, MD 21201. Instrument: Components—Dental Education/Dental Equipment and Materials/Dental Care delivery Research Complex. Manufacturer: J. Morita Corporation, Japan. Intended use: The instrument is intended to be used for: (1) Research of promising new concept of dental care delivery—Performance Logic—in order to assess the concept's potential for contribution to efficiency and effectiveness in patient care delivery; and (2) research of Performance Logic in order to assess the concept's potential for enhancement of pre-clinical and clinical educational process applied to undergraduate and dental students, graduate dental students, and postgraduate dentists. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–245. Applicant: University of Virginia, Department of Physics, Charlottesville, VA 22901. Instrument: X-ray Generator with Accessories. Manufacturer: Rigaku, Japan. Intended use: Studies of proteins and nucleic acids to obtain data which is to be used in determining molecular structure of sample materials. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–246. Applicant: University of Washington, Department of Bioengineering, WD–12, Seattle, WA 98195. Instrument: Electron Microscope, Model JEM–1200EX. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument is intended to be used for the study of salivary glands, skeletal and cardiac muscle tissue, neutrophils and bone. In addition, the instrument will be used for continued development and assessment of Electron Energy Loss Spectrometry as a sensitive and quantitative analytical technique for use as a complement to Energy Dispersive X-ray Spectrometry in the elemental microanalysis of biological systems. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–247. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Electrolyzer, D.E.M. Type. Manufacturer: Steetley Engineering, Ltd., United Kingdom. Intended use: The article is intended to be used for research and development on a process for the preparation of dinitrogen pentoxide in nitric acid. This in turn will be used to synthesize another compound. The materials used are dinitrogen tetroxide in nitric acid, and the method of its electrolytic oxidation to dinitrogen pentoxide will be studied. Electrolyses with the DEM Cell will be carried out, and measurements will be made of the characteristics of the process. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–248. Applicant: Oakland University, Institute of Biological Sciences, Rochester, MI 48063. Instrument: Electron Microscope, Model LEM–2000 with Accessories. Manufacturer: Akashi-Seisakusho, Ltd., Japan. Intended use: The instrument will be used to study the structure and morphology of various ocular tissues both in normal and disease states. Prime research endeavors are ultra structural studies of: (a) Cataract development and reversal, (b) the involvement of certain enzymes in tissue repair and re-establishment of transparency of the lens, (c) the effects of intracellular ions on membrane permeability, (d) cell to cell communication, (e) transport characteristics in the lens, the pigment epithelium of the retina and the ciliary epithelial cells, (f) endothelial cell structure and corneal swelling, (g) the role of oxidative insult in the pathology of lens, cornea and retina and (h) morphology and structure of trabecular meshwork in normal glaucomatous eyes. The overall objective of these studies is to increase the understanding of the structure-function relationship in a variety of ocular tissues and to assess how their abnormalities lead to pathogenesis of cataract, glaucoma, corneal opacities and perforation and the retinal disorders such as macular

degeneration and retrolental fibroplasia. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–249. Applicant: Georgia Baptist Medical Center, 300 Boulevard, NE., Atlanta, GA 30312. Instrument: Lithotripter. Manufacturer: Dornier System, GmbH, West Germany. Intended use: The instrument is intended to be used for kidney stone research in an attempt to determine the causative factors involved in the formation of kidney and gall stones. Application received by Commissioner of Customs: July 26, 1985.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–20057 Filed 8–21–85; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of Michigan, et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–250. Applicant: The University of Michigan, Museum of Paleontology, 1109 Geddes Avenue, Ann Arbor, MI 48109. Instrument: Reflex Microscope with Accessories. Manufacturer: Reflex Measurement Ltd., United Kingdom. Intended use: The instrument is intended to be used for studies of the external teeth form, shape, and morphology of the teeth of living and fossil mammals in skulls or partial skulls. The article will also be used for training of students pursuing M.Sc. and Ph.D. degrees in paleontology, geology and biology. Application received by Commissioner of Customs: July 26, 1985.

Docket No.: 85–251. Applicant: University of Alaska, Institute of Marine Science, Fairbanks, AK 99701. Instrument: Liquid Nitrogen Plant, Model PLN 1065. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use: The instrument will be used to produce liquid nitrogen for use in various research facilities at the University. Specific uses of the liquid nitrogen include the following uses:

(1) Coolant for x-ray microanalysis detector on the scanning electron microscope.

(2) Coolant in high vacuum system of mass spectrometer.

(3) Launch preparation and infrared detector coolant.

(4) Vacuum system coolant in mass spectrometer and nitrogen–15 analyzer.

(5) Preparation of stable isotope specimens and as a coolant for the mass spectrometer vacuum systems.

(6) Specimen preparation and preservation of frozen samples.

(7) Preservation of frozen tissue culture and biopsy samples.

Application received by Commissioner of Customs: August 2, 1985.

Docket No.: 85–253. Applicant: Medical College of Pennsylvania, Department of Anatomy, EPPI Division, 3200 Henry Avenue, Philadelphia, PA 19129. Insturment: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: Studies of the ultrastructure of cells and tissues from a variety of biomedical experiments in order to learn how normal and abnormal cells function. In addition, the instrument will be used for graduate student and postdoctoral fellows instruction and for their use in learning to do research. Application received by Commissioner of Customs: August 2, 1985.

Docket No.: 85–254. Applicant: Northwestern University, 619 Clark Street, Evanston, IL 60201. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument will be used to study the cells and extracellular matrix of connective tissues, including skin and bone. Studies of cells grown in culture will be carried out to study the surface properties and characteristics of cells. Studies of the structure of isolated molecules from connective tissues will also be carried out. Application received by Commissioner of Customs: August 2, 1985.

Docket No.: 85–255. Applicant: Medical College of Georgia, School of Dentistry, 1120 Fifteenth Street, Augusta, GA 30912. Instrument: Electron Microscope, Model JEM–100CX11 with Accessories. Manufacturer: JEOL Company, Limited, Japan. Intended use: The instrument is intended to be used for the examination of the following tissues and organs:

(1) Cell to cell contacts of normal epithelial cells and epithelial cells transformed by herpes simplex viruses and grown in tissue culture.

(2) the interaction of bone cells with titanium implantable materials.

(3) Connective cell attachment to periodontally diseased and normal tooth root surfaces.

(4) Adaption of the oral epithelium around dental implant materials.

(5) The inner and outer epithelial cells of animal corneas in response to various drugs and chemicals.

(6) The effects of drugs and chemicals on subcellular components of iris cells.

(7) The reproduction of herpes simplex virus in nerve cells and corneal cells of the eye.

Appllication received by Commissioner of Customs: August 2, 1985.

Docket No.: 85–256. Applicant: Bowman Gray School of Medicine, Wake Forest University, 300 South Hathorne Road, Winston-Salem, NC 27103. Instrument: Electron Microscope, Model H–600 CR/CR with Accessories. Manufacturer: Hitachi, Japan. Intended use: The instrument is intended to be used to examine the virulence factor of *Mycobacterium tuberculosis* that is responsible for breaking up the phagosomal membrane of macrophages. The effect of chrysotile on the migration and morphologic profiles of alveolar marcrophages will also be examined. Application received by Commissioner of Customs: August 2, 1985.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–20058 Filed 8–21–85; 8:45 am]

BILLING CODE 3510-DS-M

Nonrubber Footwear Industry, Prospects for Adjustment Assistance to Firms

The U.S. Department of Commerce, pursuant to section 264 of the Trade Act of 1974, has conducted a study of firms in the nonrubber footwear industry. Such a study is required whenever the United States International Trade Commission (USITC) undertakes an investigation under section 201 of the Trade Act.

Under section 251 of the Trade Act of 1974, a firm may petition the U.S. Department of Commerce to be certified as eligible to apply for trade adjustment assistance. The Department's Office of

Trade Adjustment Assistance (TAA) may provide either financial assistance or technical assistance, or both. Companies previously certified can be expected to apply for re-certification. However, prospects for assistance are limited. Other government programs for firm assistance are also reviewed.

Copies of the report, "Prospects for Adjustment Assistance for Firms in the Nonrubber Footwear Industry," are available from Harry Bodansky, Automotive Affairs and Consumer Goods, Room 4324, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5783.

Robert E. Watkins,

Deputy Assistant Secretary for Automotive Affairs and Consumer Goods.

[FR Doc. 85-20062 Filed 8-21-85; 8:45 am]

BILLING CODE 3510-DR-M

Foreign Availability Subcommittee of The Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held September 10, 1985, 9:30 a.m., The Herbert C. Hoover Building, Room 1851, 14th Street and Constitution Ave., NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Status of the Foreign Availability Assessment Division.
5. Discussion of potential TAC foreign availability submissions.
6. Old business.
7. New Business.
8. Action items underway.
9. Action items due at next meeting.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

For further information or copies of the minutes contact Margaret A. Cornejo, 202-377-2583.

Dated: August 15, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

FR Doc. 85-20083 Filed 8-21-85; 8:45 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations on Certain, Wool and Man-Made Fiber Apparel Products in Categories 440, 442, 443 and 651 Produced or Manufactured in Taiwan

August 16, 1985.

On August 7, 1985, the American Institute in Taiwan 652 (AIT), under the agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products for Taiwan, requested the Coordination Council for North American Affairs (CCNAA) to enter into consultations concerning exports to the United States of wool shirts and blouses in Category 440, wool skirts in Category 442, men's and boys' wool suits in Category 443 and pajamas of man-made fibers in Category 651, produced or manufactured in Taiwan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool and man-made fiber apparel products in Categories 440, 442, 443 and 651, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Anyone wishing to comment or provide data or information regarding the treatment of these categories is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-20060 Filed 8-21-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Civilian Radioactive Waste Draft Transportation Business Plan; Availability for Comment

AGENCY: Office of Civilian Radioactive Waste Management, DOE.

ACTION: Notice of availability for comment on the draft transportation business plan.

SUMMARY: The Office of Civilian Radioactive Waste Management (OCRWM), U.S. Department of Energy, is developing a Transportation Business Plan related to responsibilities assigned by the Nuclear Waste Policy Act of 1982. The document will provide information on the plans and strategies for the development and operation of the projected system to transport spent fuel or high-level waste as authorized by the Act.

A preliminary document entitled Transportation Business Plan: Strategy Options Document was issued in October 1984 for public review. Comments received have been incorporated in the Draft Transportation Business Plan which is being provided at this time to all interested parties for further comment.

This interim document is specifically intended to be an instrument for interaction between industry, State, local and tribal governments and the public to help OCRWM ensure consensus planning. The Department seeks: (1) To identify industry interests in participating with the Department to establish and operate the waste transportation system, (2) to identify and address State, local and tribal concerns in development of specific strategies and action plans and (3) to understand the address State, local and

tribal concerns in development of specific strategies and action plans and (3) to understand the public's concerns. This is in accord with the principle of consultation and cooperation among affected parties as established by the Nuclear Waste Policy Act. The Department expects to prepare a Final Transportation Business Plan by the Fall of 1985.

Copies of the Draft Transportation Business Plan may be obtained after August 20, 1985, by telephoning (202) 252–5568 and by direct pickup from or requesting in writing the Draft Transportation Business Plan (OCRWM), from the Office of Public Affairs, Independence Avenue, SW., Washington, DC 20585.

Additional copies of the document will also be available by writing: Office of Scientific and Technical Information, Technical Information Center, P.O. Box 62, Oak Ridge, TN 37831.

To enable timely consideration, all comments on the Draft Transportation Business Plan should be submitted in writing no later than September 30, 1985, to Mr. Robert Philpott, Chief, Transportation Branch, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW–33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, August 16, 1985.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 85–20148 Filed 8–21–85; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council; U.S. Petroleum Refining; Coordinating Subcommittee on U.S. Petroleum Refining; Date Change for Meeting

The date of the July 18, 1985, seventh meeting of the Coordinating Subcommittee on U.S. Petroleum Refining has been rescheduled (reference Meeting Cancellation, 50 FR 29251, Thursday, July 18, 1985, FR Doc. 85–17143 filed July 17, 1985). The new date should read: Thursday, September 12, 1985, starting at 9:00 a.m. in the Livingston Room of the Four Seasons Hotel, 1300 Lamar Street, Houston, Texas. Notice of this meeting first appeared in 50 FR 27652, Friday, July 5, 1985 (FR Doc. 85–16092 filed July 3, 1985).

Issued at Washington, D.C., August 13, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85–20147 Filed 8–21–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP85–149–006]

East Tennessee Natural Gas Co.; Compliance Filing

August 14, 1985.

Take notice that on July 29, 1985, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Second Substitute Twelfth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR § 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 8, 1985. East Tennessee states that the revised tariff sheet is filed in compliance with Ordering Paragraph (E) of the Commission's order of June 28, 1985 in this proceeding, which directed East Tennessee to reflect the use of the three-day peak to allocate East Tennessee's purchased gas demand costs.

East Tennessee states that copies of its filing have been mailed to all participants to this proceeding and on all persons who were previously served with the original filing initiating this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20103 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–20–004

Panhandle Eastern Pipe Line Co.; Change in Tariff

August 14, 1985.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 9, 1985 tendered for filing Third Revised Sheet Nos. 3–E and 32–U to its FERC Gas Tariff Original Volume No. 1.

Panhandle states that this change is being made to cancel Rate Schedule AIC as approved by Commission Order dated May 20, 1985 in Docket No. RP84–20, *et al.* Panhandle proposes an effective date of January 31, 1985.

A copy of this filing has been served on all jurisdictional customers and applicable state regulatory agencies.

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, NE., Washington, DC 20426. In accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 21, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20104 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–35–037]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 14, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 7, 1985 tendered for filing as part of its FERC Gas Tariff, the following sheets:

Effective August 1, 1985

Second Substitute Seventy-fourth Revised Sheet No. 14 (3 pages)
Second Substitute Seventy-fourth Revised Sheet No. 14A
Second Substitute Seventy-fourth Revised Sheet No. 14B
Second Substitute Seventy-fourth Revised Sheet No. 14C
Second Substitute Seventy-fourth Revised Sheet No. 14D

On July 31, 1985 Texas Eastern filed tariff sheets in compliance with the

Commission's Order on Rehearing issued July 12, 1985 in Docket RP83-35 *et al.* to be effective August 1, 1985.

Within the affected tariff sheets of the aforementioned filing the cumulative purchased gas adjustment for the E rate and the I rate were misstated.

Such tariff sheets filed July 31, 1985 contained inadvertent errors in the cumulative PGA Adjustment column for Rate Schedules E and I as well as in the Rate Schedule E and I rate in Zone C. The above substitute tariff sheets are issued for the sole purpose of correcting these inadvertent errors.

The proposed effective date for the above tariff sheets is August 1, 1985.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 21, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20105 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-17-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 14, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 7, 1985 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies each of the following tariff sheets:

Third Substitute Seventy-fourth Revised Sheet No. 14 (3 pages)
Third Substitute Seventy-fourth Revised Sheet No. 14A
Third Substitute Seventy-fourth Revised Sheet No. 14B
Third Substitute Seventy-fourth Revised Sheet No. 14C
Third Substitute Seventy-fourth Revised Sheet No. 14D
Alternate Third Substitute Seventy-fourth Revised Sheet No. 14 (3 pages)
Alternate Third Substitute Seventy-fourth Revised Sheet No. 14A
Alternate Third Substitute Seventy-fourth Revised Sheet No. 14B
Alternate Third Substitute Seventy-fourth Revised Sheet No. 14C
Alternate Third Substitute Seventy-fourth Revised Sheet No. 14D

The above tariff sheets are filed in substitution for corresponding primary revised tariff sheets and alternate tariff sheets filed on August 2, 1985 consisting of a PGA reduction in rates to give effect to Texas Eastern's latest exercise of the market-out provisions in certain of its gas purchase contracts effective August 1, 1985. Such tariff sheets filed on August 2, 1985 contained inadvertant errors in the Cumulative PGA Adjustment column for Rate Schedules E and I, as well as in the Rate Schedule E and I rates in Zone C. The above substitute tariff sheets are issued for the sole purpose of correcting these inadvertent errors.

The proposed effective date of the above tariff sheets is August 1, 1985.

Texas Eastern respectfully requests waiver of the provisions of its tariff, and any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective August 1, 1985, in substitution for those corresponding primary revised tariff sheets or alternate tariff sheets filed August 2, 1985.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before Aug. 21, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 85-20106 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-14-007]

Williston Basin Interstate Pipeline Co.; Tariff Change

August 14, 1985.

Take notice that on July 31, 1985, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, submitted the following tariff sheets for filing as part of its FERC Gas Tariff, Original Volume No. 1 and Orginal Volume No. 2:

Original Volume No. 1

First Revised Sheet No. 58
First Original Sheet No. 58A
First Revised Sheet No. 60
First Revised Sheet No. 70
Original Sheet No. 70A
First Revised Sheet No. 73
First Revised Sheet No. 269
First Revised Sheet No. 271
First Revised Sheet No. 288
Original Sheet No. 288A

Original Volume No. 2

Second Revised Sheet No. 42
First Revised Sheet No. 42A

These tariff sheets were submitted in compliance with the Commission's Order in *Montana-Dakota Utilities Co.*, 27 FERC ¶ 61,312, *rehearing denied and settlement modified*, 29 FERC ¶ 61,012, *stay denied*, 29 FERC ¶ 16,127 (1984) *rehearing denied and order clarified*, FERC ¶ 61,018 (1985). Due to an oversight, these Commission approved changes were not previously filed. Williston Basin requests that these tariff sheets be made effective as of January 1, 1985, the date approved by the Commission in *Williston Basin Interstate Pipeline Company*, 30 FERC § 61,143 (1985), for Williston Basin to acquire and operate the interstate pipeline facilities previously owned by MDU Resources Group, Inc. (MDU), its parent company, as well as to provide the certificated services previously provided by MDU.

Williston Basin also submitted the following tariff sheets:

Original Volume No. 1

First Revised Sheet No. 227
First Revised Sheet No. 242
First Revised Sheet No. 256
First Revised Sheet No. 425
First Revised Sheet No. 426

The proposed effective date for these tariff sheets is January 1, 1985, except for First Revised Sheet No. 425 and First Revised Sheet No. 426, *Index of Purchasers*, for which an effective date of July 30, 1985, is requested.

The First Revised Sheet Nos. 227, 242, and 256 changed the designation in the

attestation clause from "Assistant Secretary" to "Secretary" on Rate Schedules G–1, PR–1, and I–1. First Revised Sheet Nos. 425 and 426 are being updated to include additional customers on the "Index of Purchasers."

Any person desiring to be heard or to make any protest with reference to said filing should, on or before August 21, 1985, 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 Rule 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20107 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF85–610–000]

Altech Energy III; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Correction

August 15, 1985.

On August 2, 1985, a Notice of Application was issued in error and appeared in the **Federal Register** issue of August 6, 1985, 50 FR 31762. Altech Energy III filed a Notice of Qualification of a Small Power Production Facility and did not request application for Commission certification. Notice of the application is hereby withdrawn.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20109 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–677–000]

Boston Edison Co.; Filing

August 15, 1985.

The filing Company submits the following:

Take notice that on August 6, 1985, Boston Edison Company (Edison) tendered for filing an executed service agreement between Massachusetts Municipal Wholesale Electric Company (MMWEC) and Edison for the provision of firm transmission service for hydropower produced by the Niagara and St. Lawrence Projects in the State of New York and purchased by the Massachusetts Department of Public Utilities, which has designated MMWEC as its agent in this matter, under Edison's Firm Transmission Tariff, Original Volume No. 4. Since MMWEC will require the firm transmission service of July 1, 1985, Edison requests that date to be the effective date of the rate schedule change.

Copies of this filing have been served upon MMWEC and the Massachusetts Department of Public Utilities.

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, NE, Washington, DC 20426, 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 August 27, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20136 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–649–000]

Central Hudson Gas & Electric Corp; Rate Filing

August 15, 1985.

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson), on July 29, 1985, tendered for filing as a rate schedule an executed agreement dated June 27, 1985 between Central Hudson and the New York Power Authority (NYPA). The proposed rate schedule provides for Electric Transmission of NYPA hydropower and related energy to Orange and Rockland Utilities, Inc. (O&R) for transmission to New Jersey Board of Public Utilities agents in New Jersey.

The rate schedule provides for a monthly transmission charge of $0.37 per kilowatt of firm power delivered to O&R's point of interconnection.

Central Hudson states that a copy of its filing was served on NYPA.

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, NE, Washington, DC 20426, 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 August 30, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20137 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. G–7161–000, et al.]

Chevron U.S.A. Inc. and Gulf Oil Corp.; Application by Chevron U.S.A. Inc. To Amend Certificates of Public Convenience and Necessity Issued to Gulf Oil Corporation, To Amend Existing Chevron U.S.A. Inc. Certificates, and To Redesignate Rate Schedules

August 14, 1985.

Take notice that on August 2, 1985, Chevron U.S.A. Inc. (Applicant) of P.O. Box 7643, San Francisco, California 94120, filed an Application pursuant to provisions of the Natural Gas Act and Commission Regulations thereunder, to amend Certificates of Public Convenience and Necessity issued to Gulf Oil Corporation (Gulf) to reflect the fact that on July 1, 1985, Chevron U.S.A. Inc., a California corporation, was merged with and into Gulf, a Pennsylvania corporation. The resultant corporate entity became Chevron U.S.A. Inc., a Pennsylvania corporation. The Gulf certificate dockets and Rate Schedules to be amended are listed in Exhibit A, attached hereto.

Applicant requests that certificates issued to Chevron U.S.A. Inc., a California corporation, listed in the attached Exhibit B, be amended to reflect the Corporation's changed state of incorporation. Applicant also requests that the Gulf Rate Schedules listed on Exhibit A attached hereto be redesignated as Chevron U.S.A. Inc. Rate Schedules.

Any person desiring to be heard or to make any protest with reference to said Application should on or before August 28, 1985, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC

20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Formerly [1]	Now [2]	Certificate Docket No.	Purchaser
8	201	G-7161	El Paso Natural Gas Co.
9	202	G-7153	Do.
12	203	G-7157	Do.
15	204	G-7160	Permian Basin Pipeline Co.
16	205	G-7151, CI75-271	El Paso Natural Gas Co.
18	206	G-4140	Delhi Gasoline Plant
21	207	G-4139	
22	208	G-7137, G-4148	Mississippi River Fuel Corp.
23	209	G-7144	United Gas Pipe Line Co.
24	210	G-7145	Tennessee Gas Transmission Co.
28	211	G-7143, G-4142	Do.
30	212	G-6843, G-4101	Lone Star Gas Company.
35	213	G-6842, G-10625	Phillips Petroleum Co.
38	214	G-8563	El Paso Natural Gas Co.
42	215	G-7154, G-9885	Texas Eastern Transmission Co.
43	216	G-7156, G-9928	Natural Gas Pipeline Company of America.
44	217	G-7158, G-9991	Michigan Wisconsin Pipe Line Co.
45	218	G-10148	Cities Service Gas Co.
46	219	G-10300	Natural Gas Pipeline Company of America.
47	220	G-10295	El Paso Natural Gas Co.
48	221	G-10631	Permian Basin Pipe Line Co.
49	222	G-10629	Northern Natural Gas Co.
50	223	G-10683	Cities Service Gas Co.
51	224	G-10788, G-16030	Panhandle Eastern Pipe Line Co.
52	225	CI63-335	Do.
55	226	G-6204, G-11173	El Paso Natural Gas Co.
56	227	G-17203, G-11632	Do.
57	228	CI69-756, G-11589	Pacific Northwest Pipeline Corp.
58	229	CI71-341, G-11634	El Paso Natural Gas Co.
59	230	CI71-294, G-11636	Do.
60	231	CI72-502, G-11633	Do.
61	232	CI72-755	
63	233	CI72-757, G-11637	Do.
64	234	CI72-758, G-11635	Do.
65	235	CI72-759, G-11631	Do.
66	236	CI72-760, G-11764	Natural Gas Pipeline Company of America.
67	237	CI79-247	Texas Eastern Transmission Corp.
68	238	CI79-531	
69	239	CI80-453, G-12154	Southern Natural Gas Co.
70	240	G-12348	Michigan Wisconsin Pipe Line Co.
71	241	G-12475	Natural Gas Pipeline Company of America.
74	242	G-7177	United Gas Pipe Line Co.
76	243	G-7174	Arkansas Louisiana Gas Co.
77	244	G-7168	United Gas Pipe Line Co.
79	245	G-7171	Louisiana Natural Gas Corp.
80	246	G-7169	Tennessee Gas Transmission Co.
84	247	G-7172	Louisiana Natural Gas Corp.
87	248	G-10165	Tennessee Gas Transmission Co.
88	249	G-10164	Do.
89	250	G-10605	Do.
90	251	CI61-716	American Louisiana Pipe Line Co.
91	252	G-10400	
92	253	G-10827	United Gas Pipe Line Co.
93	254	G-10946	Texas Gas Transmission Corp.
94	255	G-12782	Champlin Oil & Refining Co.
95	256	G-12864	Kansas Nebraska Natural Gas Co.
96	257	G-13004	Colorado Interstate Gas Co.
97	258	G-13047	Trunkline Gas Co.
98	259	G-11174	Colorado Interstate Gas Co.
100	260	G-13208	Panhandle Eastern Pipe Line Co.
102	261	G-4163	Mississippi River Fuel Corp.
104	262	G-4162	Arkansas Louisiana Gas Co.
107	263	G-4157	Tennessee Gas Transmission Co.
108	264	G-4158	Texas Eastern Transmission Co.
110	265	G-4151	Texas Gas Transmission Corp.
117	266	G-4143	Northern Natural Gas Co.
118	267	G-4174	El Paso Natural Gas Co.
119	268	G-4146	Permain Basin Pipeline Co.
120	269	G-8900	El Paso Natural Gas Co.
123	270	G-10684	Northern Natural Gas Co.
128	271	G-11898	Phillips Petroleum Co.
130	272	G-4282	Natural Gas Pipeline Company of America.
133	273	G-14485	Northern Natural Gas Co.
136	274	G-12215	United Gas Pipe Line Co.
137	275	G-15002	Cities Service Gas Co.
138	276	G-14837	West Texas Gathering Co.
139	277	G-13447	Southern Natural Gas Co.
141	278	G-15344	Northern Natural Gas Co.
142	279	G-15466	Do.
143	280	G-16221	El Paso Natural Gas Co.
144	281	G-16454	Do.
146	282	G-16524	Do.
147	283	G-16745	United Gas Pipe Line Co.
148	284	G-16761	Natural Gas Pipeline Company of America.
149	285	G-16949	El Paso Natural Gas Co.
150	286	G-17019	Do.
153	287	G-17857	Texas Gas Transmission Corp.
156	288	G-18019	Texas Eastern Transmission Corp.
157	289	G-10128	Coastal Transmission Corp.
158	290	G-10127	Coastal Transmission Corp.
159	291	G-10129	Do.
160	292	G-7146	United Gas Pipe Line Co.
161	293	G-7166	Do.
164	294	G-18478	Texas Eastern Transmission Corp.
166	295	G-18643	Champlin Oil & Refining Co.
167	296	G-18976	Panhandle Eastern Pipe Line Co.
170	297	G-19062	Tennessee Gas Transmission Co.
171	298	G-19162	Panhandle Eastern Pipe Line Co.
173	299	G-19332	Central Gas Gathering Corp.
175	300	G-19467	Tennessee Gas Transmission Co.
177	301	G-18004	Lone Star Gas Co.
178	302	G-20130	Transcontinental Gas Pipe Line Corp.
186	303	C160-381	Panhandle Eastern Pipeline Co.
188	304	C160-440	Southern Natural Gas Co.
189	305	G-6844	Colorado Interstate Gas Co.
190	306	C160-492	El Paso Natural Gas Co.
191	307	C160-558	Cities Service Gas Co.
192	308	G-14940	Transwestern Pipeline Co.
193	309	G-14950	Do.
194	310	G-14925	Do.
195	311	G-16139	Do.
196	312	G-16218	Do.
197	313	G-16141	Do.
198	314	C160-636	El Paso Natural Gas Co.
200	315	C161-12	Panhandle Eastern Pipe Line Co.
201	316	G-7167	United Gas Pipe Line Co.
202	317	C161-197	El Paso Natural Gas Co.
203	318	C161-310	Texas Gas Transmission Corp.
204	319	C161-449	Kansas Nebraska Natural Gas Co.
205	320	C161-480	Phillips Petroleum Co.
207	321	C161-665	Transwestern Pipeline Co.
208	322	C161-716	American Louisiana Pipe Line Co.
211	323	G-2585	Montana Dakota Utilities Co.
213	324	C161-1213	Transwestern Pipe Line Co.
214	325	C160-43	United Gas Pipe Line Co.
215	326	C161-820	Transwestern Pipe Line Co.
216	327	C161-1441	Lone Star Gas Co.
217	328	C161-1544	Do.
218	329	C161-1555	Cities Service Gas Co.
219	330	C161-1562	Trunkline Gas Co.
220	331	C161-1630	Transcontinental Gas Pipe Line Corp.
222	332	C161-1711	Oklahoma Natural Gas Gathering Corp.
223	333	C162-47	Colorado Interstate Gas Co.
225	334	C162-166	Hunt Oil Co. and El Paso Natural Gas Co.
226	335	C162-322	Cities Service Gas Co.
228	336	C162-412	United Gas Pipe Line Co.
229	337	C162-411	Trunkline Gas Co.
230	338	C162-469	Arkansas Louisiana Gas Co.
231	339	C162-568	El Paso Natural Gas Co.
232	340	C162-803	Do.
233	341	C162-859	Texas Gas Transmission Co.
234	342	C160-412	Coastal Transmission Corp.
235	343	C162-965	United Gas Pipe Line Co.
237	344	C162-1203	Panhandle Eastern Pipe Line Co.
239	345	C162-1501	Lone Star Gas Co.
240	346	C163-193	El Paso Natural Gas Co.
241	347	C162-607	Natural Gas Pipeline Company of America
242	348	C163-770	Panhandle Eastern Pipe Line Co.
243	349	C163-459	Michigan Wisconsin Pipe Line Co.
244	350	C163-911	El Paso Natural Gas Co.
245	351	C163-1055	Panhandle Eastern Pipe Line Co.
246	352	C163-1119	Southern Natural Gas Co.
248	353	G-13873	Do.
250	354	C163-1341	Northern Natural Gas Co.
251	355	C163-1572	Panhandle Eastern Pipe Line Co.
252	356	C163-1149	Arkansas Louisiana Gas Co.
253	357	C164-47	Cities Service Gas Co.
254	358	C163-1125	Arkansas Louisiana Gas Co.
257	359	C164-208	Panhandle Eastern Pipe Line Co.
258	360	CI64-1477	Southern Union Gas Co.
259	361	CI64-201	El Paso Natural Gas Co.
261	362	CI64-386	Northern Natural Gas Co.
262	363	CI64-415	Natural Gas Pipeline Company of America.
263	364	CI64-464	Tennessee Gas Transmission Co.
264	365	CI64-526	Panhandle Eastern Pipe Line Corp.
265	366	CI64-544	Natural Gas Pipeline Company of America.
267	367	CI64-816	Northern Natural Gas Co.

Formerly [1]	Now [2]	Certificate Docket No.	Purchaser
268	368	CI64-883	Natural Gas Pipeline Company of America.
269	369	CI64-1069	Arkansas Louisiana Gas Co.
270	370	CI64-1117	United Gas Pipe Line Co.
271	371	CI64-1224	Michigan Wisconsin Pipe Line Co.
273	372	CI64-1454	Tennessee Gas Transmission Co.
274	373	CI64-1122	Texas Eastern Transmission Corp.
277	374	CI63-123	Southern Natural Gas Co.
278	375	CI64-26	Texas Eastern Transmission Corp.
280	376	CI65-406	Cities Service Gas Co.
281	377	CI64-1279	Colorado Interstate Gas Co.
282	378	CI65-409	Valley Gas Transmission, Inc.
283	379	CI60-159	Cities Service Gas Co.
284	380	CI65-702	Northern Natural Gas Co.
286	381	CI65-738	Do.
287	382	CI65-792	Lone Star Gas Co.
288	383	CI65-799	Natural Gas Pipeline Company of America.
292	384	CI65-898	Panhandle Eastern Pipe Line Co.
293	385	CI65-1000	Do.
296	386	CI65-983	Transwestern Pipeline Co.
297	387	CI65-1169	Panhandle Eastern Pipe Line Co.
298	388	CI65-1166	Northern Natural Gas Co.
301	389	CI66-294	Panhandle Eastern Pipe Line Co.
302	390	CI66-307	Cities Service Gas Co.
304	391	CI66-310	Tennessee Gas Transmission Co.
305	392	CI66-332	Do.
307	393	CI66-638	Cities Service Gas Co.
308	394	CI65-609	Natural Gas Pipeline Company of America.
309	395	CI68-861	Panhandle Eastern Pipe Line Co.
310	396	CI66-916	Northern Natural Gas Co.
311	397	CI66-1083	Texas Gas Transmission Corp.
312	398	G-17817	El Paso Natural Gas Co.
314	399	CI66-1258	Michigan Wisconsin Pipe Line Co.
315	400	CI67-146	Transwestern Pipeline Co.
316	401	CI66-453	Michigan Wisconsin Pipe Line Co.
317	402	CI64-1153	El Paso Natural Gas Co.
318	403	CI67-270	Michigan Wisconsin Pipe Line Co.
320	404	CI67-285	Transwestern Pipeline Co.
321	405	CI67-324	Michigan Wisconsin Pipe Line Co.
322	406	CI67-326	Panhandle Eastern Pipe Line Co.
323	407	G-6202	United Gas Pipe Line Co.
324	408	G-6204	El Paso Natural Gas Co.
325	409	G-6205	El Paso Natural Gas Co.
326	410	G-6206	Do.
327	411	G-6207	Mississippi River Fuel Corp.
328	412	G-6203	Tennessee Gas Transmission Co. and Iroquois Gas Corp.
329	413	G-6195	Kansas Nebraska Natural Gas Co.
330	414	G-6199	Long Star Gas Co.
331	415	G-6200	Cities Service Gas Co.
332	416	G-8587	El Paso Natural Gas Co.
333	417	G-8764	Panhandle Eastern Pipe Line Co.
334	418	G-6813	American Louisiana Pipe Line Co.
338	419	G-14515	Texas Gas Transmission Corp.
341	420	G-17965	Lone Star Gas Co.
342	421	G-16103A	Transwestern Pipeline Co.
344	422	G-18445	Coastal Transmission Corp.
348	423	G-19106	El Paso Transmission Co.
349	424	CI60-322	Tennessee Gas Transmission Co.
351	425	CI61-607	El Paso Natural Gas Co.
352	426	CI61-649	Texas Gas Transmission Corp.
354	427	CI62-984	Lone Star Gas Co.
355	428	CI62-1016	Texas Gas Transmission Co.
357	429	CI63-253	Arkansas Louisiana Gas Co.
358	430	G-6195	Kansas Nebraska Natural Gas Co., Inc.
359	431	CI63-916	Cities Services Gas Co.
360	432	CI63-1156	Southern Natural Gas Co.
361	433	CI63-1470	Michigan Wisconsin Pipe Line Co.
362	434	CI63-1434	United Gas Pipe Line Co.
363	435	CI64-573	United Fuel Gas Co.
366	436	G-16091	Transwestern Pipeline Co.
367	437	CI65-923	El Paso Natural Gas Co.
368	438	CI65-1244	Montana-Dakota Utilities Co.
369	439	CI66-72	Transcontinental Gas Pipe Line Corp.
370	440	G-16093	Transwestern Pipeline Co.
371	441	CI67-374	Panhandle Eastern Pipe Line Co.
372	442	CI67-630	United Gas Pipe Line Co.
373	443	CI64-708	Transwestern Pipeline Co.
374	444	CI65-464	Do.
375	445	CI65-466	Do.
376	446	CI65-467	Do.
377	447	CI65-463	Do.
378	448	CI67-787	Panhandle Eastern Pipe Line Co.
379	449	CI67-742	El Paso Natural Gas Co.
381	450	CI67-846	Do.
383	451	CI67-890	Northern Natural Gas Co.
384	452	CI67-1055	Natural Gas Pipeline Company of America
385	453	CI67-1174	Northern Natural Gas Co.
387	454	CI67-1154	Transwestern Pipeline Co.
388	455	CI67-1369	United Gas Pipe Line Co.
390	456	CI67-1715	Lone Star Gas Co.
391	457	CI68-65	Texas Eastern Transmission Corp.
392	458	CI68-644	El Paso Natural Gas Co.
393	459	CI67-818	Transwestern Pipeline Co.
394	460	CI68-820	United Gas Pipe Line Co.
395	461	CI68-878	Natural Gas Pipeline Company of America
396	462	CI68-872	Northern Natural Gas Co.
397	463	CI68-1316	Panhandle Eastern Pipe Line Co.
398	464	CI68-1425	Tennessee Gas Pipeline Co.
400	465	CI69-245	Pacific Lighting Service Supply Co.
401	466	CI69-226	Transwestern Pipeline Co.
402	467	CI69-445	Do.
404	468	CI69-985	Tennessee Gas Pipe Line Co.
405	469	G-10571	Union Texas Petroleum.
406	470	CI69-102	Kansas Nebraska Gas Co., Inc.
407	471	CI69-1165	Tennessee Gas Pipeline Co.
408	472	CI69-1164	Texas Gas Transmission Corp.
409	473	CI70-40	Panhandle Eastern Pipe Line Co.
410	474	CI70-41	Transcontinental Gas Pipe Line Corp.
411	475	CI69-1175	Texas Gas Transmission Corp.
412	476	CI70-342	Transwestern Pipeline Co.
413	477	G-6195	Kansas-Nebraska Natural Gas Co.
414	478	CI65-154	Natural Gas Pipeline Company of America.
415	479	CI70-469	Kansas-Nebraska Natural Gas Company, Inc.
417	480	CI70-550	Tennessee Gas Pipeline Co.
418	481	G-18451	Transwestern Pipeline Co.
420	482	CI70-904	Wheeler Gas Co.
421	483	CI71-398	United Gas Pipe Line Co.
423	484	CI71-512	Do.
424	485	G-17454	Philips Petroleum Co.
425	486	CI71-665	Texas Eastern Transmission Corp.
426	487	CI72-103	Texas Gas Transmission Corp.
427	488	CI72-111	Transcontinental Gas Pipe Line Corp.
428	489	CI71-108	Tennessee Gas Pipe Line Corp.
430	490	CI72-145	Sea Robin Pipeline Co.
431	491	CI63-1410	Michigan Wisconsin Pipe Line Co.
432	492	CI72-447	Southern Natural Gas Co.
433	493	CI72-292	Grand Gas Corp.
434	494	CI72-622	El Paso Natural Gas Co.
435	495	CI72-731	Do.
436	496	CI72-764	Transwestern Pipeline Co.
437	497	CI73-16	Florida Gas Transmission Co.
439	498	CI73-409	Northern Natural Gas Co.
440	499	CI73-445	Transwestern Pipeline Co.
441	500	CI73-597	Cities Serviced Gas Co.
442	501	CI73-658	Transwestern Pipeline Co.
444	502	CI73-770	El Paso Natural Gas Co.
445	503	CI73-894	Do.
446	504	CI74-150	Do.
447	505	CI74-259	Cities Service Gas Co.
448	506	CI74-145	El Paso Natural Gas Co.
450	507	CI74-257	Do.
451	508	CI73-695	Transwestern Pipeline Co.
452	509	CI74-456	Northern Natural Gas Co.
453	510	CI75-38	El Paso Natural Gas Co.
455	511	CI75-522	Texas Gas Transmission Co.
456	512	CI75-731	Cities Service Gas Co.
457	513	CI75-743	Michigan Wisconsin Pipe Line Co.
459	514	CI76-55	United Gas Pipe Line Co.
460	515	CI76-57	Transcontinental Gas Pipe Line Corp.
461	516	CI76-61	El Paso Natural Gas Co.
462	517	CI76-62	Do
463	518	CI76-66	Do
465	519	CI76-76	Do
466	520	CI76-84	Texas Gas Transmission Corp.
467	521	CI76-83	El Paso Natural Gas Co.
468	522	CI76-85	Do
469	523	CI76-86	Do
470	524	CI76-150	Do
471	525	CI76-198	Colorado Interstate Gas Co.
473	526	CI76-222	Northern Natural Gas Co.
474	527	CI76-240	Natural Gas Pipeline Company of America.
475	528	CI76-241	Do
476	529	CI75-242	Do
477	530	CI75-264	Do
478	531	CI76-224	Transwestern Pipeline Co.
479	532	CI76-409	Northern Natural Gas Co.
480	533	CI76-435	Colorado Interstate Gas Co.
481	534	CI76-433	Kansas-Nebraska Natural Gas Co., Inc.
482	535	CI76-436	Cities Service Gas Co.
483	536	CI76-450	El Paso Natural Gas Co.
484	537	CI76-451	Northern Natural Gas Co.
485	538	CI76-498	Colorado Interstate Gas Co.
486	539	CI76-505	Northern Natural Gas Co.
487	540	CI76-506	Do
488	541	CI76-517	Do
489	542	CI67-502	Tennessee Gas Pipe Line Co.
490	543	CI76-529	Northern Natural Gas Co.
491	544	CI76-527	Do
492	545	CI75-528	Do
493	546	CI76-526	El Paso Natural Gas Co.
495	547	CI76-532	Northern Natural Gas Co.
496	548	CI76-533	Panhandle Eastern Pipe Line Co.
497	549	CI76-622	Arkansas Louisiana Gas Co.
498	550	CI76-595	Tennessee Gas Pipeline Co.
499	551	CI76-643	Natural Gas Pipeline Company of America.
500	552	CI76-674	Arkansas Louisiana Gas Co.
501	553	CI76-650	Natural Gas Pipeline Company of America.
502	554	CI76-694	El Paso Natural Gas Co.
503	555	CI77-102	Cities Service Gas Co.
504	556	CI76-792	Transwestern Pipeline Co.
505	557	CI77-121	El Paso Natural Gas Co.
506	558	CI77-123	Do
507	559	CI77-202	Michigan Wisconsin Pipe Line Co.
508	560	CI77-307	Cities Service Gas Co.
509	561	CI77-398	Arkansas Louisiana Gas Co.
510	562	CI76-197	Transcontinental Gas Pipe Line Corp.
511	563	CI77-556	Panhandle Eastern Pipe Line Co.
512	564	CI77-557	Kansas Nebraska Natural Gas Co.

Formerly [1]	Now [2]	Certificate Docket No.	Purchaser
513	565	CI77-558	Panhandle Eastern Pipe Line Co.
514	566	CI77-573	Kansas Nebraska Natural Gas Co., Inc.
515	567	CI77-613	Northern Natural Gas Co.
516	568	CI77-615	El Paso Natural Gas Co.
517	569	CI77-618	Robert G. Hall.
518	570	CI77-686	Michigan Wisconsin Pipe Line Co.
519	571	CI77-797	Mountain Fuel Supply Co.
520	572	CI77-823	Do.
521	573	CI77-831	El Paso Natural Gas Co.
522	574	CI77-832	Do.
523	575	CI77-836	Panhandle Eastern Pipe Line Co.
524	576	CI78-143	Pioneer Gas Products Co.
526	577	CI78-271	El Paso Natural Gas Co.
527	578	CI78-285	Do.
528	579	CI78-451	Panhandle Eastern Pipe Line Co.
529	580	CI78-537	Cities Service Gas Co.
530	581	CI78-555	South Texas Natural Gas Gathering Co.
532	582	CI78-740	Transwestern Pipeline Co.
533	583	CI78-519	El Paso Natural Gas Co.
534	584	CI78-604	Do.
535	585	CI78-813	Panhandle Eastern Pipe Line Co.
536	586	CI78-1052	Equitable Gas Co.
537	587	CI78-1091	Texas Eastern Transmission Corp.
538	588	CI78-1149	United Gas Pipe Line Co.
539	589	CI78-1173	Montana-Dakota Utilities Co.
540	590	CI75-74	El Paso Natural Gas Co.
541	591	CI75-22	Michigan Wisconsin Pipe Line Co.
542	592	CI75-572	Kansas Nebraska Natural Gas Company, Inc.
543	593	CI75-738	El Paso Natural Gas Co.
544	594	CI76-215	Northern Natural Gas Co., Inc.
545	595	CI76-239	Kansas-Nebraska Natural Gas Co., Inc.
546	596	CI76-296	Do.
547	597	CI77-104	Northern Natural Gas Co., Inc.
548	598	CI75-69	Trunkline Gas Co.
550	599	CI77-263	Michigan Wisconsin Pipe Line Co.
552	600	CI77-821	United Gas Pipe Line Co.
553	601	CI77-841	Cities Service Gas Co.
554	602	CI78-106	Natural Gas Pipeline Company of America.
555	603	CI78-306	Columbia Gas Transmission Corp.
557	604	CI78-408	Kansas Nebraska Natural Gas Company, Inc.
558	605	CI78-393	Consolidated Gas Supply Corp.
559	606	CI78-399	Cities Service Gas Co.
560	607	CI78-1270	Consolidated Gas Supply Corp.
561	608	CI78-1261	Do.
562	609	CI78-1266	Do
563	610	CI78-1252	Do.
564	611	CI78-1274	Do.
565	612	CI78-1269	Do.
566	613	CI78-1267	Do.
567	614	CI78-1248	Do.
568	615	CI78-1273	Do.
569	616	CI79-15	Do.
570	617	CI79-18	Do.
571	618	CI79-14	Do.
572	619	CI79-25	Do.
573	620	CI79-26	Do.
574	621	CI79-19	Do.
575	622	CI79-46	Do.
576	623	CI79-50	Equitable Gas Company.
577	624	CI79-44	Southern Natural Gas Co.
578	625	CI79-48	Equitable Natural Gas Co.
579	626	CI79-49	Do.
580	627	CI79-45	Consolidated Gas Supply Corp.
581	628	CI79-61	Equitable Gas Co.
582	629	CI79-60	Do.
583	630	CI79-64	Do.
584	631	CI79-62	Do.
585	632	CI79-63	Do.
586	633	CI79-58	Arkansas Louisiana Gas Co.
587	634	CI79-57	Cities Service Gas Co.
588	635	CI79-70	Do.
589	636	CI79-71	Arkansas Louisiana Gas Co.
590	637	CI79-56	Colorado Interstate Gas Co.
591	638	CI78-1253	Michigan Wisconsin Pipe Line Co.
592	639	CI79-72	Cabot Corp.
593	640	CI79-69	Equitable Gas Co.
594	641	CI78-1232	Texas Gas Transmission Corp.
595	642	CI79-82	Columbia Gas Transmission Corp.
596	643	CI79-89	Michigan Wisconsin Pipe Line Co.
597	.....	CI79-113	Southern Natural Gas Co.
598	644	CI79-111	Zenith Natural Gas Co.
600	645	CI78-1237	Michigan Wisconsin Pipe Line Co.
601	646	CI78-1238	Do.
602	647	CI79-166	Cities Service Gas Co.
603	648	CI79-168	Northern Natural Gas Co.
604	649	CI79-167	Panhandle Eastern Pipe Line Co.
605	650	CI79-152	Transwestern Pipeline Co.
606	651	CI79-154	Do.
607	652	CI79-162	United Gas Pipe Line Co.
608	653	CI79-151	Equitable Gas Company.
609	654	CI79-156	Do.
610	655	CI79-126	Southern Natural Gas Co.
611	656	CI79-153	Northern Natural Gas Co.
613	657	CI79-234	Transcontinental Gas Pipe Line Corp.
615	658	CI79-233	Consolidated Gas Supply Corp.
616	659	CI79-237	Gas Gathering Corp.
617	660	CI79-243	Consolidated Gas Supply Corp.
618	661	CI79-232	Do.
619	662	CI79-249	Southern Natural Gas Co.
621	663	CI79-309	Natural Gas Pipe Line Company of America.
623	664	CI79-291	Texas Eastern Transmission Corp.
625	665	CI79-333	Michigan Wisconsin Pipe Line Co.
626	666	CI79-347	Natural Gas Pipe Line Company of America.
627	667	CI79-574	Northern Natural Gas Co.
628	668	CI79-1262	Consolidated Gas Transmission Co.
629	679	CI79-439	Texas Gas Transmission Corp.
630	670	CI79-440	Northern Natural Gas Co.
631	671	CI79-631	Do.
632	672	CI79-461	National Fuel Gas Supply Corp.
633	673	CI79-485	Michigan Wisconsin Pipe Line Co.
634	674	CI79-497	Gas Transport, Inc.
635	675	CI79-527	Trunkline Gas Co.
637	676	CI80-7	United Gas Pipe Line Co.
638	677	C110-35	Do.
639	678	CI80-680	Do.
640	679	CI80-5	Phillips Petroleum Co.
641	680	CI80-10	El Paso Natural Gas Co.
642	681	CI80-54	Pennzoil Co.
644	682	CI80-189	El Paso Natural Gas Co.
645	683	CI80-325	Panhandle Eastern Pipe Line Co.
646	684	CI83-101	United Gas Pipe Line Co.
647	685	CI83-403	Texas Gas Transmission Corp.

[1] Gulf Oil Corp. FERC gas rate schedule No.
[2] Chevron U.S.A. Inc. FERC gas rate schedule No.

Formerly [1]	Now [2]	Certificate Docket No.	Purchaser
1	1	CI82-287, CI80-325	Northwest Pipeline Corp.

[1] The Pittsburgh and Midway Coal Mining Co., a Division of Gulf Oil Corp. FERC Gas Rate Schedule No.
[2] Pittsburgh and Midway Coal Mining Co. FERC Gas Rate Schedule No.

Formerly [1]	Now [2]	Certificate Docket No.	Purchaser
21	21	G-20478	Oklahoma Natural Gas Co.
22	22	G-4101	El Paso Natural Gas Co.
28	28	G-4142	Do.
30	30	G-4101	Do.
35	35		Cities Service Gas Co.
42	42	G-7154	El Paso Natural Gas Co.
43	43	G-7156, G-13445	Do.
44	44	G-7158	Do.
45	45	G-7155	Do.
46	46	G-7170	Texas Eastern Transmission Co.
47	47	G-14140	Do.
48	48	G-2585	Montana Dakota Utilities Co.
49	49	G-13954	Tennessee Gas Transmission Co.
51	51	G-16030	Transwestern Pipeline Co.
52	52	CI63-335	Northwestern Natural Gas Co.
55	55	G-6204	El Paso Natural Gas Co.
56	56	G-17203	Do.
57	57	C169-756	Natural Gas Pipeline Co. of America.
58	58	C171-341	Do.
59	59	C171-294	United Gas Pipe Line Co.
60	60	C172-502	El Paso Natural Gas Co.
61	61	C172-755	Do.
63	63	C172-757	Do.
64	64	C172-758	Do.
65	65	C172-759	Do.
66	66	C172-760	Do.
67	67	C179-247	Do.
68	68	C179-531	Do.
69	69	C180-463	Do.

[1] Warren Petroleum Corp., a Division of Gulf Oil Corp. FERC Gas Rate Schedule No.
[2] Warren Petroleum Corp., a Division of Chevron U.S.A. Inc. FERC Gas Rate Schedule No.

Exhibit B

Schedule No. [1]	Certificate Docket No.	Purchaser
2	G-5719	Southern Natural Gas Co.
3	G-4809	United Gas Pipeline Co.
4	G-8817	Tennessee Gas Pipeline Co.
5	G-8810	Texas Gas Transmission Corp.
6	G-13078	Do.
7	G-13222	Southern Natural Gas Co.
8	G-19847	Do.
9	G-15262	Do.
10		Mountain Fuel Supply Co.
11	G-16108	United Gas Pipeline Co.
12	G-13293	Transco Gas Pipeline Corp.
13	G-16167	Southern Natural Gas Co.
14	G-17339	Texas Gas Transmission Corp.
15	G-19343	United Gas Pipeline Co.
16	G-16680	Southern Natural Gas Co.
17	G-20147	Do.
18	G-19345	Do.
19	CI61-348	Do.
20		Transcontinental Gas Pipeline Corp.
21	CI60-391	Texas Gas Transmission Corp.
22	CI60-215	Trunkline Gas Company.
23	CI61-1285	United Fuel Gas Company.
24	CI61-630	Texas Gas Transmission Corp.
25	CI61-629	Do.
27	CI62-145	United Gas Pipeline Co.
28	CI62-231	Texas Gas Transmission Corp.
29	CI63-169	Texas Eastern Transmission Corp.
30	CI63-563	Southern Natural Gas Co.
31	CI63-1224	Texas Gas Transmission Corp.
35	CI65-825	Transcontinental Gas Pipeline Corp.
36	CI65-560	Natural Gas Pipeline Company of America.
38	CI66-698	Texas Eastern Transmission Corp.
39	CI68-179	Texas Gas Transmission Corp.
40	CI67-1822	Do.
41	CI67-1816	Do.
42	G-5720	Texas Eastern Transmission Corp.
43	CI67-1792	Transcontinental Gas Pipeline Corp.
44	CI68-1241	Trunkline Gas Co.
45	CI68-1301	Michigan Wisconsin Pipeline Co.
47	CI69-818	Texas Eastern Transmission Corp.
48	CI70-66	Texas Gas Transmission Corp.

EXHIBIT B —Continued

Schedule No.[1]	Certificate Docket No.	Purchaser
49	CI70-50	United Gas Pipeline Co.
50	CI70-93	Southern Natural Gas Co.
51	CI70-78	Sea Robin Pipeline Co.
52	CI70-680	Trunkline Gas Co.
53	G-4269	Tennessee Gas Pipeline Co.
54	G-7214 and G-13962	Texas Eastern Gas Transmission Corp.
56	G-10413	Do.
57	G-12563	Transcontinental Gas Pipeline Corp.
58	CI61-1377	Southern Texas Natural Gas Gathering Co.
60	CI62-1140	Natural Gas Pipeline Company of America.
61	CI64-607	Do.
62	CI65-1013	Do.
63	CI69-994	Transcontinental Gas Pipeline Corp.
64	CI71-474	Texas Eastern Transmission Corp.
65	CI71-463	Tennessee Gas Pipeline Co.
67	CI71-660	Southern Natural Gas Co.
68	CI71-593	Texas Gas Transmission Corp.
69	CI71-885	Tennessee Gas Pipeline Co.
70	CI71-861	Southern Natural Gas Co.
71	CI71-869	Do.
72	CI72-277	Tennessee Gas Pipeline Co.
73	CI72-620	Natural Gas Pipeline Company of America.
74	CI72-850	Texas Gas Transmission Corp.
75	CI73-53	Florida Gas Transmission Co.
76	CI73-761	Southern Natural Gas Co.
77	CI68-1352	Transcontinental Gas Pipeline Corp.
78	CI74-73	Natural Gas Pipeline Company of America.
79	CI74-52	Do.
80	CI74-81	Do.
81	CI74-333	Do.
82	CI74-334	Southern Natural Gas Co.
83	CI74-421	Transcontinental Gas Pipeline Corp.
84	CI74-567	Natural Gas Pipeline Company of America.
86	CI74-425	Do.
88	CI75-475	Do.
89	CI75-508	Southern Natural Gas Co.
90	CI76-122	Tennessee Gas Pipeline Co.
91	CI76-183	Natural Gas Pipeline Company of America.
92	CI76-177	Do.
93	CI76-201	Do.
94	CI76-475	Do.
95	CI76-425	Trunkline Gas Company.
96	CI76-671	Natural Gas Pipeline Company of America.
97	CI77-53	Trunkline Gas Company.
98	G-18030	El Paso Natural Gas Co.
99	CI60-333	Northwest Pipeline Corp.
100	G-15906	Mountain Fuel Supply Co.
102	CI64-1532	Montana-Dakota Utilities Co.
103	CI64-1498	Kansas-Nebraska Natural Gas Co., Inc.
104	G-13830	El Paso Natural Gas Co.
105	G-18721	Do.
106	G-20317	Do.
107	CI62-78	Do.
108	CI66-867	Do.
109	CI69-931	Kansas-Nebraska Energy, Inc.
110	G-7223	El Paso Natural Gas Co.
111	G-7217	Do.
112	G-7215	Lone Star Gas Co.
113	G-7212	El Paso Natural Gas Co.
114	G-9274	Do.
115	G-13661	Do.
116	G-13861	Do.
117	G-18241	Westlake Natural Gas Co. & Atlantic Richfield Co.
118	G-7211	El Paso Natural Gas Co.
119	G-7207	Do.
120	CI61-35	Transwestern Pipeline Co.
121	CI60-87	Do.
122	G-18023	Do.
123	G-18024	Do.
124	G-18025	Do.
125	CI62-765	Cimarron Transmission Co.
126	CI62-592	Do.
127	CI62-833	Lone Star Gas Co.
128	CI62-1264	El Paso Natural Gas Co.
129	CI62-1238	Northern Natural Gas Co.
130	CI63-280	El Paso Natural Gas Co.

EXHIBIT B —Continued

Schedule No.[1]	Certificate Docket No.	Purchaser
131	CI64-1326	Cimarron Transmission Co.
132	CI65-709	Natural Gas Pipeline Company of America.
133	CI65-564	Do.
134	CI65-564	Do.
135	CI67-42	El Paso Natural Gas Co.
136	CI67-589	Natural Gas Pipeline Company of America.
138	CI68-962	Do.
139	CI71-571	Northern Natural Gas Co.
140	CI73-750	El Paso Natural Gas Co.
141	CI74-187	Mississippi River Transmission Corp.
142	CI75-165	Do.
143	CI75-612	Mountain Fuel Supply Co.
144	CI76-125	Colorado Interstate Gas Co.
145	CI76-275	El Paso Natural Gas Co.
146	CI76-727	Mississippi River Transmission Corp.
147	CI75-420	United Gas Pipeline Co.
148	CI77-158	Tennessee Gas Pipeline Co.
149	CI77-355	Natural Gas Pipeline Company of America.
150	CI77-411	Do.
151	CI77-694	Mississippi River Transmission Corp.
152	CI77-717	Natural Gas Pipeline Company of America.
153	CI77-754	Kansas-Nebraska Natural Gas Co.
154	CI77-786	Natural Gas Pipeline Company of America.
155	CI78-208	Southern Natural Gas Company.
156	CI78-255	United Pipeline Co.
157	CI78-852	Natural Gas Pipeline Company of America.
158	CI78-653	Do.
159	CI78-851-000	Southern Natural Gas Co.
160	CI78-946	Northwest Pipeline Corp.
161	CI78-1042	Natural Gas Pipeline Company of America.
162	CI78-1043	Do.
163	CI78-1130	Mississippi River Transportation Corp.
164	CI78-1250	Transcontinental Gas Pipeline Corp.
165	CI79-4	Do.
166	CI79-129-001	Natural Gas Pipeline Company of America.
167	CI79-310	Pacific Lighting Service Company.
168	CI79-479	Southern Natural Gas Co., United Gas Pipeline Co.
169	CI79-626	Sea Robin Pipeline Co.
170	CI79-638	Transcontinental Gas Pipeline Corp.
171	CI80-19	Natural Gas Pipeline Company of America.
172	CI80-53	Columbia Gas Transmission Corp.
173	CI80-16	Texas Gas Transmission Corp.
174	CI80-181	Natural Gas Pipeline Company of America.
175	CI80-209	Columbia Gas Transmission Corp.
176	CI77-809	Pacific Alaska LNG Associates.
177	CI77-814	Do.
178	CI80-377	Tennessee Gas Pipeline Co.
179	CI80-474	Natural Gas Pipeline Company of America.
180	CI81-28-000	Do.
181	CI81-127-000	Tennessee Gas Pipeline Company, Columbia Gas Transmission Corp.
182	CI81-325-000	Natural Gas Pipeline Company of America.
183	CI81-362-000	Do.
184	CI61-398-000	Columbia Gas Transmission Corp.
185	CI81-478-000	Trunkline Gas Company.
186	CI81-482-000	Natural Gas Pipeline Company of America.
187	CI82-22-000	Do.
188	CI82-126-000	Do.
189	CI81-444-000	Southern Natural Gas Co.
190	CI82-206-000	Natural Gas Pipeline Company of America.
191	CI82-423-000	Tennessee Gas Pipeline Co.
192	CI83-180-000	Aminoil USA Inc.
193	CI83-409-000	Natural Gas Pipeline Company of America.

EXHIBIT B —Continued

Schedule No.[1]	Certificate Docket No.	Purchaser
194	CI84-147-000	Do.
195	CI84-159-000	Do.
196	CI84-455-000	Do.
197	CI84-514-000	Do.
198	CI84-515-000	Do.
199	CI85-161-000	Do.
200	CI85-421-000	Do.

[1] Chevron U.S.A. Inc. FERC Gas Rate.

[FR Doc. 85-20102 Filed 8-21-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF85-643-000]

Crown Zellerbach Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1985.

On August 6, 1985, Crown Zellerbach Corporation (Applicant), of One Bush Street, San Franciso, California 93104 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 is located at St. Francisville, Louisiana. The facility will contain a combustion turbine generator, a suplementary natural gas-fired heat recovery boiler (HRB) and an existing extraction steam turbine generator. The steam from the HRB will be integrated with the high pressure header of the steam plant. The extracted steam from the steam turbine and the HRB integrated steam is used in the pulp and papermaking process. The primary energy source will be natural gas. The electrical power production capacity of the facility will be 59.2 MW. The facility is expected to begin commercial operation in January 1986.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20110 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-678-000]

Florida Power & Light Co.; Filing

August 15, 1985.

The filing Company submits the following:

Take notice that on August 6, 1985, Florida Power & Light Company (FPL) tendered for filing as an initial rate schedule a Special Short Term Agreement To Provide Capacity And Scheduled Incremental Energy by Florida Power & Light Company to Seminole Electric Cooperative, Inc. During Forced Outage of Seminole Unit Nos. 1 and 2. FPL states that service under the agreement commenced on August 6, 1985. FPL states further that the agreement was negotiated under special circumstances relating to the unanticipated outage of both Seminole units.

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, NE, Washington, DC 20426, 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 August 27, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20139 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-671-000]

Gulf Power Co.; Supplements

August 15, 1985.

The filing Company submits the following:

Take notice that on August 5, 1985, Gulf Power Company (Gulf) filed herein Supplements to its FERC Electric Tariffs providing for changes in loads for service by Gulf to Choctawhatchee Electric Cooperative, Inc. and West Florida Electric Cooperative Association. These tariff supplements are proposed to be effective for service commencing on June 1, 1985, and Gulf therefore requests waiver of the Commission's notice requirements to allow such effective dates.

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, NE, Washington, DC 20426, 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 August 26, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20138 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-612-000]

Hydro Valley Development, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Correction

August 15, 1985.

On August 2, 1985, a Notice of Application was issued in error and appeared in the **Federal Register** issue of August 6, 1985, 50 FR 31763. Hydro Valley Development, Inc. filed a Notice of Qualification of a Small Power Production Facility and did not request application for Commission certification. Notice of the application is hereby withdrawn.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20111 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8482-001]

Independence Electric Corp., Surrender of Preliminary Permit

August 16, 1985.

Take notice that Independence Electric Corporation, Permittee for the proposed Kentucky River Lock and Dam No. 11, Project No. 8482, requested by letter dated July 31, 1985, that its preliminary permit be terminated. The preliminary permit was issued on February 19, 1985, and would have expired on January 31, 1987. The project would have been located on the Kentucky River in Madison and Estill Counties, Kentucky.

The Permittee filed the request on August 2, 1985, and the preliminary permit for Project No. 8482 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. 85-20112 Filed 8-20-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-141-001]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

August 16, 1985.

Take notice that on 8/9/85, Midwestern Gas Transmission Company (Midwestern) filed First Revised Sheets Nos. 32, 33, 34, 100, 101 and 102 to Original Volume No. 1 of its FERC Gas Tariff, to be effective October 1, 1984.

Midwestern states that the purpose of the revised tariff sheets is to implement the Settlement Agreement (May 8, 1985) which was approved by the Commission letter order issued July 22, 1985, in the referenced proceeding. Pursuant to the Commission order, the effective date of these tariff sheets is October 1, 1984.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any persons 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, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 23, 1985. Protests will be considered by the Commission in determining the appropriate proceeding. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20113 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-27-000,001]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

August 16, 1985.

Take notice that North Penn Gas Company (North Penn) on August 9, 1985, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 pursuant to its PGA Clause for rates to be effective September 1, 1985.

Specifically, North Penn has included in its semiannual PGA, to be effective September 1, 1985, the following:

1. A decrease of 53.678¢ per Mcf (Appendix A) to reflect changes in the cost of gas purchased.

2. A surcharge credit of 31.682¢ per Mcf (Appendix B) resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period January 1, 1985 through June 30, 1985; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with the Federal Energy Regulatory Commission's (Commission) Regulations; and a carry-over balance from the surcharge credit effective for the period September 1, 1984 through February 28, 1985.

Included in the surcharge credit of 31.682¢ per Mcf is a separately stated surcharge of 13.666¢ per Mcf (Appendix C) to recover North Penn's funding of take-or-pay payments made by Tennessee Gas Pipeline Company (Tennessee) under procedures approved by the Commission in Docket No. RP83-8 et al. issued April 16, 1985.

As part of this filing, North Penn has also included Twelfth Revised Sheet No. 15H which reflects no incremental pricing surcharges under Section 15 of the General Terms and Conditions of its tariff.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective September 1, 1985 as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 23, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20114 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-603-000]

South Carolina Generating Co., Inc. Order Accepting for Filing and Suspending Rates, Denying Motions To Reject, Ordering Summary Disposition, Noting Interventions, Denying Waiver, Establishing Hearing Procedures, and Consolidating Dockets

Issued: August 15, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

On June 27, 1985, South Carolina Generating Company, Inc. (GENCO) submitted for filing a revision to its cost of service formula to include several additional expense accounts in its unit power sale agreement with South Carolina Electric & Gas Company (SCE&G).[1] GENCO requests waiver of the notice requirements to permit a January 1, 1985, effective date. The revisions would increase revenues for the months of January through April 1985 by $338,250.

The unit power sale agreement was filed on December 26, 1984, in Docket No. ER85-204-000. It provides for the sale of the entire output of the company's Williams Generating Station to its affiliate, SCE&G. Billing under the agreement is based on a cost of service formula rate as detailed on a billing format (Schedule 8). The format specifies the cost items to be included in the charges by FERC account number and codifies how the foumula rate operates.

By order issued February 21, 1985, the Commission accepted GENCO's unit power sales agreement and the accompanying billing format for filing to become effective January 1, 1985, subject to refund, and set them for hearing. The Commission's order specifically noted:

> . . . pages 3 and 4 of GENCO's supporting Schedule 8 contain a provision that would allow the company to add any expense, plant, or other account that may become applicable in the future. We here inform GENCO that any changes pursuant to this provision, any modification of the formula methodology, or any change in return on equity or depreciation rates will require timely filing pursuant to Part 35 of the Commission's regulations.

30 FERC ¶ 61,163, p. 61,339

On May 15, 1985, during the ongoing proceedings in Docket No. ER85-204-000, the Commission's trial staff filed a motion for summary disposition (Docketed as No. ER85-204-003) of certain administrative and general, system control, and load dispatching expenses which were not specified in the billing format accepted by the Commission, but which were being billed to SCE&G. On July 2, 1985, an initial decision was issued by the presiding judge finding that GENCO violated the terms of its cost of service tariff on file with the Commission, the Commission's filed rate doctrine, the Commission's order of February 21, 1985, and Part 35 of the Commission's Regulations under the Federal Power Act as a result of billing SCE&G through FERC accounts not specified in its filed cost of service tariff. 32 FERC ¶ 63,008. The presiding judge granted trial staff's motion for summary disposition and ordered GENCO to make refunds with interest to SCE&G for all amounts improperly billed to SCE&G.

Notice of the company's filing was published in the **Federal Register**,[2] with comments due on or before July 23, 1985. Timely motions to intervene were filed by the Consumer Advocate for the State of South Carolina (CASC) and the Central Electric Power Cooperative, Inc. (CEPC). In addition, the Public Service Commission of South Carolina (SCPSC) filed an untimely motion to intervene.

The CASC and CEPC each request that the Commission reject GENCO's filing as inappropriate in light of presiding judge's decision in Docket No. ER85-204-003. In the event the Commission does not reject the filing, CEPC asks that the Commission set GENCO's filing for hearing.

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[1] *See* Attachment for rates schedule designations.

[2] 50 FR 29473 (1985).

On August 5, 1985, GENCO filed an answer to the pleadings of the CASC and CEPC. While not opposing their intervention, the company does oppose their motions to reject. GENCO argues that it has properly collected from SCE&G the costs reflected in the present filing; in any event, any procedural infirmities which may exist as to the collection of those costs are cured, the company states, by its submittal in this docket.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make the CASC and CEPC parties to this proceeding. Furthermore, we find that good cause exists to grant the SCPSC's untimely intervention, given the interests of the constituency which it represents, the early stage of this proceeding, and the apparent absence of any undue prejudice or delay.

As noted, both the CASC and CEPC request that we reject GENCO's filing in light of the events in Docket No. ER85–204–000. The legality of GENCO's conduct at issue there is not, however, valid grounds for rejecting the company's filing in this docket. The Federal Power Act mandates that all rates charged by an electric utility be just and reasonable. Absent contractual obligations to the contrary, GENCO has a right to file for and collect such rates. Any remedies which should be imposed upon GENCO for collecting charges not specified in its tariff will be determined in Docket No. ER85–204–003 following the submission of briefs on and opposing exceptions to the initial decision of July 2, 1985. Accordingly, we shall deny the motions to reject GENCO's filing.

Our analysis reveals that the company has included Account No. 407 of the Commission's Uniform System of Accounts (Amortization of Property Losses) in its revised formula. The expenses reflected in this account are for extraordinary property losses, which are generally non-recurring. The Commission has not allowed electric utilities to recover these types of losses from customers without prior Commission review. *E.g. Wisconsin Power & Light Co.*, Opinion No. 141, 19 FERC ¶ 61,288 (1982). Therefore, such losses are particularly inappropriate for inclusion in an automatically adjusting formula rate prior to Commission approval. Accordingly, we shall order summary disposition with respect to this issue, and require GENCO to file, within thirty days, a revised formula deleting Account No. 407. Our action is without prejudice to GENCO's making an appropriate filing when it actually seeks to recover such expenses from SCE&G.

Our review of GENCO's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the revised formula rates may not yield substantially excessive revenues. Therefore, we shall suspend those rates for a nominal period.

As mentioned, GENCO requests waiver of notice requirements to permit an effective date of January 1, 1985, to enable it to retain those revenues collected from SCE&G on the basis of expense accounts which were not specified in GENCO's filed rate, but which GENCO claims are properly chargeable to SCE&G. We do not find that GENCO has presented good cause for waiver. The Commission specificially advised GENCO that changes to its formula rate would require a timely filing. Nonetheless, the utility filed it request to collect the revised rates six months after it began collecting the charges. Further, the intervenors do not concur in the company's request. In the circumstances, we shall deny GENCO's request for waiver of the notice requirements. Accordingly, we shall suspend GENCO's rates for one day to become effective, as modified, on August 28, 1985, subject to refund.

Finally, we find that common questions of law and fact may be presented in Docket No. ER85–603–000 and Docket No. ER85–204–000. As a result, we shall consolidate the proceedings for purposes of hearing and decision.

The Commission orders:

(A) The SCPSC's untimely motion to intervene is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The motions to reject GENCO's filing are hereby denied.

(C) Summary disposition is hereby ordered, as noted in the body of this order, will respect to the inclusion of Account No. 407 in the revised cost of service formula. Within thirty (30) days of the date of this order, GENCO shall refile its cost of service formula to reflect this determination.

(D) GENCO's request for waiver of the notice requirements is hereby denied.

(E) GENCO's proposed cost of service formula, as modified by summary disposition, is accepted for filing and suspended for one day, to become effective, subject to refund on August 28, 1985.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of GENCO's proposed rate schedule changes.

(G) Subdocket No. –000 of Docket No. ER85–603–000 is hereby terminated. The evidentiary hearing established herein is assigned Docket No. ER85–603–001.

(H) Docket No. ER85–603–001 is hereby consolidated with Docket No. ER85–204–000 for purposes of hearing and decision.

(I) The administrative law judge designated to preside in Docket No. ER85–204–000 shall determine procedures best suited to accommodate consolidation of this docket with the pending proceeding.

(J) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

SOUTH CAROLINA GENERATING COMPANY, INC., DOCKET NO. ER85–603–000; RATE SCHEDULE DESIGNATION

Designation	Description
(1) Supplement No. 3 to Rate Schedule FERC No. 1 (Supersedes Supplement No. 1).	Revised Schedule 8 Cost of Service Billing Format.
(2) Supplement No. 4 to Rate Schedule FERC No. 1 (Supersedes Supplement No. 1 to Supplement No. 1).	Redesignation of Schedule 2—Calculation of Proposed Billing.
(3) Supplement No. 5 to Rate Schedule FERC No. 1	Revised Schedule 3—Forecasted O&M expenses, Generation by Fuel Inventory Cost and Other Taxes.
(4) Supplement No. 6 to Rate Schedule FERC No. 1	Revised Schedule 4—Net Investment Billing Forecast.

SOUTH CAROLINA GENERATING COMPANY, INC., DOCKET NO. ER85-603-000; RATE SCHEDULE DESIGNATION—Continued

Designation	Description
(5) Supplement No. 7 to Rate Schedule FERC No. 1.	Redesignation of Schedule 5—Accumulated Deferred Income Taxes.
(6) Supplement No. 8 to Rate Schedule FERC No. 1.	Redesignation of Schedule 6—Calculation of Composit State and Federal Income Taxes.
(7) Supplement No. 9 to Rate Schedule FERC No. 1.	Redesignation of Schedule 7—Computation of Capital Cost.

[FR Doc. 85-20115 Filed 8-21-85; 8:45 am]
BILLING CODE 6717-01

[Docket No. ER84-604-007]

Southwestern Public Service Co.; Refund Report

August 15, 1985.

Take notice that on August 5, 1985, Southwestern Public Service Company tendered for filing, pursuant to Commission order dated July 19, 1985, six copies of the interim refund report. On August 2, 1985, Southwestern tendered for filing an amendment to the interim refund report subsequently filed on August 5.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before August 26, 1985. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-20140 Filed 8-21-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-181-000]

Texas Gas Transmission Corp.; Petition for Authority To Implement a Direct Billing Mechanism To Recover Retroactive Order No. 94 Production-Related Costs

August 16, 1985.

Take notice that on August 7, 1985, Texas Gas Transmission Corporation (Texas Gas) filed a Petition For Authority To Implement A Direct Billing Mechanism To Recover Retroactive Order No. 94 Production-Related Costs. Texas Gas states that it seeks authorization to bill customers directly for retroactive Order No. 94 costs because of what it states are inequities and undesirable market distortions inherent in recovering such costs through purchased gas adjustment (PGA) filings. As is more fully explained in the filing, Texas Gas proposes to allocate retroactive Order No. 94 costs based upon each customer's share of the company's total sales for the production period over which the Order No. 94 obligation arose, and to directly bill the resulting amounts. Texas Gas proposes to coordinate this direct billing mechanism with the refunding to its customers of the Btu refunds received by Texas Gas under Order Nos. 399 and 399B. Texas Gas states that its direct billing proposal will most closely approximate the cost assignment that would have occurred had the payments been made at the same time as the gas purchases to which they relate. The company requests expedited treatment of its petition in order to eliminate or minimize the interest it might incur on its Btu refunds received from producers as a result of any delay in the implementation of its proposed billing mechanism.

Texas Gas requests waiver of the Commission's regulations to permit the direct billing procedure.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 23, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-20116 Filed 8-21-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-5-29-000 and TA85-5-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

August 16, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on August 9, 1985, tendered for filing Revised Thirty-Fifth Revised Sheet No. 12 and Substitute Thirty-Sixth Revised Sheet No. 12 to its FERC Gas Tariff Second Revised volume No. 1. The proposed effective dates are August 1, 1985 and September 1, 1985, respectively. The revised tariff sheets reflect a storage "tracking" rate increased effective August 1, 1985 and a storage "tracking" rate decrease effective September 1, 1985 in accordance with Section 26 of Transco's General Terms and Conditions. Section 26 provides for, among other things, changes in rates for storage service rendered under Transco's Rate Schedule S-2 to reflect changes in charges by Texas Eastern Transmission Corportion (Texas Eastern) under Texas Eastern's Rate Schedule X-28.

As a result of Texas Eastern's compliance filing in Docket No. RP83-35, proposed to be effective August 1, 1985 and its filing in Docket No. RP85-177 proposed to be effective September 1, 1985, Transco will revised its demand charge and demand charge adjustment in Rate Schedule S-2 in order to flow through to Transco's customers the increase in Texas Eastern's X-28 demand charge of approximately $540,000 annually, effective August 1, 1985 and the decrease of approximately $2.2 million annually proposed to be effective September 1, 1985.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

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, NE., Washington, D.C. 20426, in accordance with Rule 211 and Rule 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 August 23, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85 20117 filed 8-21-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP71-29-037 (Phase III)]

United Gas Pipe Line Co.; Filing of Revised Sheets in FERC Gas Tariff

August 19, 1985.

Take notice that on July 19, 1985, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, tendered for filing in Docket No. RP71-29-037 Revised Seventh Revised Sheet No. 71 and Revised Twelfth Revised Sheet No. 72 to its FERC Gas Tariff, First Revised Volume No. 1. These sheets are on file with the Commission and open to public inspection.

United states that these sheets are submitted pursuant to ordering paragraph (C) of Opinion No. 237 issued June 19, 1985, in Docket Nos. RP71-29-003 and RP71-102-000 (Phase III). United states that it submits the sheets under protest and with full reservation of its specifications of error in the Commission's opinion as set out in United's request for rehearing of that opinion. United also states that these sheets are not intended to effect any substantive change but rather to clarify and make explicit the basis on which United would be liable for curtailments of deliveries under the exculpatory language of its tariff sheets. United proposes that the tariff sheets be made effective July 19, 1985, with the understanding that the language clarifies the intent of the affected provisions of United's tariff dating back to November 14, 1971. United requests waiver of § 154.22 of the Commission's Regulations (18 CFR 154.22) to permit these tariff sheets to be effective July 19, 1985.

Any person desiring to be heard or to protest said filing should file on or before August 27, 1985, a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20118 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-679-000]

Vermont Electric Power Co., Inc.; Filing

August 15, 1984.

The filing Company submits the following:

Take notice that on August 7, 1985, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a Supplement No. 1 to the rate schedule filed by VELCO on July 31, 1985 in Docket No. ER85-657-000. That rate schedule provides for the transmission of power and associated energy recently acquired by Vermont from the New York Power Authority. Supplement No. 1 noticed herein extends the rate schedule to the transmission of power purchased by Vermont from Ontario Hydro under a contract dated October 5, 1982.

VELCO proposes that the Supplement No. 1 become effective on October 1, 1985, which is the requested effective date for the underlying rate schedule filed in Docket No. ER85-657-000. VELCO requests waiver of the Commission's regulations to allow the supplement to become effective as of that date. If waiver is not granted, VELCO asks that the filing be permitted to become effective on October 6, 1985, which is 60 days after the date of submission.

VELCO states that it has served the filing upon the Vermont Public Service Board and the Vermont Department of Public Service.

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, NE., Washington, DC 20426, 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 August 27, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20141 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-102]

Owens River Basin, CA; Resource Sort Workshop for Cluster Impact Assessment Procedure

August 16, 1985.

As part of the Resource Sort Phase (Phase 2) of the Cluster Impact Assessement Procedure (CIAP) for the Owens River Basin, the Staff of the Federal Energy Regulatory Commission (Staff) will convene a Resource Sort Workshop on September 18, 1985, at 9 a.m., in the Inyo National Forest Conference Room at 873 North Main Street in Bishop, California.

The Staff is now compiling information on the target resources for inclusion in a Resource Sort Workshop Document that will be sent to Phase 1 CIAP participants on or about September 6, 1985, for review.

In the Resource Sort Workshop, the Staff will verify the technical data in the Document with the CIAP participants and discuss analytical techniques that will be used in the Multiple Project Assessment Phase (Phase 3) of the CIAP.

The Staff intends to encourage open dialogue and discussion among all participants with respect to the technical analysis of target resources.

For further information please contact Ron McKitrick, FERC Project Manager, at (202) 376-9065.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20036 Filed 8-21-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-101]

Snohomish River Basin, WA; Resource Sort Workshop for Cluster Impact Assessment Procedure

August 16, 1985.

As part of the Resource Sort Phase (Phase 2) of the Cluster Impact Assessement Procedure (CIAP) for the Snohomish River Basin, the Staff of the Federal Energy Regulatory Commission (Staff) will convene a Resource Sort Workshop on September 16-18, 1985, at The Evergreen State College (Room 1612—Liberty Building) near Olympia, Washington. The purpose of the Resource Sort Phase of the CIAP is to further define the scope of the study by taking a more detailed look at the interaction of projects with target resources. The resource information from Phase 2 will be utilized as baseline data for the remainder of the CIAP analysis.

The Staff is now compiling information on the target resources for inclusion in a Resource Sort Workshop Document (Document) that will be sent to Phase 1 CIAP participants for review on or about August 30, 1985. Others wishing to receive the Document and participate in the Workshop must contact the FERC Project Manager, Mr. Frank Karwoski at (202) 376–1761 by September 9, 1985.

In the Resource Sort Workshop, the Staff will verify the technical data in the Document with the CIAP participants and discuss analytical techniques that will be used in the Multiple Project Assessment Phase (Phase 3) of the CIAP. After a brief overview, Workshop participants will divide into smaller groups for consideration of the specific target resource categories. These groups will be chaired by the Staff individuals responsible for specific target resources and will entail open and informal discussions of the technical issues related to the Staff's analysis of the specific target resources. The Workshop will be concluded with a general meeting at which a brief summary of all the Workshop activities will be presented by the Staff, and the upcoming Phase 3 CIAP activities will be discussed.

In order to ensure the success of the Workshop, the Staff encourages all participating agencies and organizations to designate no more than two representatives to participate in the meetings. The Staff intends to encourage open dialogue and discussion among all participants with respect to the technical analysis and of target resources.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–20037 Filed 8–21–85; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59164C; TSH–FRL 2886–2]

Certain Chemical; Extension of Test Marketing Exemption Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the test marketing period for an additional twelve months for test marketing exemption (TME) TME–84–65 under the authority of section 5(h)(1) of the Toxic Substances Control Act (TSCA). The test marketing exemption was granted for a twelve month period commencing on August 17, 1984. A Notice of Approval was published in the Federal Register of August 27, 1984 (49 FR 33935).

EFFECTIVE DATE: August 14, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, D.C. 20460, (202–382–3395).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA 90 days before manufacture or import begins. Section 5(h)(1) authorizes EPA, upon receipt of an application, to exempt any person from the notice requirements of section 5 and to permit them to manufacture a new chemical substance for test marketing purposes. EPA may impose restrictions on the test marketing activity, including a limit on the time period during which it may take place.

On August 17, 1984, EPA granted test marketing exemption (TME 84–65) for sulfur-containing polyalkylene oxide (generic description). The applicant claimed the specific chemical identity, specific use and process information as confidential business information. Notice of approval of the TME was published in the Federal Register of August 27, 1984 (49 FR 33935). Approval was based on an Agency finding that, under the conditions set out in the application, the test market substance did not present an unreasonable risk of injury to health or to the environment. The test marketing activity was limited to twelve months. On July 3, 1984, EPA received a request from the submitter to extend the test marketing period for an additional twelve months. The applicant states that only small amounts of the anticipated test market material have been sampled because of the economic considerations of product acceptance. The applicant further states that an additional year is needed in order to complete field trials.

EPA has decided to extend the exemption period by an additional twelve months, provided that all other restrictions specified in the notice of approval of the test marketing exemption remain unchanged. These include recordkeeping requirements, and limits on the production volume and the disposal method. This decision is based on a finding that the additional time will not affect the Agency's original conclusion that test marketing of this substance will not present an unreasonable risk of injury to human health or the environment. The Agency reserves the right to rescind its decision to grant this extension should any new information come to its attention which casts significant doubt on this conclusion.

Dated: August 14, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–20085 Filed 8–21–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100028 PH–FRL 2886–3]

Transfer of Data To American Management Systems and Temple, Barker & Sloane

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 American Management Systems (AMS) and its subcontractor Temple, Barker & Sloane under EPA Contract No. 68–01–7002. These contractors shall perform services for the Office of Policy, Planning, and Evaluation of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be made available to the contractors consistent with the requirements of 40 CFT 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: American Management Systems and Temple, Barker & Sloane will be given access to these documents no sooner than Auguest 27, 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 D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–2613).

SUPPLEMENTARY INFORMATION: Under this contract which supports the OPPE regulatory efforts, AMS and Temple, Barker & Sloane, will analyze toxicological data which may include formulation information for a number of herbicides and insecticides used on corn, and soybeans, 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 contracts with American Management Systems and Temple, Barker & Sloane.

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 contracts with American Management Systems and Temple, Barker & Sloane, 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: August 13, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-20086 Filed 8-21-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59725; FRL-2874-7]

Premanufacture Notices; Chain-Stopped Alkyd Resin

Correction

In FR Doc. 85-18490 beginning on page 31656 in the issue of Monday, August 5, 1985, make the following connection:

1. On page 31656, in the third column, in the summary, in the eighteenth line in both places, "ploymers" should read "polymers".

2. On page 31657, in the first column, the FR Doc. number should read "85-18490".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Request for Waiver of Amateur Rules To Allow Use of Amateur Frequencies for News Gathering for Broadcasting Purposes; Pleading Cycle Established

August 20, 1985.

On August 13, 1985, Lee Shoblom, President and General Manager of London Bridge Broadcasting, Inc., 2001 Industrial Boulevard, Lake Havasu City, Arizona 86403, filed a request for waiver of the amateur rules to permit him to use amateur radio for news gathering for broadcast purposes. Specifically, Mr. Shoblom requests that he be permitted to use amateur frequency 434 MHz for gathering news on matters of community interest and broadcast such news on his low power television station.

The Private Radio Bureau seeks comments on this filing. Parties wishing to file formal comments on the issues raised therein should do so by filing an original and four copies with the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554, on or before October 10, 1985. Reply comments may be filed on or before October 28, 1985. Comments and reply comments should refer to the following number: PRB-2.

Copies of the request for waiver and any subsequently filed documents in this matter may be obtained from International Transcription Services, Inc., 1270 Fairfield Road (Route 116 West), Gettysburg, Pennsylvania 17325, (717) 337-1433 or 4006 University Drive, Fairfax, Virginia 22030, (703) 352-2400/ (202) 857-3800. Any documents related to this matter will also be available for inspection and copying in the Private Radio Bureau Public Reference Room, 1270 Fairfield Road (Route 116 West), Gettysburg, Pennsylvania 17325.

For further information contact Maurice J. DePont at (202) 632-4964.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-19940 Filed 8-21-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Montana Federal Savings Bank, Kalispell, MT; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Montana Federal Savings Bank, Kalispell, Montana on August 14, 1985.

Dated: August 19, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85-20122 Filed 8-21-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Amoskeag Bank Shares, Inc., et. al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 13, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Amoskeag Bank Shares, Inc.*, Manchester, New Hampshire; to acquire 100 percent of the voting shares of Portsmouth Savings Bank, Portsmouth, New Hampshire.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ohio Bancorp*, Youngstown, Ohio; to acquire 100 percent of the voting shares of The Minerva Banking Company, Minerva, Ohio.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The First Bankers Corp. of Florida*, Pompano Beach, Florida; to acquire 90 percent of the voting shares of The Island Bank, Homes Beach, Florida.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Elkhorn Bankshares Corporation*, Elkhorn, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Elkhorn, Elkhorn, Wisconsin.

Board of Governors of the Federal Reserve System, August 16, 1985.

William W. Wiles

Secretary of the Board.

[FR Doc. 85-20032 Filed 8-21-85; 8:45 am]

BILLING CODE 6210-01-M

First Bank System, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 13, 1985.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to retain the transfer of 40 general insurance agencies from 30 of its subsidiary banks located in Minnesota, North Dakota, and South Dakota, to First System Agencies, Inc., Minneapolis, Minnesota. First System Agencies, Inc., will engage in general insurance activities pursuant to section 4(c)(8)(G) of the Bank Holding Company Act of 1956, as amended. The insurance activities will be conducted in the states of Minnesota, North Dakota, and South Dakota.

Board of Governors of the Federal Reserve System, August 16, 1985.

William W. Wiles,

Secretay of the Board.

[FR Doc. 85-20031 Filed 8-21-85; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage deNovo in Permissible Nonbanking Activities; U.S. Bancorp; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-19379), published at page 32768 of the issue for Wednesday, August 14, 1985. The correct name of the subsidiary is U.S. Bancorp Financial, Inc., Los Angeles, California. Comments on this application must be received not later than September 3, 1985.

Board of Governors of the Federal Reserve System, August 16, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-20029 Filed 8-21-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Notice of OMB Circular A-76 Productivity Improvement Reviews

AGENCY: Department of the Interior.

ACTION: Notice of OMB Circular A-76 Productivity Improvement Reviews.

SUMMARY: The Department of the Interior is conducting OMB Circular A-76 productivity improvement reviews of many of its various activities nationwide. The reviews are for the purpose of improving efficiency. Many of the reviews listed below are currently underway. Those not yet underway are scheduled to be initiated by September 30, 1985.

ADDRESS: Department of the Interior, Office of Information Resources Management, Washington, DC, 20240.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Bishop at (202) 343-7544.

SUPPLEMENTARY INFORMATION: The productivity improvement review process is very detailed and labor intensive. The time required to complete a review depends on the organizational and geographical location, size, and complexity of the activity under review. Specific invitations for bid or requests for proposal will be announced in the Commerce Business Daily as applicable reviews reach the solicitation stage. No consolidated bidders lists will be maintained by the contracting offices of the six major Department of the Interior organizational components in which productivity improvement reviews are scheduled. The review schedule is as follows:

Location, Activity Name and Review Start Date

Bureau of Land Management

—Oregon, Road Maintenance, review start, 5/15/84

National Park Service

—Grand Teton NP (WY), Road Maintenance, review start, 3/1/85
—Yellowstone NP (WY), Road Maintenance, review start, 1/4/85
—Yellowstone NP (WY), Ground Maintenance, review start, 6/21/85
—Yellowstone NP (WY), Road Maintenance, review start, 6/2/85
—Acadia NP (ME), General Maintenance, review start, 9/3/85
—Fire Island NS (NY), General Maintenance, review start, 4/12/85
—Statute of Liberty NM (NY), General Maintenance, review start, 9/3/85
—Denver Service Center (CO), Architectural & Engineering Services, review start, 9/3/85
—Baltimore-Washington Pkwy (MD), General Maintenance, review start, 7/1/85
—George Washington Memorial Pkwy (VA), Building/Ground Maintenance, review start, 7/1/85
—Rock Creek Park (DC), Ground Maintenance, review start, 7/1/85
—Harpers Ferry NHP (WV), Custodial Services, Building Maintenance, review start, 9/3/85
—President's Park (DC), Ground Maintenance, review start, 9/13/85
—Colonial NHP (VA), Ground Maintenance, review start, 5/11/85
—Blue Ridge Pkwy (NC), Road Maintenance, review start, 9/3/85

—Blue Ridge Pkwy (NC), Custodial Services, review start, 3/1/85
—Great Smoky Mtn NP (TN), Road Maintenance, review start, 9/3/85
—Great Smoky Mtn NP (TN), Custodial Services, review start, 3/1/85
—Natchez Trace Pkwy (MS), Ground Maintenance, review start, 3/1/85
—Cuyahoga Valley NRA (OH), General Maintenance, review start, 2/18/85
—Indiana Dunes NL (IN), General Maintenance, review start, 9/3/85
—Ozark NSR (MO), General Maintenance, review start, 9/3/85
—Ozark NSR (MO), Campground Services, review start, 2/18/85
—Amistad NRA (TX), General Maintenance, review start, 3/18/85
—Carlsbad Caverns NP (NM), General Maintenance, review start, 9/3/85
—Lyndon B. Johnson NHP (TX, General Maintenance, review start, 9/3/85
—Padre Island NS (TX), General Maintenance, review start, 3/18/85
—Chickasaw NRA (OK), General Maintenance, review start, 3/18/85
—Death Valley NM (CA), General Maintenance, review start, 9/3/85
—Grand Canyon NP (AZ), Road-Building Maintenance, review start, 4/15/85
—Sequoia NP (CA), Road Maintenance, review start, 4/15/85
—Yosemite NP (CA), Road Maintenance, review start, 4/15/85
—Yosemite NP (CA), Utility Maintenance, review start, 9/3/85

Abbreviations:

NP—National Park
NS—National Seashore
NM—National Monument
NHP—National Historic Park
NRA—National Recreation Area
NL—National Lakeshore
NSR—National Scenic Riverway

Fish and Wildlife Service

—Patuxent Wildlife Research Center (MD), Buildings and Ground, review start, 4/1/85

Bureau of Reclamation

—Uinta Basin Construction Office (UT), Camp Maintenance, review start, 1/15/84
—Division of Information Resources (CO), Data Processing, review start, 11/15/84
—Regional Office Grand Coolee (WA), ADP & Data Transcription & Keypunch review start, 8/1/85

Geological Survey

—National Mapping Division (VA), Photography Lab, review start, 1/1/85

Bureau of Indian Affairs

—Navajo Area (AZ and NM), Facilities Management, review start, 3/8/85
—Central Office (NM), Quarters, Facilities Improvement, Repair, Operation & Maintenance, review start, 3/8/85
—Central Office (NM), Investments; Payroll Processing; Voucher Examination, review start, 8/15/85
—Haskell Indian Jr. College (KS), Facilities Management, review start, 6/1/85
—Central Office (DC), Construction Management, review start, 8/15/84
—Central Office (DC), ADP, review start, 5/1/85
—Central Office (DC), Appraisals, review start, 9/1/84
—Navajo Area (NM), Soils Laboratory, review start, 6/15/84

Dated: August 14, 1985.

Oscar W. Mueller,

Director, Office of Information Resources Management.

[FR Doc. 85-20074 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[ES-035233, Group 57]

Filing of Plats of the Jean Lafitte National Historical Park, Barataria Unit, Louisiana

August 15, 1985.

1. The two plats of the survey of a portion of the boundaries of the Barataria Unit of the Jean Lafitte National Historical Park and the survey of an Exxon Oil and Gas Lease, Township 15 South, Range 23 East, Louisiana Meridian, Louisiana, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on September 30, 1985.

2. The survey was made at the request of the Southwest Region, National Park Service.

3. All inquiries or protests concerning the technical aspects of the survey 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 30, 1985.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 85-20075 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-GJ-M

[F-14880-X]

Alaska Native Claims Selection; Kikiktagruk Inupiat Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Kikiktagruk Inupiat Corporation for approximately 1,160 acres. The lands involved are in the vicinity of Kotzebue.

Kateel River Meridian

T. 19 N., R. 16 W. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the *Tundra Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Barbara L. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-20092 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14824-A]

Alaska Native Claims Selection; Kokarmuit Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Kokarmuit Corporation for approximately .887 acre. The lands involved are in the vicinity of Akiak and located within Lot 8, Block 8, Tract A, U.S. Survey No. 5068, Alaska.

A notice of the decision will be published once a week for four (4)

consecutive weeks, in The Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20093 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–JA–M

[F–14879–A]

Alaska Native Claims Selection; Kotlik Yupik Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sections 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), 1621(j), will be issued to Kotlik Yupik Corporation for approximately 175 acres. The lands involved are in the vicinity of Kotlik, Alaska.

Kateel River Meridian, Alaska

T. 28 S., R. 24 W. (Unsurveyed)
Secs. 28 and 29.

Containing approximately 175 acres.

A notice of the decision will be published once a week for four (4) consecutive weeks in The Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20094 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–JA–M

[F–14948–A]

Alaska Native Claims Selection; Nunakauiak Yupik Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sections 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), 1621(j), will be issued to Nunakauiak Yupik Corporation for approximately 1,207 acres. The lands involved are within Block 3, U.S. Survey No. 5024, in the vicinity of Toksook Bay.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20095 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–JA–M

[AA–6983–A]

Alaska Native Claims Selection; Kavilco, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(b), will be issued to Kavilco, Incorporated for approximately 1 acre. The lands involved are within the vicinity of Kasaan, Alaska.

Copper River Meridian, Alaska

T. 73 S., R. 86 E. (Surveyed),
Sec. 18, lot 7, those lands within Sec. 3(e) application AA–26432.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Juneau Empire. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20096 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–JA–M

[AA–6703–A2]

Alaska Native Claims Selection; Tatitlek Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to The Tatitlek Corporation for approximately 15,549 acres. The lands involved are in the vicinity of Tatitlek, Alaska.

Copper River Meridian, Alaska

T. 9 S., R. 1 W. (Unsurveyed)
T. 9 S., R. 2 W. (Unsurveyed)
T. 12 S., R. 6 W. (Partially Surveyed)
T. 13 S., R. 7 W. (Partially Surveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Cordova Times. Copies of the decision may be obtained by contacting the Bureau of

Land Mangement, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 23, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20097 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–JA–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 Office, Portland, Oregon on July 23, 1985.

Willamette Meridian

OR T. 8 S., R. 6 W.;
OR T. 22 S., R. 8 W.;
WA T. 11 N., R. 13 E.;
WA T. 11 N., R. 14 E.

All of the above-listed plats represent dependent resurveys, subdivisions, and a corrective dependent resurvey.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N. E. Multnomah Street, P.O. Box 2965 Portland, Oregon 97208.

Dated: August 16, 1985.

Robert E. Mollohan,

Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 85–20123 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–33–M

[Decision Order NV–010–8501]

Nevada Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision.

SUMMARY: All public lands administered by BLM in the 4,143,588 acre Wells Resource Area of the Elko District are hereby designated open, limited, or closed to off-road motorized vehicle use in accordance with executive orders and as a result of the Bureau's Planning System.

DATE: September 30, 1985.

Decision: Notice is given concerning use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

The 4,143,588 acre area affected by the designations is known as the Wells Resource Area, which includes lands in Elko County, Nevada. These designations are a result of resource management decisions made in the 1985 Record of Decision (ROD) for the Final Wells Resource Management Plan (RMP). Comments received from two public meetings, two public hearings, and numerous written reponses on the Draft FMP influenced the designation decisions.

These designations are final as published September 30, 1985. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals. The designations will remain in effect until rescinded or modified by the Elko District Manager.

A. Open Designation. Areas which are designated open comprise approximately 4,143,428 acres or 99 percent of the public land in the resource area. An open designation was determined to be appropriate for these lands since off-road motorized vehicle use is an important recreational activity and is essential to the conduct of other authorized uses.

B. Limited Designations. One area, comprising 160 acres, or less than one percent of the public lands in the Wells Resource Area, is designated limited.

1. Use Limited to Designate Routes—

a. Ruby Marsh Campground—160 acres. Located 50 miles south of Elko, Nevada. Use is limited to enhance the use of developed recreation facilities and maintain the natural resources surrounding the campground.

C. Closed Designations. None.

ADDRESS: For further information contact the Wells Resource Area Manager, John Phillips, at the following address: Bureau of Land Management, Elko District Office, P.O. Box 831, 3900 East Idaho Street, Elko, Nevada 89801, Telephone (702) 738–4071.

Rodney Harris,

District Manager.

[FR Doc. 85–20121 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–84–M

Arizona Strip District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting and field tour of the District Advisory Council will be held on Wednesday and Thursday, September 25–26, 1985. Council members will tour wilderness areas and archaelolgical sites in the District's Vermillion Resource Area and discuss wilderness management planning, vandalism of cultural resources, and endangered plants.

DATE: September 25–26, 1985.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 E. Tabernacle, St. George, Utah 84770 (801) 673–3545.

SUPPLEMENTARY INFORMATION: The tour will be open to the public and will begin at 8:00 a.m. from the Marble Canyon Lodge, Marble Canyon, Arizona. Visitors must provide their own lunch and transportation. Written statements from the public may be filed for the Council's consideration. Statements must arrive at the district office by September 20, 1985.

G. Willian Lamb,

Arizona Strip District Manager.

August 14, 1985.

[FR Doc. 85–20061 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–84–M

[A–20346–H]

Realty Action: Exchange of Public Lands, Maricopa County, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

Portions of public lands within the following townships, ranges and sections are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 4 N., R. 1 E.,
Secs. 3, 13 and 23.

T. 5 N., R. 1 E.,
Secs. 23, 24, 27, 28, 29, 30, 33 and 34.
T. 4 N., R. 1 W.,
Secs. 1, 12, 13 and 24.
T. 5 N., R. 1 W.,
Secs. 12, 13, 14, 15 and 22.
Containing 5,215 acres, more or less.

Copies of the complete legal descriptions may be obtained from the Phoenix District Office, address shown below.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1 (b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, including the mining laws, but not the minerals leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: August 14, 1985.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 85-20072 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-32

California; Public Review Period for USGS/USBM "Mineral Survey Reports"; Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The California, Bureau of Land Management (BLM), is requesting the public to review combined Geological Survey (USGS) and U.S. Bureau of Mines (USBM) "Mineral Survey Reports" which have been or will be completed for preliminarily suitable Wilderness Study Areas (WSAs). If the public identifies significant differences in interpretation of the data presented in the reports or submits significant new minerals data for consideration, the Bureau of Land Management will request USGS/USBM evaluate these comments in relation to their final Mineral Survey Report. The BLM will consider the USGS/USBM evaluations as well as the Mineral Survey Report in developing final wilderness suitability recommendations.

Copies of the WSA reports can be reviewed in BLM offices in Sacramento, Ukiah, Susanville, Bakersfield, Riverside, Barstow, Ridgecrest, Needles, and El Centro. The Chemise Mtn./King Range report will also be available in Eureka.

DATE: New information will be accepted on the reports enumerated in this notice until December 20, 1985.

ADDRESS: Send information on reports prepared for California Desert (CDCA) WSAs (see enclosed list of available reports) to: District Manager, California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

*New information on the Chemise Mtn./King Range report should be sent to: District Manager, Ukiah District Office, 555 Leslie Street, Ukiah, CA 95482.

FOR FURTHER INFORMATION CONTACT: Reginald E. Reid or Robert M. Anderson, BLM, California State Office, Division of Mineral Resources, Federal Office Building, 2800 Cottage Way, Room E-2727, Sacramento, California 95825 (916) 978-4735.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Managment Act of 1976, 90 Stat. 2785, directed the Secretary of Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the suitability or non-suitability of each area for preservation as wilderness. The USGS and USBM is charged with conducting mineral surveys for areas that have been preliminarily recommended suitable for inclusion into the wilderness system, to determine the mineral values, if any, that may be present in such areas.

There are 185 Wilderness Areas identified by BLM California of which 60 have been preliminarily recommended suitable by the Bureau of Land Management. To date, 18 combined mineral survey reports have been completed by the U.S. Geological Survey and U.S. Bureau of Mines. Approximately 11 reports will be completed in calendar year 1985 and 13 reports in calendar year 1986.

To ensure that all available minerals data are considered by the Bureau of Land Management prior to making it final wilderness suitability recommendations to the Secretary of Interior, the State Director, California is providing this public review and comment period. Usually there is a one to two year lag time between actual field work and final printing of a mineral survey report. New information may have been collected by the public during this lag time or the public may have a new interpretation of the data presented in the mineral survey reports. Any new data or new interpretations of data in the reports will be screened for its significance and validity by the Bureau of Land Management. Significant new minerals data or new interpretations of the minerals data will be forwarded to the U.S. Geological Survey and U.S. Bureau of Mines for further consideration. Evaluations received by the Bureau of Land Management from the U.S. Geological Survey and U.S. Bureau of Mines will be considered by the State Director in the final wilderness suitability recommendations.

Information requested from the public via this invitation are not limited to any specific energy or mineral resource. Information can be in the form of a letter and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and Mineral Survey Report.

2. Mineral(s) of interest.

3. A map or land description by legal subdivision of the public land surveys or protracted surveys showing the specific parcel(s) of concern within the subject Wildereness Study Area.

4. Information and documents that depict the new data or reinterpretation of data.

5. The name, address, and phone number of the person who may be contacted by technical personnel of the Bureau of Land Management, U.S. Geological Survey or U.S. Bureau of Mines assigned to review the information.

Geologic maps, cross sections, drill hole records and sample analyses, etc. should be included. Published literature and reports may be cited. Each comment should be limited to a specific Wilderness Study Area. All information submitted and marked *confidential* will be treated as proprietary data and will not be released to the Public without consent.

The following is a list of available Mineral Survey Reports by Wilderness Study Area (WSA) on which new information will be accepted.

WSA No.	Name	Report No.	Paper copy	Fiche copy
*CA-050-111/112.	Chemise Mtn./King Range.	MF-1196-C	1.50	NA
CDCA-117/CDCA-117A.	Saline Valley/Lower Saline Valley.	OF-84-560	13.25	4.00
CDCA-119	Little Sand Spring.	OF-84-557	4.75	4.00
CDCA-123	Hunter Mountain.	OF-84-638	3.00	3.50
CDCA-127	Panamint Dunes.	OF-84-678	4.50	4.00
CDCA-134	Wildrose Canyon.	OF-84-665	2.25	4.00
CDCA-142	Slate Range	OF-84-754	3.25	4.00
CDCA-156	Owlshead Mountain.	OF-84-755	4.75	4.00
CDCA-217	Bighorn Mountain.	MF-1493-A	1.50	NA
CDCA-218A	Whitewater	MF-1478-A	1.50	NA
CDCA-250	Kelso Dunes.	OF-84-647	3.25	3.50
CDCA-262	South Providence Mountain.	OF-84-679	7.50	4.00
CDCA-310	Chemehuevi Mountain.	MF-1584-A	1.50	NA
CDCA-312	Whipple Mountain.	OF-82-956	5.00	3.50
CDCA-328	Coxcomb Mountain.	MF-1603-A	1.50	NA
CDCA-334	Eagle Mountain.	OF-84-631	7.00	4.00
CDCA-348	Chuckwalla Mountains.	OF-84-674	7.00	4.00
CDCA-360	North Algodones Dunes.	OF-84-630	1.75	3.50

Reports available for review in BLM offices will not be available for sale or removal from the office. The following is a list of addresses where copies of these reports may be purchased:

For copies of Open-File (OF) "Mineral Survey Reports" contact: Open-File Services Section (OFSS), Western Distribution Branch, U.S. Geological Survey, Box 25425, Federal Center, Denver, CO 80225, (303) 236-7476.

For copies of MF-series maps and reports contact: Western Distribution Branch, U.S. Geological Survey, Box 25286, Federal Center, Denver, CO 80225, (303) 236-7477.

Ed Hastey,

State Director.

[FR Doc. 85-20064 filed 8-85; 8:45 am]

BILLING CODE 4310-40-M

[Serial Nos. I-15338, I-15340]

Idaho; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Corps of Engineers proposes that the withdrawals for the Twin Falls and Idaho Falls National Guard rifle ranges, which encompass 320 acres and 1,085.93 acres, respectively, be continued for an additional 25 years. This is the estimated time the lands will continue to be used as rifle ranges. The lands would remain closed to surface entry and mining but have been and would continue to be open to mineral leasing.

DATE: Comments should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

SUPPLEMENTARY INFORMATION: The Corps of Engineers proposes that the existing land withdrawals made by Executive Orders 4149 and 5504 of February 6, 1925, and December 4, 1930, respectively, 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 land is described as follows:

Boise Meridian, Idaho

T. 11 S., R. 17 E.,
Sec. 29, E½.
T. 2 N., R. 36 E.,
Sec. 11, all;
Sec. 12, lot 4, W½, W½SE¼.

The area involved totals 1,405.93 acres in Twin Falls and Bonneville Counties.

The purpose of the withdrawals is to provide protection of the lands for use by the Idaho National Guard as rifle target ranges. The withdrawals presently segregate the land from all forms of appropriation under the public land laws, including the mining but not the leasing laws. No change is proposed in the purpose of the withdrawals for their segregative effect.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present views in writing to the Idaho State Director at the above address.

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 withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: August 13, 1985.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 85-20063 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-GG-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Multiple Use Mining, Mining Claims Under the General Mining Laws.

Abstract: Several statutes affecting the location of operations on, patenting of, and contesting of mining claims or sites on the public lands require certain information to be filed with the Bureau of Land Management if the owners of the mining claims or sites wish to exercise their rights under the mining laws. The Acts of August 11, 1955 and April 8, 1948 (30 U.S.C. 621) require that a notice or certificate of location and annual assessment work be filed with the Bureau. Section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) requires an operator to file a plan of operations with the Bureau prior to operating in a Wilderness Study Area. The Stockraising Homestead Act of 1916 (43 U.S.C. 299) requires that an operator on the reserved mineral interest of the United States on these lands provide the Bureau with either:

(1) An agreement for compensation and damages between him and the surface owner.

(2) A waiver from the surface owner.

(3) A bond, not less than $1,000 as surety against damages to the property.

The Act of May 10, 1872 (30 U.S.C. 22 *et seq.*) provides for the patenting of a mining claim or site and for adverse claims against such before the Bureau. Information specified in the act must be provided to the Bureau if the owner wishes to patent or adverse another claimant.

Bureau Form Number: 3814–1.

Frequency: Respondents only file once to claim the benefits of the various statutes.

Description of Respondents:

CFR

3730	250
3802	30
3814	25
3821	400
3860	75
3872	150

Annual Burden Hours:

CFR

3730	21
3802	240
3814	13
3821	33
3860	3000
3872	2400

Bureau Clearance Officer: Rebecca Daugherty 202–653–8853.

August 12, 1985.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 85–20076 Filed 8–21–85; 8:45 am]

BILLING CODE 4310–85–M

Fish and Wildlife Service

[NOI No. 1]

Foreign Law Notifications Under the Endangered Species Convention; Publications Policy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information.

This notice announces the policy of the U.S. Fish and Wildlife Service (Service) to issue Notices of Information (NOI) concerning foreign laws and regulations related to prohibitions and requirements for wildlife imports into and exports for the United States. The Service enforces requirements of foreign law concerning import and export to wildlife pursuant to the Lacey Act Amendments of 1981. The Service intends to inform the public concerning actions which the Service may take involving import or export of wildlife.

The NOI are merely informational and advisory in nature, and are undertaken as a public service to assist the public in complying with the law. These NOI do not constitute rulemakings by the Service which would require an opportunity for public comment under 5 U.S.C. 553. These NOI may not be relied upon to create a substantive or procedural right or benefit enforceable by any person. An importer legally bears the risk that wildlife has an illegal origin and thus is subject to seizure and subsequent forfeiture on a "strict liability" basis and that the importer may be subject to find or civil penalty. The publication of a NOI does not alter this burden. The Service hopes that publication of a current assessment of foreign law and of data upon which the assessments are based will aid the public in compliance with foreign law.

The Service receives information from various sources on the status of laws or regulations in foreign countries. The reliability of that information varies, ranging from general information received from private or quasi-public sources to certified examplers of law provided by governments or received through diplomatic channels. The Service recognizes that methods of information acquisition may cause reliability of the information to vary. The Service, therefore, advises the public that it adjusts official action with regard to detention, seizure and forfeiture of wildlife based upon available information. NOI published by the Service as characterized to advise the public concerning the status of the source of the information provided to the Service in accordance with the following criteria:

Schedule I: Information in the form of certified copies of laws or regulations, officially published digests of foreign law or regulations, or copies of laws or regulations officially transmitted for official action submitted through diplomatic channels.

Schedule II: Information based upon official government agency sources; copies of the laws or regulations, but not certified or otherwise attested or officially published; or advice given to the Service by the Department of State concerning internal laws, regulations, or status of officials in a foreign country.

Schedule III: Information from international wildlife enforcement organizations, based upon usually reliable private or quasi-public sources such as individuals or groups, including conservation organizations or trade associations, which have previously furnished reliable information to the Service concerning wildlife enforcement matters.

Accordingly, the Service advises the public that, in addition to action against the importers/exporters, it may take action with regard to wildlife imported into or exported from the United States, or from a country whose laws are the subject of, NOI in the following manner:

Schedule I wildlife will be seized and forfeiture sought.

Schedule II wildlife will be detained. The public is advised that it is at risk in dealing in any wildlife, or wildlife from a country whose laws are, subject of a Schedule II Notice of Information. Additional showing of legality and compliance with foreign law will be required. Wildlife shipments that fail to comply will be refused clearance and may be seized and forfeiture sought.

Schedule II wildlife may be detained, refused clearance or seized and forfeiture sought. The public is advised that it is at risk in dealing in any wildlife, or wildlife from a country whose laws are, subject of a Schedule III Notice of Information and may be required to show additional evidence or proof of the legality and compliance with foreign law prior to import into or export from the United States.

Hereafter, all NOI shall be in the form as follows:

Notice of Information No.:

This is a Schedule —— Notice: Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States. Violators may also be subjected to criminal or civil prosecution.

Subject:

Source of Foreign Law Information:

Action by Fish and Wildlife Service:

Effective Date:

Expiration Date:

For Further Information Contact: (Name), Division of Law Enforcement, U.S. Fish and Wildlife Service, Post Office Box 28006, Washington, DC 20005, Tel (202) 343–9242.

The Service advises the public that NOI will advise only concerning general intentions of the Service, and that, based upon individual facts in a particular case, subsequent or additional information, or reevaluation of policy, the Service may take action at variance with general policies and procedures contained in this notice. The public is provided with information in an attempt to achieve more informed compliance with the law. The fact that a Notice of Information has not yet been published does not constitute a certification that reliance may be placed

upon an absence of Notice of Information with regard to any situation.

For Further Information Contact: Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, Post Office Box 28006, Washington, D.C. 20005, Tel (202) 343-9242.

Dated: August 13, 1985.

Robert A. Jantzen,

Director.

[FR Doc. 85-20042, Filed 8-21-85; 8:45 am]

BILLING CODE 4310-55-M

[NOI NO.2]

Foreign Law Notifications Under the Endangered Species convention; Ecuador

AGENCY: Fish and Wildlife Service.

ACTION: Notice of Information.

This is a Schedule II Notice: Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States. Violators may also be subject to criminal or civil prosecution.

Subject: Ecuador—Arts. 42, 43, 44, 47 and 48, Ley Forestal y de Conservation de Areas Naturales y Vida Silvestre imposes a ban on export of wild flora and fauna including products except for exports made for scientific, educational or international exchanges for scientific purposes. No exports are permitted for commercial uses, souvenirs, or as pets.

Source of Foreign Law Information: Office of the Secretariat, Convention on International Trade in Endangered Species of Wild Fuana and Flora (CITES) citing letter dated May 21, 1984, from Executive Director, Administrator, CITES, Ecuador, advising CITES secretariat of the foreign law and ban.

Action by Fish and Wildlife Service: The Service will detain wildlife imported from Eduador and may refuse clearance or seize with potential forfeiture without showing by importer of legality of export and compliance with foreign law.

Effective Date: August 22, 1985.

Expiration Date: Until Revoked.

For Further Information Contact: Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20005, Telephone: 202/343-9242.

Dated: August 13, 1985.

Robert A. Jantzen,

Director.

[FR Doc. 85-20042 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-55-M

[NOI No. 3]

Foreign Law Notifications Under the Endangered Species Convention; Bolivia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Information.

This is a Schedule I Notice: Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States. Violators may also be subject to criminal and civil prosecution.

Subject: Bolivia—Ban on line wildlife exports from May 1, 1984, through August 1, 1985. Any wildlife shipment exported from Bolivia between those dates is in violation of Ministerial Resolution No. 85/84.

Source of Foreign Law Information: Office of the Secretariat, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) transmission of notarized copy of Resolution Ministerial No. 85/84 of April 2, 1984, and confirmed by State Department advisory dated May 21, 1984, and announcement by the Bolivian Management Authority, 5 Conference of the Parties, Convention on International Trade is Endangered Species of Wild Fauna and Flora, April 22-May 3, 1985, Buenos Aires, Argentina.

Action by Fish and Wildlife Service: The Service will seize all shipments and with potential forfeiture of wildlife.

Effective Date: August 22, 1985.

Expiration Date: August 28, 1985.

For Further Information Contact: Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, Telephone: 202/343-9242.

Dated: August 13, 1985.

Robert A. Jantzen,

Director.

[FR Doc. 85-20042 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-55-M

[NOI No. 4]

Foreign Law Notifications Under the Endangered Species Convention; Caiman and Caiman Products

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information.

This is a Schedule II Notice: Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States. Violators may also be subject to criminal or civil prosecution.

Subject: Importations of caiman and caiman products—status and country of origin for caiman subspecies. Permits and other documents authorizing export from foreign countries and import into the United States will be recognized as valid only when they reflect the following recognized scientific names and countries of origins for the species which have the listed status under Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and/or the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA).

Recognized Scientific Name, CITES/ESA Status, Only Countries Where Occur in Wild

Caiman crocodilus crocodilus—Appendix II
Brazil, Colombia, Ecuador, French Guyana, Guyana, Peru, Surinam, Tobago, Trinidad, and Venezuela

Caiman crocodilus apaporiensis—Appendix I, Endangered
Colombia

Caiman crocodilus fuscus—Appendix II
Mexico through Central America, Colombia, Ecuador, and Venezuela

Caiman crocodilus yacare—Appendix II, Endangered
Argentina, Bolivia, Brazil, and Paraguay

Source of Foreign Law Information: Office of Endangered Species, Fish and Wildlife Service and requests from representatives, CITES.

Action by Fish and Wildlife Service: Detention of wildlife imported not correctly identified by species and subspecies and country of origin with possible refusal of clearance or seizure and potential forfeiture of wildlife shipments.

Effective Date: August 22, 1985.

Expiration Date: Until Revoked

For Further Information Contact: Kethleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20005, Telephone: 202/343-9242.

Dated: August 13, 1985.

Robert A. Jantzen,

Director.

[FR Doc. 85-20042 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-55-M

[NOI No. 5]

Foreign Law Notification; Under the Endangered Species Convention; Paraguay

AGENCY: Fish and Wildlife Service: Interior.

ACTION: Notice of Information.

This is a Schedule II Notice: Wildlife subject to this notice is subject to detention, refusal of clearance or

seizure, and forfeiture if imported into the United States. Violators may also be subject to criminal and civil prosecution.

Subject: Ban on Wildlife from Paraguay—Issuance of Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) re-export certificates. The Service has been advised by Paraguay that it suspended the export of all wildlife on November 9, 1981, and that it has implemented as a matter of policy use of the CITES uniform permit.

Action by Fish and Wildlife Service: Re-export certificates will be issued only for wildlife exported from Paraguay prior to November 9, 1981; exporters are advised that due to information provided to other countries concerning an earlier ban on wildlife, some countries may not accept as valid the re-export certificates. No certificates will be issued and shipments will be detained, and may be refused clearance or seized and forfeiture sought for any wildlife exported from Paraguay after November 9, 1981.

Effective date: August 22, 1985.

Expiration date: Until Revoked

For Further Information Contact: Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, Telephone: 202/343-9242.

Dated: August 13, 1985.

Robert A. Jantzen,

Director.

[FR Doc. 85-20046 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 4009 and 4010, Blocks 128 and 129, respectively, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on August 9, 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: 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. 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: August 13, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-20065 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0310, Blocks 238 and 239, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa, Morgan City, and Amelia, Louisiana.

DATE: The subject DOCD was deemed submitted on August 14, 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, Lousiana (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: 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: August 15, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-20053 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Registry of Natural Landmarks; Public Notice and Request for Comment

AGENCY: National Park Service, Interior.

ACTION: Public notice and request for comment.

SUMMARY: The areas listed below appear to qualify for designation as national natural landmarks, in accordance with the provisions of 36 CFR Part 62. Pursuant to § 62.4(d)(1) of 36 CFR Part 62, written comments concerning the potential designations of these areas as national natural landmarks may be forwarded to the Director, National Park Service (413), U.S. Department of the Interior, Washington, D.C. 20240. Written comments should be received no later than 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney, Natural Areas Survey Branch, Interagency Resources Division, (202) 343-9525.

Dated: August 13, 1985.

William Penn Mott,

Director.

ILLINOIS

Monroe County

Fults Hill Prairie Nature Preserve—This 498-acre site is located approximately 35 miles south of St. Louis, Missouri, and contains the largest complex (33 acres, or 34%) of the highest quality, essentially undisturbed loess hill prairies along the Mississippi River in Illinois, including the largest single prairie opening (11 acres).

INDIANA

Wabash County

Hanging Rock and Wabash Reef—This area consists of two one-acre sites located along the south bank of the Wabash River. Both contain natural exposures of limestone reef deposits characteristic of Silurian rocks of the midwestern U.S., most of which are exposed only in quarries. Hanging Rock, located about 6 miles northeast of Wabash, is an impressive natural exposure of an exhumed reef that rises 75 feet above the Wabash River. The Wabash Reef, a smaller exposure along the Wabash Railroad in the northeastern portion of Wabash, is one of the best known fossil reefs in the world, because it has been the subject of numerous studies responsible for the development of modern reef theory.

MISSOURI

Mississippi County

Big Oak Tree—This 80-acre site, located within Big Oak Tree State Park approximately 12 miles southeast of East Prairie, is the only sizeable known tract of essentially virgin wet-mesic bottomland hardwood forest remaining in the northern part of the Mississippi Alluvial Plain section of the Gulf Coastal Plain natural region.

SOUTH CAROLINA

Beaufort County

St. Phillips Island—This 4,951-acre barrier island is approximately four miles in length and two miles wide. It is unique among the barrier islands of Georgia, South Carolina and northern Florida, because it exists in a nearly undisturbed state with minimal development and past consumptive use; it is also unique to the entire Atlantic Coast for the pronounced multiple vegetated beach dune ridges found there.

WASHINGTON

Adams and Grant Counties

Drumheller Channels—This 44,906-acre site, located 12 miles south of Moses Lake, is the most spectacular tract in the Columbia Plateau Natural Region of "butte-and-basin" scabland, an erosional landscape characterized by hundreds of isolated, steep-sided hills surrounded by a braided network of underfit channels. It represents and illustrates the dramatic modification of the Columbia Plateau volcanic terrain by late Pleistocene catastrophic glacial outburst floods that occurred at a scale remaining unparalleled on earth, either in the geologic record or in historical account.

Douglas County

Boulder Park and McNeil Canyon Haystack Rocks—This 4,368-acre area is composed of two adjacent sites located about 19 miles and 8.5 miles, respectively, from Chelan. Both sites together contain the greatest concentration and most illustrative examples of glacial erratics (large glacier-transported boulders) in the Columbia Plateau natural region. As the visible products of dynamic glacier processes, they provide important evidence for the direction of movement and location of glacier ice on the Columbia Plateau during the last glaciation. Due to the lack of vegetation in this area, these sites are also probably the most illustrative examples of glacial erratics in the U.S.

Sims Corner Esker and Kame Complex—This 31,120-acre site, located 17 miles north of Coulee City, contains the best examples in the Columbia Plateau natural region of landforms resulting from stagnation and rapid retreat of the ice sheet during the last glaciation. The ice stagnation features at the site, including eskers and kame deposits, are highly visible and well preserved owing to the arid climate and lack of vegetation, and so are perhaps the most illustrative such features in the U.S.

The Great Gravel Bar of Moses Coulee—This 3,952-acre site, located 19 miles west of Coulee City, contains the largest and best example of a pendant river bar formed by catastrophic glacial outburst floods that swept across the Columbia Plateau prior to the last Pleistocene glaciation. The impressive scale of this feature, deposited in Moses Coulee, provides dramatic evidence for the violent flood waters that formed and once filled the coulee. As a constructional landform, it thus serves to complement Drumheller Channels which was eroded during the same flood events further downstream.

Withrow Moraine and Jameson Lake Drumlin Field—This 67,840-acre site, located immediately adjacent to Withrow, contains the best examples of drumlins and the most illustrative segment of the only Pleistocene terminal moraine in the Columbia Plateau natural region. Both features together provide readily observable evidence for the large-scale depositional and erosional processes that accompany continental glaciation; they are also the only such glacial features in the world to show a clear geological relationship to catastrophic flooding, which occurred prior to the last advance of the ice sheet.

Okanogan County

Davis Canyon—This 415-acre site, located 12 miles southwest of Okanogan, contains one of the largest and least disturbed examples of antelope bitterbrush/Idaho fescue shrub steppe remaining in the Columbia Plateau natural region.

[FR Doc. 85-20084 Filed 8-21-85; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Intent To Withdraw Environmental Impact Statement; Meeker Area Mines, Rio Blanco County, CO

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

ACTION: Notice of Intent to withdraw environmental impact statement (OSM-EIS-7) entitled "Proposed Mining and Reclamation Plan, Meeker Area Mines, Rio Blanco County, Colorado."

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is withdrawing an environmental impact statement (OSM-EIL-7), entitled "Proposed Mining and Reclamation Plan, Meeker Area Mines, Rio Blanco County, Colorado." This action is being taken because the applicant, Northern Coal Company (NCC), has modified its original plan resulting in a substantially

scaled down proposal. The environmental analysis of the scaled-down proposal has resulted in a finding of no significant impact, thus eliminating the necessity for the preparation of a final environmental impact statement (EIS).

DATE: Effective upon the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION, CONTACT: Charles M. Albrecht, OSM, Western Technical Center, Second Floor, Brooks, Towers, 1020–13th Street, Denver, Colorado 80202 (telephone (303) 844–5656 or FTS 564–5656).

SUPPLEMENTARY INFORMATION: On June 13, 1980, NCC submitted a mining and reclamation plan (MRF) to OSM and the Colorado Mined Land Reclamation Division. In this MRP, NCC proposed to underground mine approximately 83,270,000 tons of coal over a 29-year period at the Meeker area mines in Rio Blanco County, Colorado. Specifically, NCC proposed the mining of Federal coal from an existing underground mine, the mining of additional Federal and private (fee) coal from another existing underground mine, the creation of two additional underground mines for mining Federal and private (fee) coal, and construction of ancillary surface facilities, haul roads, and one rail loadout. The Meeker area mines study area encompassed about 4,750 acres of land discussed in the MRP, consisting of five Federal coal leases, one private (fee) coal lease, and one preference right lease application (PRLA). NCC also proposed to underground mine coal from two additional areas not discussed in the MRP if it were successful in obtaining the leases; however, for purposes of impact anlyses, these lands were considered in the draft EIS to be part of the Meeker area mines study area. The two additional areas included one PRLA, of about 3,567 acres of land, and approximately 600 acres of unleased land, both located west of the MRP boundary. This added area would have increased recoverable coal by an estimated 106,338,000 tons and would have extended the mine life by approximately 30 years. A draft EIS was prepared in October 1982 indicating that significant impacts would occur on socioeconomic conditions and wildlife if the proposed action were approved and implemented.

Subsequent to the public hearing on the draft EIS, which was held in Meeker, Colorado, on November 16, 1982, NCC submitted a series of modifications to their original proposal. The final scaled-downed proposal calls for the company to mine 10,000 tons of coal a year, not to create any new surface disturbance, and to cease all mining operations around the year 1989. OSM determined in its environmental assessment of the final proposal that impacts from the Meeker area mines would not be significant, making it unnecessary to prepare a final EIS.

Dated: August 16, 1985.

Brent Wahlquist,

Assistant Director, Technical Services and Research.

[FR Doc. 85–20035 Filed 8–21–85; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

ICC Senior Executive Service; Performance Review Board

July 23, 1985.

Effective immediately, the membership of the SES Performance Review Board is revised. The three principal members are: Neil Llewellyn, Director, Bureau of Traffic, Ronald S. Young, Director, Bureau of Accounts, and Bernard Gaillard, Director, Office of Compliance and Consumer Assistance. The two alternate members are: William R. Southard, Director, Office of Transportation Analysis, and Howell L. Sporn, Deputy Director, Office of Proceedings.

Reese H. Taylor, Jr.,

Chairman.

[FR Doc. 85–20048 Filed 8–21–85; 8:45 am]

BILLING CODE 7035-01-M

[Decision No. 2; Finance Docket No. 30800]

Union Pacific Corp. and Missouri Pacific Railroad Co.—Control—Missouri-Kansas-Texas Railroad Co.; Intent

Decided: August 6, 1985.

Pursuant to 49 CFR 1180.4(b), the Union Pacific Corporation (UPC), Missouri Pacific Railroad Company (MP), and Missouri-Kansas-Texas Railroad Company (MKT) have notified the Commission of their intent to file an application seeking Commission approval and authorization, under 49 U.S.C. 11343, for UPC and MP to acquire control of MKT.

Under an agreement dated May 22, 1985, UPC and its subsidiary MP agreed with Katy Industries, Inc. (Katy), and its subsidiary MKT to acquire control of MKT. MKT also owns rail carrier subsidiaries and a motor carrier.

Consummation of the purchase agreement is contingent on MKT acquiring, through a tender offer, at least 60 percent of MKT Certificates Representing a Charge on Income (Certificates) dated as of Janaury 1, 1985, that are outstanding. Katy presently holds 18 percent of the Certificates. The tender offer was initiated on June 26, 1985. When the tender offer is accepted by holders of 60 percent of the Certificates, MKT will enter into a Subsidiary Merger Agreement with a new MP subsidiary. Subject to approval of MKT shareholders and the Commission, the new MP subsidiary will be merged into MKT. MP would then purchase MKT's stock in exchange for cash and an installment note issued by MP and guaranteed by UPC.

The applicants will use the calendar year 1984 for the impact analysis to be filed with the application. The intend to file the application on or about December 20, 1985.

Because the application involves the control of two Class I railroads, it is a major transaction under 49 CFR 1180.2(a) and is subject to the requirements in 49 CFR Part 1180 for major transactions. Modification of the requirements may be ordered in response to appropriate requests or on our own motion. The Commission intends to issue shortly a decision requesting additional information that must be filed in order to complete the application. *See* 49 CFR 1180.4(b)(2)(v). We intend to issue an expedited procedural schedule after the application has been filed and accepted as complete.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85–20049 Filed 8–21–85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Allied Corp.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a complaint, proposed final judgment, stipulation, and competitive impact statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Allied Corporation.*

The complaint of the United States in this case alleges that the merger of

Allied Corporation ("Allied") and The Signal Companies, Inc. ("Signal") may substantially lessen competition in the United States in the manufacture and sale of air turbine starters in violation of section 7 of the Clayton Act (15 U.S.C. 18).

Air turbine starters are pneumatic motors used to start the large gas turbine engines on all large commercial aircraft as well as on many military airplanes and helicopters. Allied manufactures air turbine starters at its Bendix Fluid Power Division in Utica, New York. Signal manufactures air turbine starters at its Garrett Pneumatic Systems Division in Phoenix, Arizona. Signal and Allied are the two largest producers of air turbine starters sold in noncommunist countries. In 1984, the two firms together accounted for more than 70 percent of all air turbine starter sales in noncommunist countries.

The proposed Final Judgment would require Allied to divest its air turbine starter business by the end of 1985. If Allied does not sell its air turbine starter business by then, it must sell its entire Bendix Fluid Power Division. If Allied has not divested the Bendix Fluid Power Division by March 31, 1986, a trustee will be appointed to conduct the divestiture.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the court. Comments should be directed to P. Terry Lubeck, Chief, Intellectual Property Section, Antitrust Division, Room 700, Safeway Building, U.S. Department of Justice, Washington, D.C. 20530 (202/724–7974).

Joseph H. Widmar,

Director of Operations.

United States of America, Plaintiff, v. *Allied Corporation,* Defendant.

[Civ. No. 85–2475]

Filed: August 2, 1985.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorney, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court;

(2) The parties shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment;

(3) In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: August 2, 1985.

For the plaintiff, United States of America.
Charles F. Rule, *Acting Assistant Attorney General;* Mark Leddy, P. Terry Lubeck, Mark C. Schechter, *Attorneys, U.S. Department of Justice;* Kent Brown, Kenneth M. Frankel, Steven Brodsky, Stephen M. Koslow, Kathleen M. Eyre, Jeffrey B. Aaronson, Rosemary T. Rakas, *Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6974;* Kent Brown, *Attorney, Antitrust Division, Department of Justice.*

For the defendant, Allied Corporation:
Brian D. Forrow, *Senior Vice President and General Counsel, Allied Corporation;* Heather H. Mullett, *Senior Counsel, Allied Corporation;* C. Benjamin Crisman, Jr., *Skadeen, Arps, Slate, Meagher & Flom, Counsel for Allied Corporation;* Peter E. Greene, *Skadden, Arps, Slate, Meagher & Flom, Counsel for Allied Corporation,*

Stipulation approved for filing.
Done this 2 day of August, 1985.

United States District Judge.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *Allied Corporation,* Defendant;

[File No. 60–228–037–46; Civ. No. 85–2475]

Filed: August 2, 1985.

Final Judgment

Whereas, plaintiff, United States, of America, having filed its Complaint herein on August —, 1985, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And Whereas, the defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court.

And Whereas, prompt and certain divestiture is the essence of this agreement and the defendant has represented to the plaintiff that the divestiture required below can and will be made and that defendant will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact of law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendant under section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "Allied" means the defendant Allied Corporation; each division, subsidiary or affiliate thereof; and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

B. "Signal" means The Signal Companies, Inc.; each division, subsidiary, or affiliate thereof; and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them. After the merger of Allied and Signal, Signal will continue to comprise all assets used in connection with any of the businesses in which it currently engages as well as each person acting for or on behalf of any of the businesses.

C. "Person" means any natural person, corporation, association, firm, partnership, or other business or legal entity.

D. "Air turbine starter" means a pneumatic motor used to start as gas turbine aircraft engine.

E. "Air turbine starter business" means all tangible and intangible assets (including, but not limited to, exclusive rights to all proprietary technology and other proprietary business information) solely dedicated to Allied's existing business operation of researching, developing, engineering, testing, qualifying, manufacturing, selling, or servicing air turbine starters, which is based at its Fluid Power Division.

F. "Fluid Power Division" means Allied's Fluid Power Division based in Utica, New York.

III

A. The provisions of the Final Judgment shall apply to Allied, its sucessors and assigns, and to all other

persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personnel service or otherwise.

B. Except for Paragraphs IV.C. and V.C. of this Final Judgment, nothing herein contained shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

C. Allied shall require, as a condition of the sale or other disposition of all or substantially all of its assets or stock, that the acquiring party agree to be bound by the provisions of this Final Judgment.

IV

A. Allied having committed itself to acquire 22,000,000 shares of Signal pursuant to Allied's tender offer dated May 17, 1985, Allied is hereby ordered and directed, no later than December 31, 1985, to divest to a purchaser all of its direct and indirect ownership or control of its air turbine starter business. The obligation to divest shall be satisfied if, by December 31, 1985 Allied enters into a binding contract for sale of its air turbine starter business to a purchaser and according to terms approved by plaintiff that is contingent only upon compliance with the terms of this Final Judgment and that specifies a prompt and reasonable closing date, and if sale is completed pursuant to the contract.

B. Divestiture of Allied's air turbine starter business shall be accomplished in such a way as to ensure that, as of the time of divestiture, it reasonably can be anticipated that its air turbine starter business can and will be operated by the purchaser as a viable, ongoing business engaged in the production and sale of air turbine starters. Divestiture shall be made to a purchaser for whom it is demonstrated to the plaintiff that (i) the purchase is for the purpose of competing effectively in the production and sale of air turbine starters and (ii) the purchaser has the managerial, operational, and financial capability to compete effectively in the manufacture and sale of air turbine starters.

C. In accomplishing the divestiture of its air turbine starter business ordered by this Final Judgment, Allied shall make known in the United States, by usual and customary means, the availability of its air turbine starter business for sale. Allied shall notify any person making an inquiry regarding the possible purchase of its air turbine starter business that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Allied also shall furnish, to all bona fide prospective purchasers who so request, and subject to customary confidentiality assurances, all pertinent information regarding its air turbine starter business, including separate lists of (i) all assets solely dedicated to, and (ii) all assets used by Allied but not solely dedicated to, Allied's existing business operation of researching, developing, engineering, testing, qualifying, manufacturing, selling, or servicing air turbine starters. Allied shall provide such information to the plaintiff at the time it furnishes such information to any other person, but no later than September 30, 1985. Allied also shall permit all bona fide prospective purchasers to have access to personnel at Allied's Fluid Power Division who have responsibilities for Allied's air turbine starter business and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of its air turbine starter business.

D. Until the divestiture of its air turbine starter business is completed, Allied shall continue to operate its air turbine starter business as a going business, use all reasonable efforts to maintain its air turbine starter business as a competitive entity, and continue to compete actively against Signal in the market for air turbine starters.

E. Until the divestiture of its air turbine starter business is completed, and at all times thereafter, Allied shall take all steps necessary to assure that none of its proprietary technology and other proprietary business information specific to air turbine starters is transferred, or otherwise becomes known or available, to Signal, or used by Allied or Signal to compete with the business to be divested.

V

In the event the divestiture of Allied's air turbine starter business required by section IV is not completed within the time period provided for therein, then and in that event:

A. Allied is hereby ordered and directed, no later than three (3) months after December 31, 1985, to divest to a purchaser all of its direct and indirect ownership or control over its Fluid Power Division. The obligation to divest shall be satisfied if, by March 31, 1986, Allied enters into a binding contract for sale of its Fluid Power Division that is contingent only upon compliance with the terms of this Final Judgment ant that specifies a prompt and reasonable closing data, and if the sale is completed pursuant to the contract.

B. Divestiture of Allied's Fluid Power Division shall be accomplished in such a way as to ensure that, as of the time of divestiture, it reasonably can be anticipated that its Fluid Power Division can and will be operated by the purchaser as a viable, ongoing business engaged in the production and sale of air turbine starters. Divestiture shall be made to a purchaser for whom it is demonstrated to the plaintiff or, if plaintiff objects, to the Court that: (i) The purchase is for the purpose of competing effectively in the production and sale of air turbine starters and (ii) the purchaser has the managerial, operational, and financial capability to compete effectively in the manufacture and sale of air turbine starters.

C. In accomplishing the divestiture of its Fluid Power Division ordered by this Final Judgment, Allied shall make known in the United States, by usual and customary means, the availability of its Fluid Power Division for sale as an ongoing business. Allied shall notify any person making an inquiry regarding the possible purchase of its Fluid Power Division that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Allied also shall furnish, to all bona fide prospective purchasers who so request, and subject to customary confidentiality assurances, all pertinent information regarding its Fluid Power Division and shall permit them to have access to Fluid Power Division personnel and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of the air turbine starter business.

D. Until the divestiture of its Fluid Power Division is completed, Allied shall continue to operate its Fluid Power Division as a going business, use all reasonable efforts to maintain its Fluid Power Division as a competitive entity, and continue to compete actively against Signal in the market for air turbine starters.

E. Until the divestiture of its Fluid Power Division is completed, and at all times thereafter, Allied shall take all steps necessary to assure that none of Fluid Power Division's proprietary technology and other proprietary business information specific to products manufactured at Fluid Power Division is transferred, or otherwise becomes known or available, to Signal, or used by Allied or Signal to compete with the business to be divested.

VI

A. If Allied has not accomplished the divestiture required by section V of this Final Judgment by March 31, 1986, the Court shall, upon application of plaintiff, appoint a trustee to effect the divestiture. Such appointment shall become effective on March 31, 1986 or as soon thereafter as the Court appoints the trustee. After the trustee appointment becomes effective, only the trustee, and not Allied, shall have the right to sell Fluid Power Division. The trustee shall be a nationally recognized member of the investment banking community with experience and expertise in acquisitions and divestitures. The trustee shall have the power and authority to accomplish the divestiture at such price and on such terms as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of Paragraph VII of this Final Judgment, and shall have such other powers as the Court deems appropriate. Allied shall use all reasonable efforts to assist the trustee in accomplishing the required divestiture. Allied shall not object to a sale by the trustee on any grounds other than malfeasance. Any such objection by Allied must be conveyed in writing to the plaintiff and the trustee within fifteen (15) days after the trustee has notified Allied of the proposed sale.

B. If Allied has not divested its ownership interest in its Fluid Power Division by January 31, 1986, Allied shall notify plaintiff of that fact. If Allied still has not divested all of its ownership interest in its Fluid Power Division within ten (10) days thereafter, the plaintiff shall provide Allied with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. Allied will notify plaintiff within eighteen (18) days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to Allied, plaintiff shall notify the Court of the person or persons upon whom the parties have agreed and the Court shall appoint one of the nominees as the trustee. If neither of such nominees is acceptable to Allied, it shall furnish to the plaintiff, within eighteen (18) days after the plaintiff provides the names of its nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. Plaintiff shall furnish the Court the names and qualifications of its proposed nominees and the names and qualifications of the nominees proposed by Allied. The Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

C. The trustee shall serve at the cost and expense of Allied, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from a sale of Allied's Fluid Power Division and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to Allied and the trust shall then be terminated. The compensation of such trustee shall be based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. The trustee shall have full and complete access to the personnel, books, records and facilities of the Fluid Power Division, and Allied shall develop such financial or other information relevant to the business or assets to be divested as the trustee may request. Allied shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth: (i) The trustee's efforts to accomplish the required divestiture, (ii) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (iii) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include extending the term of the trust and the term of the trustee's appointment.

F. Until the trustee's divestiture of Fluid Power Division is completed, Allied shall continue to operate its Fluid Power Division as a going business, use all reasonable efforts to maintain its Fluid Power Division as a competitive entity, and continue to compete actively against Signal in the market for air turbine starters.

G. Until the trustee's divestiture of Fluid Power Division is completed, and at all times thereafter, Allied shall take all steps necessary to assure that none of Fluid Power Division's proprietary technology and other proprietary business information specific to products manufactured at Fluid Power Division is transferred, or otherwise becomes known or available, to Signal, or used by Allied or Signal to compete with the business to be divested.

VII

At least thirty (30) days prior to the scheduled closing date of the proposed divestiture prusuant to section IV, V, or VI of this Final Judgment, Allied or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the plaintiff of the proposed divestiture. If a trustee is responsible, it shall similarly notify Allied. The notice shall set forth the details of the proposed transaction and for each person not previously indentified who offered or expressed an interest or desire to acquire any ownership interest in Allied's air turbine starter business or in its Fluid Power Division, as the case may be, the name, address and telephone number of that person together with full details of that person's interest or desire to acquire such ownership interest. Within fifteen (15) days after receipt of notice of the proposed divestiture, the plaintiff may request additional information concerning the proposed divestiture. Allied shall furnish the additional information within twenty (20) days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, the plaintiff shall notify in writing Allied and the trustee, if there is one, if it objects to the proposed divestiture. If the plaintiff fails to object within the period specified, or if the plaintiff notifies in writing Allied and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to Allied's right to object to the sale under the proviso in section VI.A. Upon objection by the plaintiff, a divestiture proposed under section IV shall not be accomplished, and a divestiture proposed under section V or section VI shall not be accomplished unless approved by the Court. Upon objection by Allied under section VI.A., the proposed divestiture shall not be accomplished unless approved by the Court.

VIII

Forty-five (45) days from the date of filing of the complaint in this civil action

and every forty-five (45) days thereafter until the divestiture required by section IV, V, or VI has been completed, Allied shall submit in writing to the plaintiff a verified written report setting forth in detail the fact and manner of compliance with section IV, V, or VI, as the case may be, of this Final Judgment. Each such report of compliance with section IV or V shall include, for each person who, during the preceding forty-five (45) days, made an offer to acquire, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in the air turbine starter business or the Fluid Power Division, as the case may be, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. Allied shall maintain full records of all efforts made to divest the air turbine starter business or the Fluid Power Division. With respect to sections IV.D., IV.E., V.D., V.E., VI.F., and VI.G., such report of compliance also shall describe the status of Fluid Power Division's efforts during the preceding forty-five (45) days to qualify air turbine starters for use on aircraft and to bid upon, submit unsolicited proposals or quotations for, or otherwise obtain contracts to supply air turbine starters. Allied shall maintain full records for all such efforts.

IX

Allied shall abide by the following hold-separate provisions:

A. In the event that Allied is unable to complete the divestiture required by section IV within the time period provided for therein and is therefore required to divest Fluid Power Division pursuant to section V, for January 1, 1986, Allied shall take all steps necessary to assure that none of Fluid Power Division's proprietary technology and other proprietary business information specific to products manufactured at Fluid Power Division is transferred, or otherwise becomes known or available, to Signal, or used by Allied or Signal to compete with the business to be divested. Notwithstanding the foregoing, and notwithstanding sections V.E. and VI. G., Allied may designate up to five (5) senior Allied executives to provide managment assistance and professional guidance to the Fluid Power Division until the divestiture ordered in this Final Judgment occurs, and only these persons can receive such technology and other information as is reasonably necessary to carry out those functions, but they may not disclose any of it to any person other than those persons in the Fluid Power Division, except as provided in section V.C. of this Final Judgment. Nothing in this paragraph shall prohibit Allied from acquiring technology or other business information from the successor to Fluid Power Division as a result of arm's-length bargaining conducted after the divestiture required by this Final Judgment has been accomplished.

B. From January 1, 1986 until the divestiture required by this Final Judgment has been accomplished, Allied shall:

(1) Take all steps necessary to assure that Fluid Power Division will be maintained as a separate entity with its assets and operations separate, distinct, and apart from those of Allied or Signal;

(2) Take no steps with respect to the operation of the Fluid Power Division that negatively would impact its ability to maximize its profits, regardless of any actual or possible negative impact on Signal's or Allied's profits;

(3) Refrain from terminating or reducing one or more current employment, salary, or benefit agreements for one or more management, engineering, or other technical personnel of Fluid Power Division, except in the ordinary course of business, without prior approval of plaintiff;

(4) Maintain normal repair and maintenance schedules at Fluid Power Division and at least preserve such schedules as they currently exist;

(5) Preserve Fluid Power Division as an active competitor against Signal in the market for air turbine starters;

(6) Refrain from altering or selling any assets of Fluid Power Division, other than in the ordinary course of business, or from taking any action that would have the effect of reducing the scope of Fluid Power Division's manufacturing or sales operations or reducing the scope or restricting the rate of development of its product line from that existing at the time of the filing of the Complaint in this civil action, without the prior approval of the plaintiff;

(7) Refrain from taking any action that would jeopardize the sale of Fluid Power Division as a viable competitor in any market in which it participated at the time of the filing of the Complaint in this civil action;

(8) Refrain from reducing any funding of Fluid Power Division existing at the time of the filing of the Complaint in this civil action, without prior approval of the plaintiff; and

(9) Grant any reasonable request from Fluid Power Division for additional funding and provide written notice to plaintiff within five (5) days of the denial of any such request for additional funding, including a statement of the request and Allied's reasons for its denial.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written requests of the attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Allied made to its principal office, be permitted:

(1) Access during office hours of Allied to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Allied, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Allied and without restraint or interference from it, to interview officers, employees and agents of Allied, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to Allied's principal office, Allied shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Allied to plaintiff, Allied represents and identifies in writing the material in any such information of documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Allied marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to Allied prior to divulging such material in

any legal proceeding (other than a grand jury proceeding).

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

This Final Judgment will expire on the third anniversary of the completion of the divestitute required herein.

XIII

Entry of this Final Judgment is in the public interest.

United States District Judge.

Dated: ————

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *Allied Corporation*, Defendant.

[Civ. No. 85-2475]

Filed: August 2, 1985.

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-(h)), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of Allied Corporation in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

This civil action began on August 2, 1985, when the United States filed a complaint alleging that the proposed merger of Allied Corporation (hereinafter "Allied") and The Signal Companies, Inc. (hereinafter "Signal") violated section 7 of the Clayton Act (15 U.S.C. 18). The complaint alleges that the effect of the merger of Allied and Signal may be substantially to lessen competition in the United States in the manufacture and sale of air turbine starters for gas turbine aircraft engines. The complaint requests that Allied be required to divest its Bendix Fluid Power Division or its air turbine starter business and to continue until divestiture occurs to operate the latter business in active competition with Signal's air turbine starter business.

The United States and Allied have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, and enforce the Judgment, and to punish violations of the Judgment.

II. Events Giving Rise to the Alleged Violation

On May 15, 1985, Allied and Signal entered into an Agreement and Plan of Reorganization in which they agreed to accomplish the merger of Allied and Signal in several steps. First, pursuant to a cash tender offer, Allied would purchase up to 20 percent of the outstanding common stock of Signal. Second, in an exchange of common stock, each firm would acquire about 15 percent of the other firm's common stock. Finally, Allied and Signal would be merged into a new company, and all outstanding shares of Allied and Signal would be exchanged for shares in the new company on a one-for-one basis. The merger of Allied and Signal is now scheduled to be fully consummated in mid-September.

Allied and Signal are both large, diversified companies. Allied reported 1984 sales of about $10.7 billion. Signal reported 1984 sales of about $6 billion. Both firms currently manufacture and sell air turbine starters. Signal produces air turbine starters at its Garrett Pneumatic Systems Division based in Phoenix, Arizona. It is the world's largest producer of air turbine starters, having accounted for more than 50 percent of all air turbine starter sales in 1984 in noncommunist countries. Allied produces air turbine starters at its Bendix Fluid Power Division based in Utica, New York. Allied is the world's second largest producer of air turbine starters, with sales in 1984 of about $10 million. Together, Allied and Signal accounted for more than 70 percent of all air turbine starter sales in noncommunist countries in 1984. In that year, total air turbine starter sales were about $52 million in noncommunist countries, of which about $40 million were in the United States.

The complaint alleges that the manufacture and sale of air turbine starters comprises a relevant product market for antitrust purposes and that the combination of the air turbine starter businesses of Allied and Signal pursuant to the proposed merger may be substantially to lessen competition in the United States in that market in violation of section 7 of the Clayton Act.

Air turbine starters are used to start the large gas turbine engines on all large commercial aircraft as well as many military airplanes and helicopters. An air turbine starter is mounted to each of the aircraft's engines. The air turbine starter starts the engine by rotating the engine's compressor fans and accelerating them to a self-sustaining speed. A fuel-air mixture in the engine is then ignited, allowing the engine to operate on its own. The energy source for an air turbine starter is high pressure air from another operating engine located either on the aircraft or on a gound cart. Other types of starting mechanisms are not competitive substitutes for the air turbine starters used to start large commercial and many military aircraft due to size, weight, cost, safety, and reliability factors.

An air turbine starter must be approved before it can be used on a particular engine on a particular commercial or military aircraft. In the case of a particular commercial aircraft and engine combination, the starter must meet certain performance criteria established by the aircraft manufacturer and certain criteria established by the Federal Aviation Administration of the United States Department of Transportation. Similarly, an air turbine starter may be used on a specific military aircraft by the aircraft manufacturer and by the military branch that will use the aircraft.

In almost all situations, only one or two air turbine starters are approved for use on a specific aircraft and engine combination. When two competing makers of air turbine starters are approved to supply an air turbine starter on a specific aircraft, a purchaser of starters for that aircraft may select the approved starter of either supplier.

The complaint alleges that Allied and Signal are the only approved suppliers of air turbine starters on a number of the same commercial and military aircraft and engine combinations. The complaint also alleges that Allied is in a preferred position to obtain approval to supply its air turbine starters for certain aircraft and engine combinations for which Signal is currently the only approved air turbine starter supplier and that Signal is in a preferred position to obtain approval to supply its air turbine starters for certain aircraft and engine combinations for which Allied is currently the only approved air turbine starter supplier.

The primary purchasers of air turbine starters are the military, aircraft manufacturers, airline companies, and gas turbine engine manufacturers. Only one firm in addition to Signal and Allied currently supplies air turbine starters to the United States military, Sundstrand Corporation (hereinafter "Sundstrand").

and only one firm in addition to Signal and Allied currently supplies air turbine starters for commercial aircraft manufactured in the United States, the Hamilton-Standard Division of United Technologies Corporation (hereinafter "Hamilton-Standard").

The complaint alleges that the production and sale of air turbine starters is highly concentrated. In 1984, the four largest air turbine starter manufacturers—Signal, Allied, Hamilton-Standard, and Sundstrand—accounted for about 90 percent of total air turbine starter sales in noncommunist countries, and the Herfindahl-Hirschman Index ("HHI"), a measure of market concentration, in the market for air turbine starters was about 3335. The merger of Allied and Signal would increase the combined market share of the four largest air turbine starter suppliers to about 96 percent and increase the HHI by about 1975 to 5310.

III. Explanation of the Proposed Final Judgment and its Anticipated Effects on Competition

The United States brought this action because the effect of the merger between Allied and Signal may be substantially to lessen competition in violation of section 7 of the Clayton Act in the manufacture and sale of air turbine starters. The only anticompetitive effects associated with the merger would be eliminated if Allied's air turbine starter business could be sold to a purchaser that would operate the business as an active and independent competitor in the manufacture and sale of air turbine starters.

To this end, section IV of the proposed Final Judgment would require Allied to sell its air turbine starter business by the end of 1985 to a purchaser that has the intent and capability to compete effectively in the manufacture and sale of such starters. Any purchaser of the business must be approved by the United States.

If Allied is unable to divest its air turbine starter business by the end of 1985, section V of the proposed Final Judgment would require Allied to sell its entire Bendix Fluid Power Division (hereinafter "FPD") by March 31, 1986. Allied's air turbine starter business is a part of FPD, which had total sales of about $50 million in 1984. The possibility that Allied may be required to divest the entire FPD should provide a powerful inducement for Allied to locate a buyer for its air turbine starter business that is acceptable to the United States. If FPD is divested, the purchaser must have the intent and capability to compete effectively in the manufacture and sale of air turbine starters.

In addition, section IX of the proposed Final Judgment would require Allied, until its FPD is divested, to hold FPD separate from its other business operations and to take all steps necessary to assure that none of FPD's proprietary technology or other proprietary business information becomes known or available to Signal or used by Allied or Signal to compete with any business to be divested.

If Allied is unable to divest FPD by March 31, 1986, under section VI of the proposed Final Judgment, the Court would, at the request of the United States, appoint a trustee to sell FPD. Section VI would provide a mechanism that should permit a trustee to be selected and appointed by March 31, 1986. Once a trustee has been appointed, only the trustee, and not Allied, would have the right to sell FPD. Further, if a trustee is appointed, Allied would be required to pay all of the trustee's expenses in selling FPD, and the trustee's commission would be structured to provide an incentive for it to complete the sale promptly.

Until the divestiture required by the proposed Final Judgment is completed, Allied would be required to continue to operate its air turbine starter business in active competition with Signal. Moreover, Allied would be required to take all steps necessary to assure that proprietary technology and other proprietary business information relating to Allied's air turbine starter business or FPD's other business operations is not transferred to Signal or used by Allied or Signal to compete with any of FPD's businesses.

Section VII of the proposed Final Judgment would provide the United States with an opportunity to review any proposed divestiture before it occurs. Under section VII, if the United States were to request information to assess a proposed divestiture, Allied could not consummate the divestiture until 15 days after it supplied the information. If the United States were to object to a divestiture of Allied's air turbine starter business proposed under section IV of the proposed Final Judgment, the divestiture could not be completed. If the United States were to object to a divestiture of FPD proposed under sections V or VI, the divestiture could not be completed unless approved by the Court.

Section VIII of the proposed Final Judgment would require Allied to provide the United States with periodic reports concerning the fact and manner of its compliance with the proposed Final Judgment, and section X would allow the United States to obtain additional information and documents relating to Allied's compliance with the proposed Final Judgment.

Finally, section XII would provide that the Final Judgment would expire on the third anniversary of Allied's completion of the required divestiture.

IV. Remedies Available to Potential Private Litigants

Secton 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal corut to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), entry of the proposed Final Judgment would have no prima facie effect in any subsequent private lawsuit that may be brought against the defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendant Allied have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The Act provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be subitted to: P. Terry Lubeck, Chief, Intellectual Property Section, Antitrust Division (700 Safeway), U.S. Department of Justice, Washington, D.C. 20530.

Under Section XI of the proposed Final Judgment the Court would retain jurisdiction over this matter for the purpose of enabling the United States or Allied to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of compliance with the Judgment, or for the punishment of any violations of the Judgment.

Alternatives to the Proposed Final Judgement

The proposed Final Judgment would provide all of the relief requested by the United States in its complaint in this civil action. The proposed Final Judgment would require Allied to divest its air turbine starter business by the end of 1985 or, failing that, its FPD by March 31, 1986. It also would assure that Allied's air turbine starter business would remain a viable business separate from Signal and an active competitor to Signal in the air turbine starter market.

Compliance by allied with the proposed Final Judgment and the completion of the divestiture required by the Judgment would resolve fully all of the competitive concerns raised by the proposed merger of Allied and Signal. The United States could have obtained no better relief after a full trial on the merits. The only alternative considered to settling this action pursuant to the proposed Final Judgement was for the United States to file suit and seek a preliminary injunction to enjoin Allied's merger with Signal until Allied had completely divested itself of its air turbine starter business. The United States rejected this alternative because substantial risk existed that a court might be reluctant to halt the entire merger because of a competitive problem posed by a very small part of the entire business operations of the two companies, the court's reluctance to grant a preliminary injunction likely would have been substantially increased because of Allied's willingness to divest its air turbine starter business and its entire FPD if necessary.

Under the circumstances, while the government believes that sound responses to these arguments exist, it determined that the public interest in preserving competition in the air turbine starter market would be served best by obtaining Allied's consent to an enforceable decree requiring it to divest its air turbine starter business and by filing the decree with the Court prior to the consummation of any part of the proposed merger. Although the proposed Final Judgment may not be entered until the criteria established by the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)–(h)) have been satisfied, the public will benefit immediately from the safeguards in the proposed Final Judgment because Allied has stipulated to comply with the terms of the Judgment pending its entry by the Court. The United States believes that the overriding public interest in having these enforceable safeguards in effect prior to consummation of any part of the proposed merger required that it not attempt to seek a preliminary injunction, and thereby avoid the risk that the merger might be permitted to go forward without any enforceable safeguards in effect.

VII. Determinative Documents

There were no documents determinative in the formulation of the proposed Final Judgment. Consequently, the United States has not attached any such documents to the proposed Final Judgment.

Dated: August 2, 1985.

Respectfully submitted,

Kent Brown,

Attorney, U.S. Department of Justice, Antitrust Division (700 Safeway), Washington, D.C. 20530, (202) 724–7924.

[FR Doc. 85–20132 Filed 8–21–85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 15, 1985, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Opium Plant Form (9650)	II
Concentrate of Poppy Straw (9670)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefore, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington DC 20537, Attention, DEA Federal Register Representative (Room 1112), and must be filed no later than September 23, 1985.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–43746 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 14, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–20087 Filed 8–21–85; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly

of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before October 21, 1985.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency. Copies of the schedules are also available for public inspection during the comment period at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC 20408.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

The monthly public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. U.S. Department of Agriculture, Forest Service, Office of Information. (NC1-95-83-11). Routine, administrative and duplicate audio-visual records including photographs, graphics, films and video tapes, recording, illustrating or publicizing the work of the agency.

2. U.S. Department of Agriculture, Commodity Credit Corporation (NC1-161-85-1). Records relating to warehouse examination responsibilities, including leases, licenses, insurance policies, warehouse rules, financial statements, examiners' weekly schedules and examination reports.

3. Department of Air Force (NC1-AFU-85-32). Military Personnel Action Forms relating to assignments, classification, on-the-job training, duty status changes, and similar personnel actions.

4. Department of the Army, Office of the Adjutant General (NC1-AU-85-19). Individual project maps and index map files pertaining to civil works projects. Related records of this group with reference and research value will be accessioned by the National Archives.

5. Central Intelligence Agency (Job No. NC1-263-84-4). The CIA schedule is classified in the interest of national security pursuant to Executive Order 12356 and is further exempt from public disclosure pursuant to the National Security Act of 1947, 50 U.S.C. 403(d)(3), and the CIA Act of 1949, 50 U.S.C. 403g.

6. National Archives and Records Administration, Office of the National Archives, Civil Archives Division. (NC2-101-84-1). Records relating to the receivership of the First National Bank of Detroit, 1933-46, among the records of the Division of Insolvent National Banks, Office of the Comptroller of the Currency.

7. National Archives and Records Administration, Office of the National Archives, Military Archives Division. Records accessioned from the Department of the Navy, Bureau of Ships (NC2-19-85-2). Routine housekeeping records not related to the primary mission of the Bureau of Ships, 1940-1945.

8. Department of the Navy, Bureau of Medicine and Surgery, Hospital Corps Division (NC1-NU-83-1). Incomplete series of case files for hospital personnel, 1884-1910, containing duplicate copies of documents normally found in the official personnel files.

9. Department of the Navy, Chief of Naval Operations, Naval Records and Information Management Division (NC1-NU-84-3). Comprehensive schedule for financial management records accumulated by the Department of the Navy.

10. Department of the Navy, Chief of Naval Operations, Naval Records and Information Management Division (NC1-NU-85-5). Results recorded on magnetic tape of torpedo exercise runs at sea.

11. Department of the Navy, Naval Operating Forces, Atlantic Fleet, Commander Carrier Division 8 (NC1-313-85-2). Administrative files (1935-55) consisting of copies of correspondence usually forwarded to higher levels of command.

12. Department of the Navy, Naval Operating Forces, Atlantic Fleet, Commander Service Force (NC1-313-85-3) Administrative files (1955) consisting of memorandums, printed orders and directives, routine pay and personnel actions, and related documents.

13. Department of the Navy, Naval Operating Forces, Atlantic Fleet, Atlantic Reserve Fleet Units located at Green Cove Springs, Florida; Orange, Texas; and Charleston, South Carolina (NC1-313-85-4). Admininstrative Files (1947-57) consisting of records of routine training assignments and personnel transfers, reports of recreational activities, minor disciplinary actions, and other documents related to routine operations.

14. Office of the Special Counsel, Merit Systems Protection Board (NC1-146-85-1). Case files and other records, in paper and machine-readable format, of the Special Counsel relating to investigations of actions prohibited by civil service laws and regulations.

15. Tennessee Valley Authority, Office of Engineering (NC1-142-85-1). audiovisual and textual records documenting the results of tests of tornado-resistant barriers and pipe supports for nuclear generating plants.

Dated: August 16, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-20073 Filed 8-21-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Panel on Oceanographic Facilities; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Panel on Oceanographic Facilities.

Date and time: September 5 and 6, 1985; 9:00 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 1242B, 1800 G Street, NW, Washington, DC 20550.

Type of meeting: Open: 9/5—9:00 a.m. to 1:00 p.m. Closed: Remainder of scheduled time.

Contact person: Ms. Sandra D. Toye, Head, Oceanographic Centers and Facilities Section (OCFS), Division of Ocean Sciences, Room 613, National Science Foundation, Washington, DC 20550, Telephone: 202/357–7837.

Summary minutes: May be obtained from the contact person listed above.

Purpose of advisory group: To provide advice to the Head, OCFS, on the disposition of proposals and recommendation affecting the composition and distribution of the academic rsearch fleet.

Agenda: Open: Presentations on the benefits and consequences of alternative actions. Closed: To review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 19, 1985.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 85–20077 Filed 8–21–85; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on General Electric Standard Safety Analysis Report (GESSAR II); Meeting

The ACRS Subcommittee on General Electric Standard Safety Analysis Report (GESSAR II) will hold a meeting on September 11, 1985, Room 1167, 1717 H Street, NW, Washington, DC.

To the extent practical, the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss proprietary information relating to the GESSAR probabilistic risk assessment and plant security.

The agenda for the subject meeting shall be as follows:

Wednesday, September 11, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of GESSAR II for a final design approval applicable to future plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the General Electric Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 19, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–20145 Filed 8–21–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–352]

Philadelphia Electric Co. (Limerick Generating Station, Unit 1); Order Suspending Operation Above 5 Percent Power

In its Memorandum and Order of August 8, 1985, the Commission declined to stay the effectiveness of the Atomic Safety and Licensing Board's Fourth Partial Initial Decision in the Limerick operating license proceeding and authorized the Director of the Office of Nuclear Reactor Regulation to issue the Philadelphia Electric Company (Licensee) a full-power operating license for Unit 1 of the Limerick Generating Station. Accordingly, the Director issued Facility Operating License No. NPF–39 which, among other things, authorized the Licensee to operate the facility at reactor core power levels not in excess of 3,293 megawatts thermal (100% rated power). License No. NPF–39 superseded Facility Operating License No. NPF–27, which was issued on October 26, 1984, and which authorized the Licensee to operate the facility at levels not to exceed 5% of rated power.

Limerick Ecology Action and Thomas Martin appealed the Commission's decision and sought a stay of the Commission's Order from the United States Court of Appeals for the Third Circuit. On August 15, 1985, the court stayed the Commission's Order pending further order of the court. The effect of the court's order is to suspend operation above 5% of rated power, pending further order of the court. The Licensee has informed the NRC Staff that it is proceeding to reduce the power level of the facility to 5% or less of rated power. The purpose of this Order is solely to effectuate the court's order and confirm the Licensee's actions. This Order will be rescinded upon action of the court to lift its stay.

Accordingly, pursuant to sections 103, 161, and 186 of the Atomic Energy Act of 1954, as amended, and the Court of Appeals' order of August 15, 1985, it is hereby ordered that the Licensee shall reduce the operating power level of the facility to 5% or less of rated power by 6:00 p.m., August 16, 1985, and shall not thereafter operate Limerick Unit 1 above 5% of rated power until such restriction is rescinded by the Director of the Office of Nuclear Reactor Regulation.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 16th day of August, 1985.

For The Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85–20144 Filed 8–21–85; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Establishment of Mainstem Passage Advisory Committee

AGENCY: Pacific Northwest Electric Power and Conservation Planning

Council (Northwest Power Planning Council).

ACTION: Notice of establishment of Mainstem Passage Advisory Committee.

SUMMARY: On August 7, 1985 in Portland, Oregon, the Northwest Power Planning Council established the Mainstem Passage Advisory Committee as an advisory committee to the Council. This notice describes the Committee, provides information on how to obtain notices of Committee meetings, and explains how to request copies of the Committee's charter.

ADDRESS: Individuals and entities wishing to receive notices of Committee meetings or copies of the Committee's advisory committee charter should contact Dulcy Mahar, Director of Public Information and Involvement, by writing her at the Council's central office, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205, or by calling her at (toll-free) 1-800-222-3355, from Montana, Idaho, Washington and California; (toll-free) 1-800-452-2324 in Oregon; or (503) 222-5161. The charter is also available for inspection and copying in the public reading room of the Council's central office at the above address on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: James Ruff, Hydrologist, at (toll-free) 1-800-222-3355 from Montana, Idaho, and Washington; toll-free 1-800-452-2342 in Oregon; or (503) 222-5161 from other states.

SUPPLEMENTARY INFORMATION: The Council recently established the Mainstem Passage Advisory Committee to assist the Council and its staff with technical issues related to the development of appropriate downstream fish passage objectives for hydropower dams on the mainstem of the Columbia and Snake Rivers. The Council's Fish and Wildlife Program (Program) calls for specific actions at mainstem dams to improve fish passage.

The Council expects the Mainstem Passage Advisory Committee to focus on alternative systemwide and/or project-specific fish passage objectives by:

- Assisting the Council staff in examining the proposal(s) of the fish and wildlife agencies and tribes to modify the Program's present 90 percent interim survival objective at mainstem dams operated by the U.S. Army Corps of Engineers;
- Assisting the Council staff in identifying alternative long-term mainstem fish passage objectives, standards, or strategies which are technically feasible and achievable, and which provide varying levels of fish protection at different levels of impact to the regional electric power system, for integration into development of Program objectives;
- Assisting the Council staff by providing input on the operative parameters governing the mainstem passage portion of Program section 201's system modeling effort; and
- Otherwise advising the Council staff, upon request, by identifying significant gaps in data and scientific knowledge related to mainstem fish passage.

The Council established the Committee, adopted the Committee's charter and selected the Committee chairman and vice-chairman during a public meeting on August 7, 1985 in Portland, Oregon. The charter describes the objectives and activities of the Committee, its authority, and related matters. It also contains rules for Committee procedures, meeting notices, public participation, minutes, records, conflict of interest, and reimbursement of certain Committee member expenses.

According to the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 *et seq.*), the terms of the Federal Advisory Committee Act (5 U.S.C. App. I, 1-14) apply "to the extent appropriate" to the Council's advisory committees.

Edward Sheets,

Executive Director.

[FR Doc. 85-20056 Filed 8-21-85; 8:45 am]

BILLING CODE 0000-00-M

POSTAL RATE COMMISSION

Privacy Act of 1974; Revisions in Routine Uses

August 16, 1985.

AGENCY: Postal Rate Commission.

ACTION: Notice of revisions in routine uses.

SUMMARY: Citing *Krohn* v. *Department of Justice*, Civil No. 78-1536 (D.D.C., March 19, 1984), The Office of Management and Budget expressed concern about agencies' routine uses for disclosures in support of litigation. Upon reviewing the Commission's language on the subject, we are following OMB's guidelines and adopting the language set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine Use for Disclosure to the Department of Justice for Use in Litigation:

It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when

(a) The Commission; or

(b) Any employee of the Commission in his or her official capacity; or

(c) Any employee of the Commission in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the Commission determine that litigation is likely to affect the Commission, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Commission to be relevant and necessary to the litigation, provided, however, that in each case, the Commission determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

Routine Use for Agency Disclosure in Litigation:

It shall be a routine use of records maintained by the Commission to disclose them in a proceeding before a court or adjudicative body before which the Commission is authorized to appear, when

(a) The Commission; or

(b) Any employee of the Commission in his or her official capacity; or

(c) Any employee of the Commission in his or her individual capacity where the Commission has agreed to represent the employee; or

(d) The United States, where the Commission determines that litigation is likely to affect the Commission, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the Commission determines that disclosure of the records in the court or other proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

In the routine uses of record systems maintained by the Commission and established pursuant to notice in the **Federal Register**, the paragraph beginning with: "In the event that information in this record system is needed in the course of presenting evidence * * *." and ending with: "* * *.

to the appropriate person to use as evidence." is therefore deleted and replaced by the above language.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85-20150 Filed 8-21-85; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14676; 811-3182]

Application and Opportunity for Hearing; Separate Account II of Equitable Variable Life Insurance Co.

August 15, 1985.

Notice is hereby given that Separate Account II of Equitable Variable Life Insurance Company ("Applicant"), 1285 Avenue of the Americas, New York, NY 10019, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 15, 1985, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for the applicable provisions.

According to the application, prior to March 22, 1985, Equitable Variable Life Insurance Company ("EVLICO"), depositor of Applicant and a wholly-owned subsidiary of The Equitable Life Assurance Society of the United States, maintained life insurance separate accounts, Separate Accounts I and II, as separate open-end management investment companies, funding variable life insurance contracts issued by EVLICO. Separate Account I invested primarily in common stocks, and Separate Account II invested primarily in money market instruments. Applicant states that the Hudson River Fund, Inc. (the "Fund") was organized on November 9, 1984, as a registered management investment company of the series type, to offer its shares exclusively to separate accounts of EVLICO and, conditioned upon obtaining relief from the Act and rules thereunder, to other affiliated or unaffiliated insurance companies. The Fund initially has two portfolios: a Common Stock Portfolio and a Money Market Portoflio, which have the same investment policies, restrictions and objectives as Separate Accounts I and II, respectively, as amended.

Applicant further states that the Fund commenced operation on March 22, 1985, when, as part of a reorganization, EVLICO transferrd all of the assets and liabilities of Separate Accounts I and II to the Common Stock and Money Market Portfolios of the Fund, respectively, in return for shares of those Portfolios having an equivalent net asset value. Simultaneously, Separate Account II, Applicant herein, was combined with and into Separate Account I, which was converted recently into a unit investment trust.

Applicant represents that immediately preceding the reorganization, at the close of business on March 21, 1985, it had a net asset value equal to $76,253,364. Applicant further represents that the interests of existing contractowners in the divisions of Separate Account I are the same as their interests, respectively, in Separate Account I and II immediately prior to the reorganization. Applicant states that EVLICO assumed all expenses incurred in effecting the reorganization, and that the recoganization did not affect the death benefits, account value or cash surrender value under any variable life insurance contract outstanding, or future issuances of contract designs being offered, on that date.

According to the application, the plan of reorganization was authorized by the Applicant's Committee on November 7, 1984, authorized by the Committee of Separate Account I and the Board of Directors of the Fund on November 7, 1984 and November 19, 1984, respectively, and approved by the owners of contracts issued with respect to Applicant and with respect to Separate Account I at special meetings on February 14, 1985. An order of the Commission permitting the reorganization was granted on February 22, 1985 (Investment Company Act Release No. 14391).

Applicant represents that it no longer supports any contracts or exists as a separate investment account under the Insurance Law of New York State, and that it is not now engaged in, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs. Applicant further represents that it has retained no assets, no debts or other liabilities, and is not a party to any litigation or administrative proceeding. Applicant states that, within the past 18 months and in connection with the reorganization described above, its assets and liabilities were transferred to the Money Market Portfolio of the Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 10, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-20066 Filed 8-21-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 944]

Certain Nonimmigrant Visas; Validity

Public Notice 913 of August 22, 1984 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of the countries listed in that Notice which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class.

This Notice adds Commonwealth of Dominica to the list contained in Public Notice 913 in order to conform with present reciprocal or more liberal treatment accorded United States nationals in a similar class.

This Notice amends Public Notice 913 of August 22, 1984 (49 FR 33392).

Dated: August 12, 1985.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 85-20052 Filed 8-21-85; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 43309; Order 85-8-49]

Love Field Amendment Proceeding; Extension of Comment Period

Issued by the Department of Transportation on the 16th day of August, 1985.

In this proceeding, the Department asked for comment on the proper interpretation of the Love Field amendment (Sec. 29, Pub. L. 96-192). That amendment limits air carrier service at Love Field, Texas.

The order asking for comment (Order 85-7-65, dated July 26, 1985) set 15 days for comment, making them due August 16. At the request of several parties, this order extends that comment period until August 23 and allows a 7-day period for reply comments, making them due August 30.

On August 7, counsel for Southwest Airlines asked for a 2-week extension of the comment period, plus a 2-week reply comment period. Southwest argued that: (1) This matter is extremely complex and should be treated like the Japan route proceeding with respect to the amount of time for comments, (2) DOT has been considering the matter since May 30 (when the City of Dallas wrote the Secretary to ask her to stop Continental's proposed service), (3) Continental does not appear to urgently want to begin service, and (4) counsel will be unavailable during the 2-week comment period.

On August 9, counsel for the Dallas-Ft. Worth Parties wrote to support Southwest's request for the same reasons stated by Southwest, adding that the DFW Parties have been preoccupied by the Delta crash.

Also on August 9, Continental wrote to oppose a 2-week extension for comments and a 2-week reply comment period. It agreed, however, to a 1-week reply comment period. Continental argued that: (1) The Dallas parties have frustrated efforts to begin service at Love Field, (2) Southwest now has a monopoly there, and DOT did not address this issue at the time of the *Southwest-Muse Acquisition Proceeding*, and (3) Continental wants to begin service, but will need to start construction before operations can begin and Love Field will need to end certain 30-day leases.

We agree that some extra time may be needed by the public to complete and update their arguments, and that a short period for reply comments would be beneficial. Although arguments and comments on this amendment have been presented previously to the Civil Aeronautics Board and in briefs to the U.S. Court of Appeals (D.C. Cir.), we want to ensure a thorough record at the Department and a full opportunity for all to present their positions adequately and to counter arguments of their opponents.

Since this issue has been aired previously and because of the need to clarify these restrictions on entry at a large and important market, we believe that 1 extra week plus a week for reply comments should be sufficient to achieve these purposes.

Accordingly:

1. The date for filing of initial comments is extended until August 23; and

2. The date for filing reply comments is set on August 30.

Jeffrey N. Shane,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-20068 Filed 8-21-85; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

National Motor Carrier Advisory Committee;

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on September 24, 1985, beginning at 9:00 a.m., in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, DC, Room 2230. The meeting is open to the public.

The agenda includes the following topics: the National Association of Regulatory Utility Commissioners' State/Industry Task Force Centralization Proposal, the National Governors' Association's Working Group on State Motor Carrier Procedures, status reports on several truck-related congressionally mandated studies, a status report on Surface Transportation Assistance Act truck issues, and various pending motor carrier safety issues.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street, SW., Washington, DC 20590, (202) 426-0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: August 14, 1985.

L.P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85-20089 Filed 8-21-85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Lansing, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the proposed reconstruction of I-96BL (Ceder Street) between Cloverland Drive and Mt. Hope Road in Ingham County Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Fort, Jr., District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901, Telephone (FTS) 374-1879 or (Commerical) (517) 377-1879 or Mr. Ross E. Lowes, Manager, Social and Economic Studies Section, Bureau of Transportation Planning, Michigan Department of Transportation P.O. Box 30050, Lansing, Michigan 48909, Telephone (517) 373-2226.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of transportation, (MDOT), is preparing an Environmental Impact Statement (EIS) for the proposed reconstruction of I-96BL (Cedar Street) between Cloverland Drive and Mt. Hope Road, Ingham County, Michigan. The proposed project is approximately 2 miles in length and is needed to accommodate current and future traffic volumes and to improve operating conditions and the safety of the traveling public. The present facility is four lanes, has poor surface conditions, and is deficient in capacity. The roadway is experiencing an increasing number of accidents throughout its length.

Alternatives under consideration include: (1) No Action; and (2) Reconstruction to five lanes. The proposed five-land alternative would be constructed to five, 11-foot lanes and require the acquisitions of additional right-of-way and displacements.

Early coordination with a number of Federal, State and local agencies has identified the more significant issues to be addressed in the EIS. Accordingly, no agency scoping meeting is planned at this time. A scoping document has been prepared identifying the alternative and the social, economic and environmental

issues involved. This document is available to all interested agencies, organizations, and individuals on request. A pre-study meeting was held on June 5, 1985 to provide the public an opportunity to discuss the proposed action. Comments on the scoping document and issues identified are invited from all interested parties. Request for a copy of the scoping document or any comments submitted should be addressed to the above contact persons. The closing date for comments in November 15, 1985.

The Draft EIS is scheduled for completion in early 1986 and will be made available for public and agency review and comment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executiive Order 12372 regarding State and local inter-governmental review of Federal and federally assisted programs and projects apply to this program)

Issued on: August 16, 1985.

Thomas A. Fort, Jr.,

District Engineer.

[FR Doc. 85-20124 Filed 8-21-85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Cook and Dupage Counties, IL

Correction

In FR Doc. 85-17115, beginning on page 29293, in the issue of Thursday, July 18, 1985, make the following correction:

On page 29293, third column, in the **FOR FURTHER INFORMATION CONTACT** paragraph, last line, the telephone number should read "(312) 884-4393".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 14, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0090
Form Number: IRS Forms 1040SS, 1040SS (NMI), and 1040-PR
Type of Review: Revision
Title: U.S. Self-Employment Tax Return, Self-Employment Tax Return Northern Mariana Islands, and Planilla Para La Declaracion De La Contribucion Federal Sobre El Trabajo Por Propia-Puerto Rico

OMB Number: 1545-0099
Form Number: IRS Form 1065 and Schedules D, K, and D-1
Type of Review: Revision
Title: U.S. Partnership Return of Income, Capital Gains and Losses, Partners Shares of Income, Credits, Deductions, etc., Partner's Share of Income, Credits, Deductions, etc.

OMB Number: 1545-0238
Form Number: IRS Form W-2G
Type of Review: Revision
Title: Statement for Recipients of Certain Gambling Winnings

OMB Number: 1545-0087
Form Number: IRS Forms 1040-ES, 1040-ES(NR), 1040-ES(ESpanol), and 1040-ES(NMI)
Type of Review: Extension
Title: Estimated Tax for Individuals (4 forms) (1) U.S. Citizens and Residents, (2) For Nonresident Aliens, (3) For Use in Puerto Rico (in Spanish), and For Use in Northern Mariana Islands

OMB Number: 1545-0703
Form Number: IRS Form 8007
Type of Review: Revision
Title: Credit for Employee Stock Ownership Plan

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0021
Form Number: ATF F 4587 (5330.4)
Type of Review: Extension
Title: Application to Register As an Importer of U.S. Munitions Import List Articles

Clearance Officer: Howard Hood (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Comptroller of the Currency

OMB Number: 1557-0014
Form Number: OCC Forms 7029-09 7029-18, 7028-31, 7026-01 and 7020-01
Type of Review: Revision
Title: Application to Organize a National Bank, Confidential Biographical and Financial Report, List of Interim Directors, Bankers' Banks

Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 85-20033 Filed 8-21-85; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 163
Thursday, August 22, 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).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Monday, August 26, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 – 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4426.

Dated: August 19, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-20133 Filed 8-19-85; 4:05 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:47 p.m. on Thursday, August 15, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt: (1) A resolution (a) making funds available for the payment of insured deposits in Park West Bank, National Association, Farmers Branch, Texas, which had been closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, August 15, 1985; (b) accepting the bid of Park West State Bank, Farmers Branch, Texas, a newly-chartered State nonmember bank, for the transfer of the insured and fully secured or preferred deposits of the closed bank; (c) designating Park West State Bank, Farmers Branch, Texas, as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank; and (d) making funds available for an advance payment to uninsured depositors and other general creditors of Park West Bank, National Association equal to 50 percent of their uninsured claims; and (2) an Order approving the applications of Park West State Bank, Farmers Branch, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay certain deposits made in Park West Bank, National Association, Farmers Branch, Texas.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 19, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-20134 Filed 8-19-85; 4:05 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Monday, August 26, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,295
Public Bank, Detroit, Michigan

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions, involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The Meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 19, 1985.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85–20135 Filed 8–19–85; 4:06 pm]
BILLING CODE 6714–01–M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 11:00 a.m.—August 27, 1985.

PLACE: Hearing Room One—1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Portions closed to the public:

1. Agreements Nos. 202–010789 and 202–010790: the proposed Israel Westbound Conference and Israel Eastbound Conference, respectively.
2. Agreement No. 207–010791: the proposed Wallenius/Transroll Joint Service Agreement.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski,
Acting Secretary.
[FR Doc. 85–20185 Filed 8–20–85; 11:21 am]
BILLING CODE 6730–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, August 28, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 20, 1985.

James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–20232 Filed 8–20–85; 3:50 pm]
BILLING CODE 6210–01–M

6

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, September 4, 1985.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the months of July and August, 1985.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Date of notice: August 19, 1985.

Mr. Rowland K. Quinn, Jr.,
Executive Secretary, National Mediation Board.
[FR Doc. 85–20200 Filed 8–20–85; 12:52 pm]
BILLING CODE 7550–01–M

7

PAROLE COMMISSION

Pursuant to the Government in the Sunshine Act Pub. L. 94–409 (5 U.S.C. Section 552b)

TIME AND DATE: Thursday, August 29, 1984—1:00 p.m. to 2:00 p.m.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, and via a conference telephone circuit.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed revisions in the Parole Commission's rules concerning guidelines. The following were published in the **Federal Register** of June 10, 1985 and public comment has been received thereon:

Elimination of separate Youth/NARA guidelines, reduction of guideline ranges for certain lower severity-better risk offenders, changes in offense severity examples, clarification of present policy and improvement in the organization of offense behavior examples, changes in time actually served in certain instances, a change in handling of administrative parole violations resulting in revocation, a change in rescission guidelines involving escape, and other related modifications and improvements in the guideline system.

In addition to the above, revisions, additions, or deletions will be proposed concerning sexual conduct with minors, insider trading, transportation or marking of explosives, gambling, transportation of gambling equipment, drug abuse, state offenses, weapons in institutions, and Indian tribal court convictions. Certain instructions for guideline usage, transfers from procedures to rules, and revisions in examples or wording will also be proposed to improve consistency and clarity in guideline application.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission (301) 492–5936.

Dated: August 20, 1985.

Joseph A. Barry,
General Counsel, United States Parole Commission.
[FR Doc. 85–20229 Filed 8–20–85; 3:45 pm]
BILLING CODE 4410–01–M

federal register

Thursday
August 22, 1985

Part II

Environmental Protection Agency

Draft General NPDES Permit for Offshore Oil and Gas Exploration, Development, and Production Activities Off Southern California; Notices

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2885-3]

Draft General NPDES Permit for Offshore Oil and Gas Exploration Activities Off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrator of Region 9 is proposing to issue a general NPDES permit (NPDES permit No. CAG280605) which would authorize discharges from facilities engaging in exploratory activities for oil and gas in specified Federal waters off Southern California. This permit would be applicable to facilities included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category with the exception of development and production platforms (fixed or mobile). A general NPDES permit covering both mobil exploratory operations and production platforms was issued by Region 9 on February 18, 1982 (NPDES No. CA0110516—47 FR 7312). This permit was reissued on December 8, 1983, for the six month period ending June 30, 1984 (48 FR 55029).

Rather than reissuing this permit again, however, Region 9 is proposing to issue two general permits, one covering mobile exploratory operations (dicussed in this notice) and another general permit covering development and production platforms (published elsewhere today). Studies funded by EPA pursuant to section 403 of the Clean Water Act (CWA) revealed a significant difference in the state of knowledge concerning the potential environmental effects of exploratory operations and production platforms.

As discussed in section VI.D, Region 9 concluded that unreasonable degradation of the marine environment (as defined in 40 CFR Part 125 Subpart M) would not be expected from the level of exploratory activity anticipated during the life of the permit. However, as discussed in the **Federal Register** notice for production platforms, Region 9 concluded that such a determination could not be made for production platforms based on existing data. As a result, different permit requirements are appropriate for exploratory operations and production platforms and Region 9 believes two general permits should be issued which reflect these differences.

General NPDES permit No. CAG280605 would become effective on publication following the Region's consideration of public comments and expire 5 years from the effective date. The area to be covered by the proposed permit consists of those offshore tracts currently considered active by the Minerals Management Service (MMS) and leased by MMS from Lease Sale Nos. 35, 48, 53, 68, 73, 80 and the 1966 and 1968 Federal lease sales.

The draft general permit contains effluent limitations requiring Best Available Technology Economically Achievable (BAT) for toxic and nonconventional pollutants and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants as required by sections 301(b)(2) (A), (C), (D), (E), and (F) of the CWA. Since the Agency has not promulgated BAT/BCT effluent limitations guidelines for the Oil and Gas Extraction Point Source Category, the effluent limits in the permit were developed by Region 9 using best professional judgment (BPJ) as authorized by section 402(a)(1) of the CWA and 40 CFR 125.3. The requirements of section 403 of the CWA (Ocean Discharge Criteria) and regulations promulgated by EPA pursuant to section 403(c) (40 CFR Part 125, Subpart M) were also included in the development of the permit effluent limitations and other conditions. See section VI.D below. This proposed permit does not authorize discharges from facilities located in the territorial seas of the State of California or any body of water landward of the inner boundary of the territorial seas or any wetlands adjacent to such waters (facilities in the "Onshore" and "Coastal" subcategories defined in 40 CFR Part 435).

As required by section 307(c)(3)(A) of the Coastal Zone Management Act, Region 9 has certified the proposed permit to the California Coastal Commission as consistent with the State Coastal Zone Management Plan (CZMP).

As required by the Endangered Species Act (ESA), Region 9 has reviewed the effects of the proposed discharges on endangered or threatened species found in the general permit area. Region 9 has concluded that the proposed discharges would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitats. Pursuant to section 7 of the ESA, Region 9 has provided copies of the proposed permit and fact sheet to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and requested a formal evaluation of this conclusion.

The permit does not authorize discharges from facilities defined in 40 CFR 122.2 as "new sources". However, when new source performance standards (NSPS) become effective, Region 9 will issue new permits.

Copies of the fact sheet and draft permit may be obtained from the address below. The administrative record for this permit is available for public review at Region 9 at the address listed below.

DATES: *Comment Period*—Interested persons may submit comments on the draft general permit to the Regional Administrator at the address below no later than October 7, 1985.

Public Hearing: A public hearing to consider proposed general NPDES permit No. CAG280605 covering exploratory activities and also the proposed general permit covering development and production activities (NPDES No. CAG280622) will be held as follows:

Date: September 26, 1985.

Time: 10 a.m.; 2 p.m.; 7:30 p.m.

Place: Sheraton Santa Barbara Hotel, El Cabrillo Room, 2nd Floor, 1111 East Cabrillo Blvd., Santa Barbara, CA 93101.

The public hearing will be conducted pursuant to 40 CFR 124.12 and is for the purpose of receiving comments from the public on the proposed issuance of the two general permits. All interested persons are invited to submit their views.

Oral statements at the hearing will be received and considered, but for accuracy of the record all important testimony should be submitted in writing so that there will be time for all interested persons to be heard. A record of the proceedings will be made for consideration by Region 9 before final action is taken. It will contain all written and oral comments and be available for public inspection. Under NPDES regulations (40 CFR Part 124) any evidence or comment that any person wishes to rely upon to contest any determination that Region 9 may make must be submitted at the public hearing or during the comment period unless good cause is shown for not doing so.

ADDRESS: Comments should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105, (Telephone Number (415) 974-8330).

FOR FURTHER INFORMATION AND COPIES OF DRAFT PERMITS CONTACT: Eugene Bramley, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA

94105, (Telephone Number (415) 974–8330).

Supplementary Information and Fact Sheet

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the CWA provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations (40 CFR 122.28), EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require similar monitoring requirements; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations (40 CFR 122.28(c)) the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, such as areas of biological concern, for which separate permit conditions are required, a separate individual or general permit may be required by the Regional Administrator.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Management Division, EPA, Region 9. A source located within a general permit area, excluded from coverage under the permit solely because it already has an individual permit (other than a permit that has been continued under the Administrative Procedure Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation and termination of general permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the CWA that is enforceable under section 309 of the CWA.

II. Geographic Area of the General Permit

As noted earlier, the exploratory facilities general permit authorizes discharges on lease parcels in Federal waters off Southern California currently considered active by the MMS. Included are tracts from Lease Sale Nos. 35, 48, 53, 68, 73, 80 and the 1966 and 1968 Federal lease sales.

The proposed general permit area differs from the existing general permit area in two respects: (1) 36 new parcels would be added as authorized discharge sites to reflect recent leasing activity by the MMS and (2) 44 parcels would be deleted due to expiration of the leases.

Eight new tracts in the Santa Maria Basin were awarded by the MMS as a result of Lease Sale No. 73. The lease numbers of these parcels are P–0503 through P–0510, inclusive. Twenty-three new tracts were awarded as a result of Lease Sale No. 80. The lease numbers of these parcels are P–0511 through P–0517, P–0519 through P–0525 and P–0527 through P–0535.

Also, as a result of a recent Supreme Court decision (*Secretary of the Interior* v. *California*, 104 S. Ct. 656 (January 11, 1984)) 5 tracts from Lease Sale No. 53 which had been under litigation were also awarded by MMS. The lease numbers of these parcels are P–0373 through P–0377.

The new parcels are in the same general area as the parcels on which discharges were previously authorized. The effects of the proposed discharges throughout the entire area (new and old parcels) were analyzed in the Ocean Discharge Criteria Evaluation (see section VI.D) and in the environmental impact statements accompanying the lease sales. Based on a review of these documents, and the criteria for the issuance of a general permit, Region 9 believes that facilities operating in the area covered by this proposed permit are more appropriately regulated by a general permit than by individual permits.

The lease numbers of the parcels which would be deleted are P–0186, P–0295, P–0325, P–0327, P–0328, P–0330 through P–0345, P–0347, P–0350 through P–0364, P–0366, P–0367, P–0369, P–0404, P–0405, P–0410 and P–0411.

III. Covered Facilities and Nature of Discharges

The proposed permit would apply to all exploratory facilities currently operating in the general permit area complying with the notification requirements of Part I including all exploratory facilities except new sources entering the permit area after the effective date of the permit. Exploratory operations are defined as those operations involving drilling to determine the nature of potential hydrocarbon reserves and do not include drilling of wells once a hydrocarbon reserve has been defined.

The following twelve discharges may result from these sources:

Discharge 001—Drilling Muds and Cuttings and Washwater

Drilling mud is defined as any fluid sent down the hole including gelling compounds, weighting agents, and any specialty products, from the time a well is begun until final cessation of drilling in that hole. There are two basic types of muds, water-based and oil-based. Water-based muds are usually mixtures of fresh water or sea water with clays. Oil-based muds (includes invert emulsion muds) are mixtures of diesel or mineral oil and clays with water or brine emulsified in the oil.

Drilling muds are used in both exploration and development drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may require other additives in the drilling muds.

Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling muds and separated from the fluids on the drilling vessel by solids separation equipment (screens and shakers). The washwater is used to clean the drill cuttings prior to discharge. Drilling mud, and oil and additives if used, remain with the drill cuttings after the solids separation equipment. These materials are removed from the cuttings to ensure compliance with discharge limitations.

Discharge 002—Well Completion and Treatment Fluids

Well completion fluids are low solids drilling fluids used to drill into the hydrocarbon producing zone and complete the well. The solids content of normal drilling muds may damage the porous rock of the production zone. Well treatment fluids are used to increase the rate of flow of hydrocarbons from a well already in production.

Discharge 003—Deck Drainage

This discharge includes water resulting from platform washings, deck

washing, tank cleaning operations, and runoff from curbs, gutters, and drains including drip pans and work areas.

Discharge 004—Sanitary Wastes

Sanitary wastes include human body waste discharged from toilets and urinals.

Discharge 005—Domestic Wastes

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys. All galley wastes are macerated before flushing.

Discharge 006—Desalinization Unit Discharge

Desalinization unit discharge means any wastewater associated with the process of creating fresh water (for various purposes on the drillship) from seawater.

Discharge 007—Cooling water

Cooling water means once-through, non-contact cooling water.

Discharge 008—Uncontaminated Bilge Water

Uncontaminated bilge water is water that enters the lower holds of the vessel and accumulates in the bilge areas.

Discharge 009—Uncontaminated Ballast Water

Ballast water is water used by a drilling vessel to maintain proper stability.

Discharge 010—Excess Cement

Excess cement is unused cement discharged after a well cementing operation. Cement is used to bond the casing (large diameter steel pipe) to the wall of the hole. The casing prevents the caving in of the hole.

Discharge 011—Blow-Out Preventer (BOP) Control Fluid

Blow-out preventer fluid is a mixture of water and 1–2% hydraulic fluid (generally ethylene glycol and water) vented at the ocean floor during periodic testing of the blow-out preventer system as required by the Minerals Management Service.

Discharge 012—Fire Control System Test Water

Fire control system test water is sea water discharged during periodic testing of the fire control system.

IV. Notification Requirements for Commencement and Termination of Operations

Written notification of commencement of operations must be provided to, and received by, the Regional Administrator at least fourteen (14) days prior to initiation of discharges (Part I). This notification must be provided for each drill site and must identify the permittee (either the owner of the exploratory drillship or the leaseholder) assuming responsibility for compliance with the permit. Modifications of the notification may be made (such as a change in drilling location or drillship to be used) provided the revised notification is received by the Regional Administrator at least forty-eight (48 hours) prior to initiation of discharge. Permittees shall also notify the Regional Administrator within twenty-eight (28) days upon termination of discharges at each location.

For operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation, the biological survey report and the plan of exploration must be provided to Region 9 prior to initiation of discharges. Initiation of discharge under the permit may not begin until Region 9 has reviewed the survey report and the proposed operations, and has determined that this general permit is appropriate for the proposed discharges, and has notified the permittee in writing of this determination.

V. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the CWA provide the basis for the permit conditions contained in the draft permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part VI.

A. Technology-Based Effluent Limitations

1. PBT Effluent Limitations. The CWA requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 FR 22069).

BPT effluent limitations guidelines require "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation requires that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR 435.11(d)). The BPT effluent limitations guideline for sanitary waste requires that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline requires no discharge of floating solids.

2. BAT and BCT Effluent Limitations. All permits issued after July 1, 1984, are required by Section 301(b)(2) of the CWA to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT) and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). BAT and BCT effluent limitations must be at least as stringent as BPT limitations since they are intended by the CWA to represent a higher level of treatment. Permits in effect after July 1, 1987, must impose effluent limitations which control nonconventional pollutants by means of BAT.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development by the EPA Industrial Technology Division and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using best professional judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This proposed permit incorporates BAT and BCT effluent limitations based on Region 9's best professional judgment.

As required by section 304(b)(2)(B) of the CWA, in developing the BPJ/BAT permit conditions, Region 9 considered: The age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Regional Administrator deems appropriate.

The type of equipment and processes employed in exploratory drilling operations are well known to Region 9. Region 9 has previously issued general and numerous individual permits for such operations. The administrative records for this permit and the earlier permits thoroughly discuss the types of

equipment, facilities and processes employed in exploratory drilling operations. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated and a discussion of such evaluations in presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the CWA, Region 9 considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate BCT technologies fail the BCT "cost test," BCT effluent limitations are set equal to BPT.

Region 9's evaluation of the BAT factors, as discussed above is also applicable to BCT, as well as Region 9's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular waste stream. With respect to the BCT "cost test," all BCT limitations for this proposed permit are equal to the BPT effluent limitations guidelines or to Region 9's best professional judgment determinations of BPT. Therefore, no incremental cost would be incurred.

B. Ocean Discharge Criteria

Section 403 of the CWA requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparble harm, EPA is required to make a determination that the discharges, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The determination of unreasonable degradation must be based on the following factors: Quantities, composition, and potential for bioaccumulation or persistence of the pollutants discharged; potential transport of such pollutants; the composition and vulnerability of biological communities exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites; potential impacts on human health; impacts on recreational and commercial fishing; applicable requirements of approved Coastal Zone Management Plans; marine water quality criteria developed pursuant to section 304(a)(1) of the CWA; and other relevant factors.

C. Section 308 of the Clean Water Act

Under Section 308 of the CWA and 40 CFR 122.44(i) the Administrator must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. Region 9 has proposed several monitoring requirements for the effluent limitations proposed in this permit, as listed in section VI.

VI. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B. through D. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory
Drilling Muds and Cuttings:	
No free oil	BCT.
No floating solids	BCT.
No oil-based muds and associated cuttings.	BCT.
Mud toxicity limit	BAT.
No chrome lignosulfonate	BAT.
No diesel except in spotting operations.	BAT.
Removal of 50 bbls on each side of diesel pill.	Section 304 (BMP).
Hg/Cd limits in barite	BAT.
Monitoring for metals and toxicity	Section 308.
Monitoring of volume discharged	Section 308.
Inventory of added substances	Section 308.
LPC requirements in vicinity of Channel Islands Marine Sanctuary.	Section 303(c).
Notification prior to final discharge upon completion of well.	Section 308.
Reopener clause	Section 403(c).
Well Completion & Treatment Fluids:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
Inventory of added substances	Section 308.
Deck Drainage:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
Limits on dispersants, surfactants and detergents.	Section 304 (BMP).
Sanitary Wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/1 (facilities with more than 10 people) to control fecal coliform.	BCT.
Monitoring of discharge rate	Section 308.
Maximum chlorine concentration of 10 mg/1.	BAT.
Domestic Wastes:	
No floating solids	BCT.
Monitoring of discharge rate	Section 308.
Miscellaneous Discharges:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
All Discharges:	
No halogenated phenols	BAT.
No floating solids	BCT.

B. BCT Requirements

1. Free Oil and Oil-Based Muds and Cuttings. No discharge of free oil is permitted from discharges authorized by the permit. Region 9 has determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including uncontaminated bilge water, uncontaminated ballast water, desalinization unit discharge, non-contact cooling water, excess cement slurry, blowout preventer fluid, and fire control system test water. Thus, the no free oil limitation is Region 9's best professional judgment determination of BPT controls for these discharges. They have been subject to a no free oil limitation in previous permits issued by Region 9, and past practices have not resulted in violations of this limitation.

No technology performance data available to Region 9 indicate that a more stringent standard is appropriate at this time. Region 9 has proposed BCT effluent limitations equal to the BPT level of control and, as such, these proposed limitations impose no incremental costs.

As discussed above, the BCT effluent limitation on free for drilling muds is equal to the BPT limitation. The discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is therefore prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil. The discharge of drill cuttings associated with oil-base mud is also prohibited due to the likelihood of violation of this same limit.

The monitoring requirement for determining compliance with the effluent limitation on free oil is in most instances a visual observation of the receiving water. However, the static sheen test is required for monitoring free oil in mud and cuttings discharges (which are the discharges with the greatest likelihood of oil contamination) and also for discharges 002–004 if they occur at night. The static sheen test involves mixing effluent with ambient seawater in a test container and subsequently observing whether or not a sheen appears on the surface. The specific procedure is found in "Static Sheen Test" (U.S. Environmental Protection Agency, 1985b). The sheen test requirement is being proposed for the following reasons: (1) Region 9 believes that the test is reliable, (2) the test is an improvement over the alternate method of simply making visual observations in the receiving water and (3) the test can be conducted prior to discharge.

2. Floating solids. The BCT prohibition on floating solids is equal to the BPT level of control for sanitary wastes. As with the free oil limitations, Region 9 has determined that the BPT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is Region 9's best professional judgment determination of BPT limitations for these discharges. They have been subject to this limitation in previous permits issued by Region 9, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 9 indicate that a more stringent standard is appropriate at this time. Therefore, Region 9 has determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

3. Chlorine. The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/1 in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry. The chlorine residual is limited as a BCT pollutant to control the conventional pollutant fecal coliform.

The proposed permit also provides that any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the CWA shall be deemed to be in compliance with permit limitations for sanitary waste discharges, until such time as the device is replaced or is found not to comply with such standards and regulations.

C. BAT Requirements

1. Mud Toxicity Limit. a. Determination of Mud Toxicity Limit. For compliance with the BAT requirements of section 301(b) of the CWA, Region 9, based on best professional judgment, is proposing an overall toxicity limit for discharged drilling muds. This limit is a minimum single (i.e., no sample to be less than) 96 hour LC_{50} of 30,000 ppm for the suspended particulate phase (SPP). Discharge of muds with 96 hour LC_{50} concentrations less than 30,000 ppm would constitute noncompliance with the permit and could lead to enforcement action by EPA. A toxicity limit was selected for compliance with BAT requirements, rather than separate limits on individual mud constitutents, because of the complexity of drilling mud formulations. The bioassay procedure to be used to determine compliance with the limit is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a). The test organism specified in this bioassay procedure is *Mydisopsis bahia.*

In developing the proposed toxicity limit, Region 9 reviewed the basic formulations of muds, and the specialty additives, including lubricants, which are commonly used in offshore drilling activities. The toxicity of these components, and the factors relating to technology and cost which were evaluated pursuant to section 304(b)(2)(B) of the CWA, are discussed below.

An extensive review of offshore drilling practices has demonstrated that there are eight basic formulations of water-based drilling muds in use. These muds have been termed "generic drilling muds." The lower 95% confidence limit LC_{50} (worst-case bioassay result) for the generic muds, as determined by recent testing at EPA's Gulf Breeze Laboratory, occurred at 30,000 ppm (Duke and Parrish, 1984). Therefore, the proposed toxicity limit represents the most stringent 96 hour LC_{50} which would allow each generic mud to be discharged.

Region 9 has also reviewed the types of specialty mud additives which have been used in waters offshore California in the last two years and the degree to which these additives affect overall mud toxicity. The review showed that additives are available which can be combined with generic muds to meet the proposed toxicity limit and which can still perform nearly all specialty functions needed by operators. Moreover, Region 9 has, from inspections and Discharge Monitoring Reports (DMR's), reviewed whole muds actually used in offshore operations and the results demonstrated that 9 out of 10 would meet the proposed toxicity limit. Therefore, Region 9 has concluded that mud formulations with LC_{50}'s greater than 30,000 ppm are adequate to perform drilling functions in the vast majority of cases.

Of the specialty additives occasionally needed in drilling operations, lubricating additives are generally believed to have the greatest potential for increasing mud toxicity. Duke and Parrish (1984) found a strong correlation between diesel oil content in drilling muds and overall mud toxicity. These authors further determined that mineral oil, while also increasing mud toxicity, is substantially less toxic than diesel oil.

Drilling mud lubricants are used for two purposes, torque-reduction and spotting. For torque-reduction, lubricants are added to the entire mud system to reduce friction between the drillstring and the wall of the hole. If a portion of the drillstring becomes stuck against the wall of the hole, a spotting operation is usually needed.

At a national meeting sponsored by EPA in Denver, Colorado (June 11–12, 1984), industry representatives indicated that mineral oil is an adequate substitute for diesel for torque-reduction purposes. (Technical Resources, 1984a). Therefore, because substitute products are acknowledged by industry to be available, the proposed permit prohibits the discharge of drilling muds in which diesel oil is added as a torque-reducing lubricity agent (Condition II.A.1(h)). This

prohibition on the discharge of diesel oil is discussed further in Section VI.C.2.

In a spotting operation, diesel or mineral oil is normally added to only a small fraction of the mud system. The mud containing the oil is then pumped to the stuck portion of the drillstring where the additional lubricity of the mud frees the pipe. Under the proposed permit, upon completion of the spotting operation, the diesel oil-contaminated mud or "pill," and a buffer zone around the pill, is removed from the mud system for onshore disposal. However, some amount of residual diesel may remain in the mud system due to diffusion of the pill.

Diesel oil has been the product of choice for use in a pill due to its ready availability at the facility although use of mineral oil is becoming more common as a substitute for diesel in spotting operations. Pruett II (1984) provides some examples of the successful use of mineral oil for spotting off Southern California. In view of the limited operational data in Region 9 offshore waters, however, the proposed permit authorizes the discharge of muds containing residual diesel from spotting operations provided the followng conditions are met: (1) The diesel pill and a minimum of 50 barrels of mud on each side of the diesel pill and associated cuttings are removed from the mud system and not discharged, *and* (2) the overall mud toxicity limit is not violated by the remaining mud. The requirement for mud removal is established pursuant to NPDES permit regulations at 40 CFR 122.44(k) (best management practices). Compliance with the toxicity limit must be demonstrated by bioassay data from mud samples taken from the mud system immediately prior to and subsequent to pill removal.

In addition to the technology-related factors discussed above, in developing the proposed mud toxicity limit, Region 9 considered the costs associated with achieving effluent reduction. In this context, Region 9 evaluated the costs of land disposal of all drilling muds. In a study of alternatives to on-site disposal, Sobotka & Company (1984) estimated that such costs could exceed 7.5% of the total cost of an exploratory drilling operation (assuming $100,000/day for such operation). Region 9 has determined from this study that to require land dispoal of all drilling muds would be economically burdensome, and would be accompanied by adverse impacts such as port congestion, truck and workboat emissions, and strain on the available capacity of land disposal sites. Therefore, Region 9 has concluded that land disposal of all drilling muds would not be an appropriate BAT requirement.

Region 9 believes, however, that the proposed toxicity-based limit, minimum 96 hour LC_{50} of 30,000 ppm (SPP), is economically achievable where the cost of barging muds to shore would be only infrequently incurred. As discussed previously, data from Region 9 inspections and DMR's indicate that 90% of the tested whole muds which had actually been used in drilling operations would meet the proposed toxicity limit. Therefore, even if 10% of all drilling muds had to be barged to shore for disposal, the aggregate cost to the industry would amount to only .75% (assuming a linear relationship between cost and barging frequency). In addition, Region 9 believes that through product substitution and more operator experience with new additives, the number of mud systems requiring land disposal can be further reduced, thereby resulting in still lower costs.

When Region 9 originally solicited comments for proposals being considered for a toxicity limit for discharged drilling muds in July, 1984, industry representatives claimed that a limit of 30,000 ppm was too stringent in that it would not allow the discharge of muds containing mineral oil in needed concentrations. Region 9 has reviewed the use of mud lubricants off Southern California in the last two years and believes that this claim is exaggerated.

In 1984, Duke and Parrish conducted a study in which mineral oil in concentrations of 1, 5, and 10% was added to generic muds #2 and #8. Toxicity tests revealed that at a concentration of 1%, the 96 hour LC_{50}'s (SPP) for muds #2 and #8 were 134,000 ppm and 71,000 ppm respectively, well above the toxicity limit in the proposed permit. At a concentration of 5%, the LC_{50}'s for these muds were 18,000 ppm and 9,000 ppm respectively, slightly below the proposed limit. However, Region 9's records of mud usage on the California OCS show that mineral oil, or additives containing mineral oil, are seldom needed at concentrations greater than approximately 1%. Therefore, compliance with the proposed toxicity limit should be attainable for the vast majority of drilling operations, including those for which lubricity additives are needed.

THUMS Long Beach Co. (operated by a consortium of major oil companies), in a recent request for modification of Ocean Dumping Permit OD 82-01 (ocean disposal of drilling muds and cuttings), conducted bioassays on typical and "worst case" muds needed for the company's extensive drilling program in Long Beach Harbor. The "worst case" mud contained constituents, including lubricants and other additives, at concentrations which the company itself estimated would be adequate for all foreseeable drilling requirements. Nevertheless, the 96 hour LC_{50} for even the "worst case" mud was 35,000 ppm, in compliance with the toxicity-based limit proposed in this permit. These results support the Region's conclusion that muds more toxic than authorized for discharge by this proposed permit should rarely be needed in drilling operations.

As noted above, Region 9 considers the proposed toxicity limit to be economically achievable even if a small number of operations must barge muds to shore for disposal. Therefore, Region 9, using best professional judgment, has determined that the proposed minimum 96 hour LC_{50} of 30,000 ppm is an appropriate toxicity limit for drilling muds which takes into consideration the need for lubricity and other additives.

b. Compliance with Mud Toxicity Limit. Under the existing BPT general permit, Region 9 has approved numerous speciality additives based on bioassay data and informed offshore operators of these determinations. This regulatory approach has allowed operators to use these approved additives in drilling operations without conducting additional bioassays. One drawback to this approach, however, is that operators might combine several moderately toxic additives (individually approvable) in one mud and thereby exceed the permit's overall toxicity limit. In order to limit the possibility of such occurrences, Region 9 is proposing two levels of approval for specialty additives, general and conditional:

(1) Additives with $LC_{50} > 100{,}000$ ppm (SPP) when tested in a reference mud at the maximum usage rate would be listed as acceptable for general use and discharge. The reference mud to be used for these tests is the lightly treated lignosulfonate mud (generic mud #7) which has been the most commonly used reference mud to date.

(2) Additives where the LC_{50} is greater than 30,000 ppm and less than 100,000 ppm would be conditionally listed as acceptable, contingent upon the additive's not being used in conjunction with other additives which in combination could result in violation of the permit's overall toxicity limit.

It should be noted that the above provisions pertaining to specialty additives would apply only to generic muds #2-8. The overall mud toxicity limit in the permit is based on the

toxicity of mud #1 with no specialty additives included. However, this does not preclude the use of specialty additives in mud #1. Such additives could be included in mud #1 if the additives did not increase the toxicity of the mud (i.e. the toxicity of the additive is lower than the toxicity of the mud which would be replaced), or if the basic components of mud #1 were used at concentrations lower than the maximum allowed concentration to offset the effects of specialty additives.

In all instances, regardless of whether an additive is listed as acceptable for general use or is conditionally accepted, the discharger will be responsible for demonstrating compliance with the whole mud toxicity limit. Estimates of joint toxicity for muds containing conditionally accepted additives may be made using Equation (1) from Sprague and Logan (1979):

$$\frac{10^6}{LC_t} = \frac{C_g}{LC_g} + \sum_{i=1}^{N} \frac{C_i}{LC_i} \quad (1)$$

Where

LC_t is the 96 hour LC_{50} of the generic mud including mud additives in ppm

C_i is the concentration of the ith additive in ppm

LC_i is the 96 hour LC_{50} of the ith additive in ppm

C_g is the concentration of the generic mud in ppm

LC_g is the 96 hour LC_{50} of the generic mud in ppm

The above regulatory approach to mud additive regulation offers the following advantages:

(1) Since the LC_{50} of most specialty additives is greater than 100,000 ppm, general listing of acceptability for discharge, following an initial bioassay, could be given for most additives to be discharged, thus providing desirable flexibility for operators.

(2) It is unlikely that violations of the permit's whole mud toxicity limit (minimum of 30,000 ppm) would result from the combination of additives acceptable for general use and discharge. For example, if it is assumed that (a) LC_{50} of the reference mud = 500,000 ppm, (b) mud constituent toxicity is additive according to the above equation, and (c) additive usage by weight is small relative to the basic mud constituents, four specialty additives with LC_{50} = 100,000 ppm each used at its maximum concentration would be necessary to produce a mud with an overall LC_{50} approximating the permit limit of 30,000 ppm. This calculation proceeds by first determining LC_i for each additive using the Sprague and Logan formula. In the above example assuming additive usage of 2 lbs/bbl in a 10 lbs/gal mud, LC_i would be 594 ppm. Four such additives included in a generic mud (LC_g = 500,000 ppm) would produce a mud with an LC_{50} of 29,400 ppm.

Greater assurance that the permit's whole mud toxicity limit would not be violated could be obtained by increasing the minimum LC_{50} for listing additives as acceptable for general use. However, Region 9 believes that 100,000 ppm is a reasonable minimum which would allow general acceptance of most additives and also provide a high degree of assurance that the permit's overall toxicity limit would not be exceeded by muds in actual use. Listing and toxicity information for mud additives may be obtained from Region 9 at the above address.

The proposed permit requires a demonstration of compliance with the overall toxicity limit for each mud system which is used and discharged. The term "mud system" refers to the major types of drilling muds which are used during the drilling of a single well. For example, drilling would probably commence with a spud mud for the first several hundred feet. Then a seawater gel mud might be used to a depth of about 1,000 feet. Subsequently a lightly treated lignosulfonate mud might be used to a depth of around 5,000 feet. Finally, a freshwater lignosulfonate system might be used for the remainder of the drilling operation to a depth of about 15,000 feet. Typically a bulk discharge of 1,000 to 2,000 barrels of mud occurs when the mud system is changed. It is at these times that compliance with the permit's toxicity limit must be demonstrated. The bulk discharges are the highest volume mud discharges and will include all specialty mud components added to each mud system. As such, Region 9 believes that the bulk discharges are the most appropriate discharges for which to require a demonstration of compliance with the toxicity limit. In the above example four such demonstrations would be required for the drilling of the well.

Except for the final mud system used at the time maximum well depth is reached, this demonstration may consist of toxicity calculations as discussed above, exclusive use of generic muds and additives listed as acceptable for general use or an acutal mud bioassay. A bioassay is required for the final mud discharge irrespective of mud composition. This is the time when the maximum mud toxicity is likely to be reached due to the increased need for specialty additives at greater depths. Given the uncertainties of the methods for estimating mud toxicity, Region 9 believes that at least one actual bioassay per well should be required. The bioassay procedure to be used is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a).

2. Diesel oil. As discussed above, the proposed permit prohibits the discharge of diesel oil as a torque-reducing lubricity additive. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation. The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthanlene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnapthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

Region 9 believes that the limitations achieved by product substitution or land disposal of contaminated muds and cuttings represent the technically feasible and economically achievable BAT-level of control for the various toxic pollutants to be controlled. Establishing limitations on these

pollutant parameters as indicator pollutants, avoids the costly and technically complex requirement of complying with specific limitations on each of the toxic pollutants. Monitoring and analyzing all waste streams to confirm compliance with specific effluent limitations for each of the toxic pollutants is not considered by Region 9 to be economically justified at this time.

3. Mercury and Cadmium Contamination of Barite. The proposed permit limits mercury and cadmium as trace contaminants in barite to 1 mg/kg and 2 mg/kg, respectively (Condition II.A.1(g)). Barite is mined from either bedded or vein deposits. The bedded deposits are characterized by substantially lower concentrations of heavy metal contaminants such as mercury and cadmium (Nelson, Lui, and Sommers, 1980; Kramer, Grundy and Hammer, 1980). By limiting the mercury and cadmium in barite, the proposed permit also serves to limit the concentrations of the other contaminants as well. The numerical values for the limits were based on data in the above references and in Technical Resources, Inc. (1984d) while allowing for a reasonable variability in the quality of bedded deposits. Compliance with this limit is achievable through product substitution, i.e. the utilization of uncontaminated sources of barite for offshore purposes in place of contaminated sources.

According to data collected by the EPA Industrial Technology Division, nearly half of the barite consumed in the United States is produced in the Battle Mountain, NV area which is a source of bedded or uncontaminated barite. Since offshore usage of barite constitutes only 25% of total domestic barite usage, an adequate supply of uncontaminated barite would be available for offshore usage nationwide if only ½ of the Nevada source were dedicated to offshore uses. It is preferable from an environmental point of view to use the uncontaminated barite for offshore operations where the mud is discharged and to use the contaminated barite onshore where the mud is land disposed.

At a workshop sponsored by EPA in Santa Barbara, CA (July 27–29, 1984), an industry representative indicated that all Southern California offshore operators are already using the Nevada barite for their drilling mud (Technical Resources, Inc., 1984b). This is apparently due to the proximity of the Nevada source to Southern California. In view of this fact, Region 9 believes that the proposed limitation should be economically achievable and not disruptive to the barite market. It should also be noted that the Nevada barite is high density barite and need not be blended with other barite to achieve specifications.

4. Prohibition of Chrome Lignosulfonate. The proposed permit prohibits the discharge of chrome lignosulfonate (Condition II.A.1(j)) in order to prevent the discharge of the toxic pollutant chromium. Substitutes for chrome lignosulfonate are available (such as iron or calcium lignosulfonate) which, according to Region 9's mud usage records, are already in use by approximately two-thirds of California OCS operators. Region 9 recognizes that chrome lignosulfonate may have advantages over other legnosulfonates such as stability over a greater temperature range. However, given the widespread use of substitutes for chrome lignosulfonate, Region 9 believes that this prohibition has been demonstrated to be technologically and economically achievable.

5. Other toxic and nonconventional compounds. The discharge of halogenated phenol compounds (a class of compounds which includes several toxic pollutants) is prohibited in accordance with a Minerals Management Service Operations Order.

As noted previously, the existing BPT guidelines require a residual chlorine concentration in the sanitary discharge of at least 1 mg/l which is to be maintained as close to 1 mg/l as possible. This requirement is being proposed as a BCT limit for this draft permit also (for control of the conventional pollutant, fecal coliform). JRB Associates (1984) concludes that the impacts from the chlorine in the sanitary discharge should be small due to rapid dilution and the low volume of the discharge. Nevertheless, to minimize the potential effects of chlorine in this discharge, Region 9 is also proposing a maximum chlorine residual of 10 mg/l as a BAT limit. Past DMR's in Region 9 show that the vast majority of offshore operators consistently comply with the proposed maximum chlorine limit. Compliance by all operators should be easily achievable through better operation and housekeeping of existing facilities.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

As noted previously, the general NPDES permit authorizing discharges from offshore oil and gas exploration, development and production facilities off Southern California was originally issued on February 18, 1982 (47 FR 7312). The term of the permit was two years with an expiration date of December 31, 1983. On December 8, 1983, Region 9 reissued the permit for an additional 6 month period ending on June 30, 1984 (48 *FR* 55029). Region 9 concluded in both permit issuances that the authorized discharges would not cause unreasonable degradation of the marine environment. The conclusions were based on the limited duration of the permits, the limited extent of offshore activity anticipated during the terms of permits and the fact that the permitted facilities would be subject to effluent limitations, monitoring requirements and other conditions contained in the permit. Short-term permits were issued because Region 9 believed that additional information was necessary concerning longer-term, cumulative effects of the discharges prior to issuance of a normal 5 year permit. The issuance of the short-term permits also provided additional time for ongoing and new studies to be completed which would assess the longer-term and cumulative effects of permitted discharges.

Many of these studies have not been completed. Since the reissuance of the last Region 9 OCS general permit, the National Research Council (NRC) completed a major assessment of the fate and effects of drilling muds and cuttings discharges into the marine environment, including long term cumulative effects (NRC, 1983). The NRC study draws from the many laboratory and field studies which have been conducted in recent years. The report concludes that the risks to the marine environment are small from individual operations such as a single exploratory drilling operation. However, the study failed to conclude that "massive development" of an offshore oil field would not cause significant degradation of the marine environment.

Considerable drilling activity is projected for offshore California in the coming years particularly in the western Santa Barbara Channel and Santa Maria Basin. MMS has estimated that a total of 74 exploratory wells and 751 development wells would be drilled in the proposed general permit area during the term of the permit.

EPA has funded two additional studies in an effort to determine whether this expected level of offshore activity would or would not cause unreasonable degradation of the marine environment. An Ocean Discharge Critereia Evaluation (ODCE) was performed by JRB Associates of Seattle, WA (JRB Associates, 1984). This study was supplemented by a hazard assessmen prepared by Dr. Gary Petrazzuolo in which the long-term cumulative effects

of mud and cuttings discharges are evaluated (Technical Resources, Inc., 1984c). These studies concluded that discharges accompanying production platforms could cause unreasonable degradation unless additional controls are imposed in the permits. However, the analyses did conclude that unreasonable degradation would not be expected from exploratory operations projected during the term of the permit. As noted previously, the NRC reached a similar conclusion regarding exploratory operations in its extensive review of the effects of mud and cuttings discharges in the marine environment. In view of the results of these studies and after reviewing other information, studies and documents in the administrative record for general NPDES permit No. CA0110516, Region 9 has concluded that the proposed mud and cuttings discharges from exploratory operations would not cause unreasonable degradation of the marine environment, with the exception of discharges within 1,000 m of the Channel Islands Marine Sanctuary. In this area, Region 9 is proposing a special requirement for mud discharges. See section VI. D.1.

Many of the other discharges (discharges 002–012) which would be authorized by the proposed permit are discharges associated with the normal operation of a ship. The low volumes and pollutants loadings of these discharges should not cause unreasonable degradation of the marine environment.

The Ocean Discharge Criteria at 40 CFR 125.123(a) provide for the application of any conditions specified in 40 CFR 125.123(d) which are necessary to ensure that unreasonable degradation of the marine environment does not occur as a result of the permitted discharges. The proposed permit contains two special conditions which were included pursuant to the Ocean Discharge Criteria. These conditions are discussed below.

1. *Mud discharges in the Vicinity of the Channel Islands Marine Sanctuary.* Region 9 is proposing a special discharge limitation applicable to drilling mud discharges on tracts within 1,000 m of the Channel Islands Marine Sanctuary which were leased subsequent to the effective date of the sanctuary regulations. See section VIII.C. The proposed permit would prohibit mud discharges on such tracts which would result in exceedences of a limiting permissible concentration (LPC) inside the boundaries of the marine sanctuary (Condition II.A.1(i)). The LPC is 1 percent of the 96 hour LC_{50} for a given drilling mud. Region 9 believes that the proposed condition will provide appropriate additional protection for the sanctuary and equitable treatment for lessees.

2. *Reopener Clause.* The Ocean Discharge Criteria regulations require that the reopener clause found in 40 CFR 125.123(d)(4) be included in permits issued pursuant to 40 CFR 125.123(c) (no irreparable harm). Since Region 9 concluded that no unreasonable degradation would occur from the proposed discharges, the reopener clause is optional. Permits issued pursuant to 40 CFR 125.123(a) (no unreasonable degradation) may include any necessary conditions specified in 40 CFR 125.123(d). Given the scope of the proposed permitting action, Region 9 believes inclusion of the reopener clause is prudent. This condition is included as Condition II.A.5 in the draft permit.

E. Best Management Practices for Dispersants, Surfactants, and Detergents

The facility operator is required to minimize the discharge of dispersants, surfactants and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the Minerals Management Service. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. This restriction is imposed because detergents disperse and emulsify oil, therby increasing toxicity and making the detection of a discharge of oil more difficult. These limitations have been established pursuant to NPDES permit regulations at 40 CFR 122.44(k) (best management practices).

VII. Monitoring and Enforcement

Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, and well treatment fluids. Discharge Monitoring Reports must be submitted within 28 days following completion of each well. A chemical inventory of all materials actually added down the well must be maintained and all records retained for three years. Composition data for drilling muds which are used and discharged must be provided to Region 9 upon completion of each well.

Condition II.A.1(e) requires bioassay testing of muds to demonstrate compliance with permit toxicity limitations if an operator discharges other than generic muds or uses additives for which adequate data are not provided to determine compliance with permit limits. A bioassay is required for the final mud system when the well reaches its maximum depth, regardless of mud composition.

Condition II.A.1(k) requires that the permittee notify Region 9 (or other designated agency) 48 hours prior to the final mud discharge so that Region 9 may have an opportunity to sample the final mud. This provision will aid in ensuring compliance with permit conditions. Also, the permittee is required to keep a record of days of discharge of each mud system and the volume of discharge. (Condition II.A.1(a)).

EPA has recently signed a Memorandum of Understanding (MOU) with MMS covering a broad range of OCS activities, including post lease monitoring, inspection and enforcement. Under the MOU, MMS agrees upon written request from an EPA Regional Administrator to sample discharges (such as drilling mud) and forward all samples to EPA for analysis. Region 9 intends to work with the Pacific OCS Office of the MMS through a regional Memorandum of Agreement (currently under development) to establish a program of periodic sampling of drilling muds discharged into Southern California Waters. Region 9 will test the muds for toxicity and for the presence of prohibited subtances. Region 9 believes that such an inspection program will ensure compliance with permit limits. Under the MOU, Region 9 retains the right to conduct its own inspections. Region 9 has in the past conducted such inspections and retains all enforcement responsibilities under the CWA.

VIII. Other Legal Requirements

A. Consistency With California Coastal Zone Management Program

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally licensed activity directly affecting the coastal zone of a state with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. The proposed general permit would not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. However, discharges would be authorized in waters adjacent to the territorial seas of the State of California and as such could affect the coastal zone.

Region 9 has reviewed the requirements of the CZMP and determined that the proposed permit is consistent with the CZMP. Since there are no applicants for general permits, EPA in effect becomes the applicant and

must provide the necessary consistency certification. Region 9 has certified the proposed permit to the California Coastal Commission as consistent with the CZMP.

Since Region 9 has formally certified the permit to the Commission for concurrence, Condition II.B.8 in the previous permit requiring concurrence by the Commission with plans of exploration/development prior to operation under the permit has been deleted.

B. Endangered Species Consultations

The Endangered Species Act (ESA) requires that each Federal agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. Region 9 has concluded that the discharges authorized by the general permit would neither jeopardize the continued existence of any endangered or threatened species nor adversely affect its critical habitat.

In accordance with Section 7 of the ESA, Region 9 has provided a copy of the proposed permit and fact sheet to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service for an evaluation of this conclusion. Copies of all opinions will be included in the administrative record for the final permit.

C. The Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values.

Section 302(f) of the MPRSA requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and can be carried out within its promulgated regulations.

One marine sanctuary exists in the general permit area, the Channel Islands Marine Sanctuary, designated a sanctuary in September 1980. The sanctuary consists of the Channel Islands from Anacapa Island to Richardson Rock and a six nautical mile buffer zone surrounding the islands. Regulations implementing the designation of this area as a marine sanctuary are found at 15 CFR Part 935. These regulations prohibit discharges from hydrocarbon activities on tracts leased after the effective date of the regulations (April 30, 1982).

Discharges on other tracts are not affected by the regulations. Portions of six (6) tracts leased prior to April 30, 1982, and included in the proposed permit, are within the sanctuary boundaries. However, the general permit does not authorize discharges within any tract leased subsequent to the effective date of sanctuary regulations and located wihin sanctuary boundaries. Accordingly, Region 9 believes that the permit is consistent with the requirements of the sanctuary regulations and the MPRSA.

Region 9 is, however, proposing a special discharge limitation applicable to drilling mud discharges on tracts which (1) were leased subsequent to the effective date of the sanctuary regulations and (2) have a portion of the tract lying within 1,000 m of the boundary of the Channel Islands Marine Sanctuary. The proposed permit would prohibit mud discharges on such tracts which would result in exceedences of a limiting permissible concentration (LPC) inside the boundaries of the marine sanctuary (Condition II.A.1(i)). The LPC is 1 percent of the 96 hour LC_{50} for a given drilling mud. For mud discharges within 1,000 m of the boundary of the marine sanctuary, the proposed permit requires a demonstration of compliance with this condition by the permittee based on the toxicity of the mud and an analysis of the mud dilution. For mud discharges occurring at distances greater than 1,000 m from the sanctuary boundary it is assumed, based on the dilution analysis of Petrazzuolo (1983), that the discharge would comply with this requirement. This condition is proposed pursuant to the requirements of Section 403 of the CWA. Region 9 believes that the proposed condition will provide appropriate additional protection for the sanctuary and equitable treatment for lessees.

D. Oil Spill Requirements

Section 311 of the CWA prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of Section 311. However, these permits do not preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties for other unauthorized discharges of toxic pollutants which are covered by Section 311 of the CWA.

E. State Water Quality Standards and State Certification

Since State waters are not included in the general permit area, the provisions of Section 401 of the CWA do not apply.

F. Economic Impact: E.O. 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

G. Paperwork Reduction Act

Region 9 has reviewed the requirements imposed on regulated facilities by the final permit reissuance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements in the final permit have already been approved by the Office of Management and Budget (OMB) under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general permit will explain how its information collection requirements respond to any OMB or public comments.

H. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the final permit reissuance will not have a significant impact on a substantial number of small entities.

This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations at 49 *FR* 5024 et. seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: August 5, 1985.

Charles W. Murray, Jr.,

Acting Regional Administrator.

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[Permit No. CAG280605]

General Permit Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*; the "Act"), the following discharges are authorized:

Drilling Muds, Drill Cuttings, and Washwater (discharge 001),
Well Completion and Treatment Fluids (discharge 002),
Deck Drainage (discharge 003),
Sanitary Wastes (discharge 004),
Domestic Wastes (discharge 005),
Desalinization Unit Discharge (discharge 006),
Cooling Water (discharge 007),
Uncontaminated Bilge Water (discharge 008),
Uncontaminated Ballast Water (discharge 009),
Excess Cement Slurry (discharge 010),
BOP Control Fluid (discharge 011), and
Fire Control System Test Water (discharge 012),

from offshore oil and gas facilities (defined in 40 CFR Part 435, Subpart A) engaged in exploration activities, to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III and IV thereof.

Offshore permittees who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized to discharge to the specified receiving waters unless an individual permit has been issued to the facility by EPA, Region 9.

The authorized discharge sites are (by OCS lease parcel number): in waters west and northwest of Point Buchon.

P-0373 P-0374 P-0375 P-0376 P-0377;

in waters west and northwest of Point Arguello.

P-0393 P-0394 P-0395 P-0396 P-0397 P-0400 P-0401 P-0402 P-0403 P-0406 P-0407 P-0408 P-0409 P-0412 P-0413 P-0414 P-0415 P-0416 P-0418 P-0419 P-0420 P-0421 P-0422 P-0424 P-0425 P-0426 P-0427 P-0429 P-0430 P-0431 P-0432 P-0433 P-0434 P-0435 P-0436 P-0437 P-0438 P-0439 P-0440 P-0441 P-0443 P-0444 P-0445 P-0446 P-0447 P-0448 P-0449 P-0450 P-0451 P-0452 P-0453 P-0491 P-0492 P-0493 P-0494 P-0495 P-0496 P-0497 P-0498 P-0499 P-0500 P-0503 P-0504 P-0505 P-0506 P-0507 P-0508 P-0509 P-0510;

in waters south and west of Pt. Conception.

P-0315 P-0316 P-0317 P-0318 P-0319 P-0320 P-0321 P-0322 P-0323 P-0324 P-0456 P-0457 P-0511;

in the Santa Barbara Channel from Pt. Conception to Goleta Point.

P-0180 P-0181 P-0182 P-0183 P-0184 P-0185 P-0187 P-0188 P-0189 P-0190 P-0191 P-0192 P-0193 P-0194 P-0195 P-0196 P-0197 P-0326 P-0329 P-0459 P-0460 P-0461 P-0462 P-0463 P-0464 P-0465 P-0467 P-0469 P-0475 P-0512 P-0513 P-0514 P-0515 P-0516 P-0517 P-0519;

in the Santa Barbara Channel from Santa Barbara to Ventura.

P-0166 P-0202 P-0203 P-0204 P-0205 P-0208 P-0209 P-0210 P-0215 P-0216 P-0217 P-0231 P-0232 P-0233 P-0234 P-0238 P-0240 P-0241 P-0346 P-0348 P-0349 P-0468 P-0472 P-0473 P-0474 P-0478 P-0479 P-0520 P-0521 P-0522 P-0523 P-0524 P-0525 P-0527

in the waters south of Santa Rosa and Santa Cruz Islands.

P-0480 P-0481 P-0482 P-0483 P-0484 P-0485 P-0486 P-0487 P-0531 P-0532;

in water southwest of Point Dume.

P-0528 P-0529 P-0530

in the San Pedro Channel between San Pedro and Laguna.

P-0296 P-0300 P-0301 P-0306 P-0408

and in waters south and southwest of San Clemente Island

P-0489 P-0490 P-0533 P-0534 P-0535

This permit does not authorize discharge from "new sources" as defined in 40 CFR 122.3.

This permit shall become effective on ———.

This permit and the authorization to discharge shall expire at midnight, ——— (5 years from date of issuance).

Signed this ——— day of ———.

JUDITH E. AYRES,
Regional Administrator, Region 9.

Part I

Commencement and Termination of Operations—Notification Requirements

Written notification of commencement of operations shall be provided to, and received by, the Regional Administrator at least fourteen (14) days prior to initiation of discharges. Modifications of the notification shall be provided to, and received by, the Regional Administrator at least forty-eight (48) hours prior to initiation of discharges. Notification shall be provided for each drillsite. The notification shall identify the permittee (either the owner of the exploratory drillship or offshore platform or the leaseholder), include the statement "We assume full responsibility for compliance with NPDES General Permit No. CAG280605 for the operations listed below" and shall be signed by an authorized representative.

The notification of operations and designation of permittee letter shall contain the following information.

a. Name and address of permittee.

b. Description and location of operation, including parcel number and exact coordinates.

c. Date discharges are proposed to commence.

d. Expected duration of activities.

e. Name of leaseholder, if different from permittee.

f. Names of drilling company and drillship (if applicable).

Permittees shall also notify the Regional Administrator within twenty-eight (28) days upon permanent termination of discharges at these locations. The termination notification letter shall contain the date of the last day of any discharges at the site and the projected next location for the particular drillship if known. The termination notification may be submitted with the discharge monitoring report required by Condition II.C.4.

For operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation, the biological survey report and the plan of exploration shall be provided to EPA prior to initiation of discharges. Initiation of discharge under the permit may not begin until EPA has reviewed the survey report and the proposed operations and determined that this general permit is appropriate for the proposed discharges and notified the permittee in writing of this determination.

Part II

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 001 (drilling muds, drill cuttings and washwater).

a. The permittee shall individually estimate and report the total monthly discharge volume for drilling muds, drill cuttings and washwater. The permittee shall also report the number of days of discharge of drilling muds for each drilling mud system used.

b. There shall be no discharge of free oil as a result of the discharge of drilling muds, drill cuttings or washwater. Compliance with this limit shall be determined in accordance with the procedure in "Static Sheen Test" (U.S. Environmental Protection Agency, 1985b). The test shall be conducted on each day of discharge of drill cuttings or drilling mud. The permittee shall report the number of times free oil was observed.

c. The discharge of drilling fluids which contain waste engine oil, cooling oil, gear oil, lubricant which has been previously used for purposes other than borehole lubrication, is prohibited.

d. The discharge of oil-based drilling muds is prohibited. The discharge of drill cuttings associated with oil-based muds is also prohibited.

e. Drilling mud toxicity. The minimum 96 hour LC_{50} value for drilling muds discharged in compliance with this permit is 30,000 ppm (suspended particulate phase). The permittee shall demonstrate compliance with this limit by conducting and reporting the results of a drilling mud bioassay for each mud system which is used and discharged. Mud samples for the bioassay shall be taken at the time that maximum well depth is reached for each generic mud type and just prior to the intended discharge of the mud.

The bioassay procedure to be used is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a). Bioassay results shall be submitted within 28 days following completion of each well (Condition II.C.4.).

With the exception of the drilling mud system used and discharged when the well reaches its maximum depth, the bioassay requirement shall be deemed satisfied upon a demonstration by the permittee that a discharged mud complies with the requirements of (1), (2) or (3) below.

(1) The mud is generic as defined in Condition IV.C.16.

(2) The mud is generic as defined in Condition IV.C.16. (excluding generic mud #1) and all specialty additives included in the mud satisfy either of the following conditions:

(A) When each additive is included at its maximum concentration in generic mud #7 (lightly treated lignosulfonate mud), the 96 hour LC_{50} value of the resulting mud exceeds 100,000 ppm for the suspended particulate phase. The bioassay procedure shall be that in "Drilling Fluids Toxicity Test" identified above.

(B) Other toxicity data is available for the additive upon which EPA may reasonably conclude that (A) above would be satisfied.

(3) The mud is generic as defined in Condition IV.C.16 and contains additives used in quantities such that the resulting whole mud may, based on bioassay data for similar whole muds or bioassay or toxicity data for the additives, be shown to comply with the overall toxicity limit (30,000 ppm). The permittee shall be responsible for providing the demonstration of compliance. The method in "Separate and Joint Toxicity to Rainbow Trout of Substances Used in Drilling Fluids for Oil Exploration" (Sprague and Logan, 1979) may be used to estimate joint toxicity.

f. Drilling muds Inventory and Reporting Requirements. The permittee shall maintain a precise inventory of all mud constituents added downhole for each well. The composition of each mud system used and dischaged by the permittee shall be reported to EPA. Mud composition data shall be submitted to EPA within 28 days following completion of each well.

g. There shall be no discharge of drilling mud formulated with barite in which the mercury concentration in the barite exceeds 1 ppm or the cadmium concentration in the barite exceeds 2 ppm. An analysis for mercury and cadmium contamination shall be conducted for the barite used by the permittee for each mud system, and the results of the analysis submitted to EPA along with the mud composition data required by (f) above.

h. There shall be no discharge of drilling mud in which diesel fuel oil was added as a lubricity agent. The discharge of drilling muds containing residual diesel from spotting operations is prohibited except in compliance with the following conditions:

(1) The diesel pill and fifty (50) barrels of mud on each side of the diesel pill shall be removed from the mud system and shall not be discharged. The collection period shall begin when the 50 barrel lead buffer surfaces or at the time of first visual evidence of diesel, whichever occurs first. The collection period ends at the time that the 50 barrel trailing buffer is recovered or when no visual evidence of diesel exists, whichever occurs last. Drill cuttings which contact the removed mud shall also not be discharged.

(2) Mud which is discharged shall not exceed the toxicity limitation specified in Condition II.A.1(e). To demonstrate compliance with this requirement the analyses of (A), (B), an (C) below shall be conducted on two (2) mud samples collected as follows: Sample #1 shall be collected from the circulating mud system immediately prior to pumping the diesel oil downhole. Sample #2 shall be collected immediately after 2 complete circulations of the active mud system following recovery of the pill and contaminated mud. Sample #1 and sample #2 shall be taken from the return flow line under the screen and not from the mud pit. If washwater is used on the

screen, then it shall be turned off before these samples are collected.

(A) Bioassay conducted in accordance with the method in "Drilling Fluids Toxicity Test" identified above,

(B) Analysis to determine the concentration of diesel oil in the mud conducted in accordance with the procedure in "Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings" (US EPA, August 1985), and

(C) Sheen test conducted in accordance with the method in "Static Sheen Test" identified above.

(3) The following information is also required:

(A) Composition of basic mud plus specialty additives,

(B) Quantity of contaminated mud removed from mud system,

(C) Disposal site for contaminated mud, and

(D) Time at which the discharge of drilling mud ceased for the purpose of collecting the diesel pill for onshore disposal and the time at which drilling mud discharges recommended subsequent to collection of the diesel pill.

i. Drilling mud discharges on parcels which (1) were leased subsequent to the effective date of the regulations implementing the Channel Islands Marine Sanctuary (April 30, 1982—15 CFR Part 935) and (2) have a portion of the tract lying within 1,000 m of the boundary of the Channel Islands Marine Sanctuary, shall not cause exceedences of the limiting permissible concentration (see Condition IV.C.15) inside the boundary of this marine sanctuary. For such discharges the permittee shall provide a demonstration of compliance with this condition based on the toxicity of the mud and analysis of the mud dilution.

j. There shall be no discharge of chrome lignosulfonate.

k. Reporting the Final Mud Dump. The permittee shall provide verbal notice to EPA (or other Federal agency designated by EPA at a later date) 48 hours prior to the final mud dump upon completion of each well. Notification shall be provided to the Compliance Section, Water Management Division at: Telephone: (415) 974-8275.

l. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: discharge 001, subsequent to all treatment processes and prior to entry into the waters of the Pacific Ocean.

2. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial numbers 002–005.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Serial Nos./outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
002—Well completion and treatment fluids [3].	Volume		Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations. [4]
003—Deck drainage	Volume		Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations. [4]
004—Sanitary waste	Flow rate (MGD)		Once per month	Estimate.
	Residual chlorine 1.0 mg/l [2].		Once per week	Discrete.
005—Domestic waste		No floating solids	Once per day	Visual observations. [4]

[1] The permittee shall make visual observations during daylight hours for the presence of free oil in the receiving water on each day of discharge, and shall report the number of days a sheen was observed. For discharges occurring at night compliance shall be determined using the static sheen test (see Condition II.A.1(b)).

[2] Minimum of 1 mg/l and maintained as close to this concentration as possible (maximum concentration is 10 mg/l). This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons. There shall be no visible floating solids in the receiving waters from this discharge for facilities intermittently manned or permanently manned by nine (9) or fewer persons. For such facilities visible observations for floating solids are required daily and the permittee shall report the number of times floating solids was observed.

[3] The precise chemical composition of these fluids shall be reported to EPA as a supplement to the monitoring report required by Condition II.C.4. of this permit.

[4] The permittee shall make visual observations during daylight hours for the presence of floating solids in the receiving water on each day of discharge, and shall report the number of days floating solids were observed.

b. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may sampled after mixing. In such cases, the discharge limitation shown above for sanitary waste shall apply to the mixed waste stream.

3. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit the permittee is authorized to discharge from outfall(s) serial number(s) 006–012 (miscellaneous discharges).

Discharge 006—Desalinization Unit Discharge:

007—Cooling water
008—Uncontaminated Bilge Water
009—Uncontaminated Ballast Water
010—Excess Cement Slurry
011—Control Fluid From Blow-Out Preventer
012—Fire Control System Test Water

b. There shall be no free oil in the receiving waters as a result of these discharges. The permittee shall make visual observations during daylight hours for the presence of free oil in the receiving water on each day of discharge, and shall report the number of days a sheen was observed.

4. *Reopener Clause.* In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

5. *Effective Date for Monitoring Requirements.* The monitoring requirements shall take effect upon commencement of discharge.

B. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Halogenated Phenol Compounds

There shall be no discharge of halogenated phenol compounds.

3. Surfactants, Dispersants, and Detergents

The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the Minerals Management Service.

4. Sanitary Wastes

Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations until such time as the device is replaced or is found not to comply with such standards and regulations.

C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. Reporting Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering

The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. Reporting of Monitoring Results

Monitoring results obtained during the term of drilling of each exploratory well shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320–1 (DMR). The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not discharged no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's. If no discharges whatsoever occurred from the permittee's facility a report to that effect shall be submitted. The first report is due on the 28th day following completion of each exploratory well. Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address:

Director, Water Management Division, Attn: W–3–2, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time. These records shall be stored on the permittee's offshore facility and shall include drilling mud composition data and well completion fluid composition data.

8. Record Contents

Records of monitoring information shall include:

a. The date, place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

9. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

10. Rubbish, Trash and Other Refuse

The discharge of any solid material not in compliance with other parts of this permit is prohibited. Incineration residue from paper and plastic only is exempt from this prohibition.

D. Reporting Requirements

1. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports

Monitoring results shall be reported at the intervals specified in Part II.C.4 of this permit. The monitoring report shall include:

a. Drilling muds composition data (in lbs/bbl), bioassays results and/or demonstration of compliance with toxicity limits for muds;

b. Static sheen test results for drilling muds, drill cuttings and washwater;

c. Concentration of mercury and cadmium in barite used in drilling muds;

d. Estimates of the volume of discharge of drilling muds, drill cuttings, produced sand, well completion and treatment fluids, deck drainage and sanitary waste; also for drilling muds, the number of days of discharge for each drilling mud system used;

e. Information pertaining to diesel pill disposal, as appropriate;

f. Number of observations of free oil in the receiving water from discharges 002–004 and discharges 007–013; also laboratory sheen test results for discharges 002-004 which occur at night.

g. Residual chlorine measurements for the sanitary wastes discharge or as apppropriate the number of observations of floating solids;

h. Number of observations of floating solids in the receiving water resulting from domestic wastes discharges; and

i. Demonstration of compliance with Condition II.A.l(i) (as appropriate) for mud discharges in the vicinity of the Channel Islands Marine Sanctuary.

3. Twenty-Four Hour Reporting of Noncompliance

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to

reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit;

b. Any upset which exceeds any effluent limitations in the permit; and

c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports during normal business hours (8 a.m.–4:30 p.m.) should be made to the Compliance Section, Water Management Division at telephone #415–974–8275. Twenty-four hour reporting may be made at telephone #415–974–8131. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.D.3.

5. Signatory Requirements

All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.22.

6. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports

The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

Part III

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section.

c. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II.D.3. (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c. of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d(1) of this section.

4. Upset Conditions

a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part II.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part III.B.4 (duty to mitigate).

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply with Toxic Effluent Standards

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violation of Permit Conditions

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 303, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 CFR 122.41 and in 122.62, 122.63 and 122.64. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypasses" (Part III.A.3.) and "Upsets" (Part III.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Part IV—Other Requirements

A. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effluent limitation guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

B. When an Individual NPDES Permit May be Requested

a. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

b. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this permit to that owner or permittee is automatically terminated on the effective date of the individual permit.

c. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

C. Definitions

1. "Cooling water" means once through non-contact cooling water.

2. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

3. "Deck drainage" means all waste resulting from platform washing, deck washings, and run-off from curbs,

gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" includes discharges from galleys, sinks, showers, and laundries.

6. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

8. "Drilling muds" means any fluid sent down the well hole, including any specialty products, from the time a well is begun until the final cessation of drilling in that hole. The term "mud system" refers to the major types of drilling muds used during the drilling of one well. A change in mud system is considered to occur after bulk discharges when one basic type of generic mud is exchanged for another type. A change in mud system is not considered to have occurred when small amounts of specialty mud additives are added to a mud.

9. "Produced sands" means sands and other solids removed from the produced waters.

10. "Sanitary waste" means human body waste discharged from toilets and urinals.

11. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

12. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

13. A "discrete sample" means any individual sample collected in less than fifteen minutes.

14. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

For oil and grease measurements, a "composite sample" means four samples taken over a twenty-four hour period analyzed separately and the four samples averaged. The daily maximum limitation for oil and grease is based on this definition of a composite sample. For measurements other than flow rate or oil and grease, a composite sample means a combination of no fewer than eight individual samples obtained at equal time intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

15. Limiting Permissible Concentration—that concentration which will not exceed .01 of a concentration shown to be acutely toxic (96 hour LC_{50}) to appropriate sensitive marine organisms in a bioassay carried out in accordance with the method in "Drilling Fluids Toxicity Test" identified in Condition II.A.l(e).

16. Generic Drilling Muds.

	Maximum allowable concentration (Pounds per barrel)
1. Seawater/potassium/polymer mud:	
KCl	50
Starch	12
Cellulose polymer	5
Xanthan gum polymer	2
Drilled solids	100
Caustic	3
Barite	450
Seawater	(1)
2. Seawater/lignosulfonate mud:	
Components	
Attapulgite or bentonite	50
Lignosulfonate	15
Lignite	10
Caustic	5
Barite	450
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose polymer	5
Seawater	(1)
3. Lime mud:	
Components	
Lime	20
Bentonite	50
Lignosulfonate	15
Lignite	10
Barite	180
Caustic	5
Drilled solids	100
Soda ash/sodium bicarbonate	2
Freshwater	(1)
4. Nondispersed mud:	
Components	
Bentonite	15
Acrylic polymer	2
Barite	180
Drilled solids	70
Freshwater	(1)
5. Spud mud (slugged intermittently with seawater):	
Components	
Attapulgite or Bentonite	50
Caustic	2
Drilled solids	100
Barite	50
Soda ash/sodium bicarbonate	2
Lime	1
Seawater	(1)
6. Seawater gel mud:	
Components	
Attapulgite or bentonite	50
Caustic	3
Cellulose polymer	2
Drilled solids	100
Barite	50
Soda ash/sodium bicarbonate	2
Lime	2
Seawater or freshwater	(1)
7. Lightly treated lignosulfonate freshwater/seawater mud:	
Components	
Bentonite	50
Barite	180
Caustic	3
Lignosulfonate	6
Lignite	4
Cellulose polymer	2
Drilling solids	100
Soda ash/sodium bicarbonate	2
Lime	2
Seawater to freshwater ratio 1:1 approx.	(1)
8. Lignosulfonate freshwatrer mud:	
Components	
Bentonite	50
Barite	450
Caustic	5
Lignosulfonate	15
Lignite	10
Cellulose polymer	2
Drilling solids	100
Soda ash/sodium bicarbonate	2
Lime	2
Seawater to freshwater ratio	(1)

[1] As needed.

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[FRL-2885-4]

Draft General NPDES Permit for Offshore Oil and Gas Development and Production Activities off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrator of Region 9 is proposing to issue a general NPDES permit (NPDES permit No. CAG280622) which would authorize discharges from facilities engaging in development and production activities for oil and gas in specified Federal waters off Southern California. This permit would be applicable to facilities included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category with the exception of mobile exploratory operations. A general NPDES permit covering both mobile exploratory operations and production platforms was issued by Region 9 on February 18, 1982 (NPDES No. CA0110516–47 FR 7312). This permit was reissued on December 8, 1983, for the six month period ending June 30, 1984 (48 FR 55029).

Rather than reissuing this permit again, however, Region 9 is proposing to issue two general permits, one covering development and production operations (discussed in this notice) and another

general permit covering exploratory operations (published elsewhere today). Studies funded by EPA pursuant to Section 403 of the Clean Water Act (CWA) revealed a significant difference in the state of knowledge concerning the potential environmental effects of exploratory operations and production platforms. As discussed in the **Federal Register** notice for the general permit covering exploratory operations, Region 9 concluded that unreasonable degradation of the marine environment (as defined in 40 CFR Part 125, Subpart M) would not be expected from the exploratory activity anticipated off Southern California in the next 5 years. However, due to the larger quantities of material, the localized concentrations of that material, and the persistence of the material discharged from production platforms, Region 9 concluded that such a determination could not be made for production platforms based on existing data. As a result, different permit requirements are appropriate for exploratory operations and production platforms and Region 9 believes two general permits should be issued which reflect these differences.

General NPDES permit No. CAG280622 would become effective on publication following the Region's consideration of public comments and expire 5 years from the effective date. The area to be covered by the proposed permit consists of those offshore tracts currently considered active by the Minerals Management Service (MMS) and leased by MMS from Lease Sale Nos. 35, 48, 53, 68, 73, 80 and the 1966 and 1968 Federal lease sales.

The draft general permit contains effluent limitations requiring Best Available Technology Economically Achievable (BAT) for toxic and nonconventional pollutants and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants as required by sections 301(b)(2) (A), (C), (D), (E), and (F) of the CWA.

Since the Agency has not promulgated BAT/BCT effluent limitations guidelines for the Oil and Gas Extraction Point Source Category, the effluent limits in the permit were developed by Region 9 using best professional judgment (BPJ) as authorized by section 402(a)(1) of the CWA and 40 CFR 125.3. The requirements of section 403 of the CWA (Ocean Discharge Criteria) and regulations promulgated by EPA pursuant to section 403(c) (40 CFR Part 125, Subpart M) were also included in the development of the permit effluent limitations and other conditions. See Section VI.D below.

This proposed permit does not authorize discharges from facilities located in the territorial seas of the State of California or any body of water landward of the inner boundary of the territorial seas or any wetlands adjacent to such waters (facilities in the "Onshore" and "Coastal" subcategories defined in 40 CFR Part 435).

As required by section 307(c)(3)(A) of the Coastal Zone Management Act, Region 9 has certified the proposed permit to the California Coastal Commission as consistent with the State Coastal Zone Management Plan (CZMP).

As required by the Endangered Species Act (ESA), Region 9 has reviewed the effects of the proposed discharges on endangered or threatened species found in the general permit area. Region 9 has concluded that the proposed discharges would not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitats. Pursuant to section 7 of the ESA, Region 9 has provided copies of the proposed permit and fact sheet to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and requested a formal evaluation of this conclusion.

The permit does not authorize discharges from facilities defined in 40 CFR 122.2 as "new sources". However, when new source performance standards (NSPS) become effective, Region 9 will issue new permits.

Copies of the fact sheet and draft permit may be obtained from the address below. The administrative record for this permit is available for public review at Region 9 at this address listed below.

DATES: *Comment Period*—Interested persons may submit comments on the draft general permit to the Regional Administrator at the address below no later than October 7, 1985.

Public Hearing: A public hearing to consider proposed general NPDES permit No. CAG280622 covering development and production activities and also the proposed general permit covering exploratory activities (NPDES No. CAG280605) will be held as follows:

Date: September 26, 1985.

Times: 10 a.m.; 2 p.m.; 7:30 p.m.

Place: Sheraton Santa Barbara Hotel, El Cabrillo Room, 2nd Floor, 1111 East Cabrillo Blvd., Santa Barbara, CA 93103.

The public hearing will be conducted pursuant to 40 CFR 124.12 and is for the purpose of receiving comments from the public on the proposed issuance of the two general permits. All interested persons are invited to submit their views.

Oral statements at the hearing will be received and considered, but for accuracy of the record all important testimony should be submitted in writing so that there will be time for all interested persons to be heard. A record of the proceedings will be made for consideration by Region 9 before final action is taken. It will contain all written and oral comments and be available for public inspection. Under the NPDES regulations (40 CFR Part 124) any evidence or comment that any person wishes to rely upon to contest any determination that Region 9 may make must be submitted at the public hearing or during the comment period unless good cause is shown for not doing so.

ADDRESS: Comments should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105, (Telephone Number (415) 974–8330).

FOR FURTHER INFORMATION AND COPIES OF DRAFT PERMITS CONTACT: Eugene Bromley, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (Telephone Number (415) 974–8330).

SUPPLEMENTARY INFORMATION AND FACT SHEET

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the CWA provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations (40 CFR 122.28), EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require similar monitoring requirements; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations (40 CFR 122.28(c)) the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, such as areas of biological concern, for which separate permit conditions are required,

a separate individual or general permit may be required by the Regional Administrator.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by applying for individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Management Division, EPA, Region 9. A source located within a general permit area, excluded from coverage under the permit solely because it already has an individual permit (other than a permit that has been continued under the Administrative Procedure Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation and termination of general permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the CWA that is enforceable under section 309 of the CWA.

II. Geographic Area of the General Permit

As noted earlier, the general permit for development and production facilities authorizes discharges on lease parcels in Federal waters off Southern California currently considered active by the MMS. Included are tracts from Lease Sale Nos. 35, 48, 53, 68, 73, 80 and the 1966 and 1968 Federal release sales.

The proposed general permit area differs from the existing general permit area in two respects: (1) 36 new parcels would be added as authorized discharge sites to reflect recent leasing activity by the MMS and (2) 44 parcels would be deleted due to expiration of the leases. Eight new tracts in the Santa Maria Basin were awarded by the MMS as a result of Lease Sale No. 73. The lease numbers of these parcels are P–0503 through P–0510, inclusive. Twenty-three new tracts were awarded as a result of Lease Sale No. 80. The lease numbers of these parcels are P–0511 through P–0517, P–0519 through P–0525 and P–0527 through P–0535.

Also, as a result of a recent Supreme Court decision (*Secretary of the Interior* v. *California*, 104 S. Ct. 656 (January 11, 1984)) 5 tracts from Lease Sale No. 53 which had been under litigation were also awarded by MMS. The lease numbers of these parcels are P–0373 through P–0377.

The new parcels are in the same general area as the parcels on which discharges were previously authorized. The effects of the proposed discharges throughout the entire area (new and old parcels) were analyzed in the Ocean Discharge Criteria Evaluation (see Section VI.D) and in the environmental impact statements accompanying the lease sales. Based on a review of these documents, and the criteria for the issuance of a general permit, Region 9 believes that facilities operating in the area covered by this proposed permit are more appropriately regulated by a general permit than by individual permits.

The lease numbers of the parcels which would be deleted are P–0186, P–0295, P–0325, P–0327, P–0328, P–00330 through P–0345, P–0347, P–0350 through P–0364, P–0366, P–0367, P–0369, P–0404, P–0405, P–0410 and P–0411.

III. Covered Facilities and Nature of Discharges

The proposed permit would apply to the following types of facilities:

1. *Existing sources*—all development and production facilities currently operating in the general permit area complying with the notification requirements of Part I of the permit.

2. *New discharges*—all development and production facilities commencing operations after the effective date of the permit complying with the notification requirements of Part I of the permit.

The following fifteen discharges may result from the proposed operations:

Discharge 001—Drilling Muds and Cuttings and Washwater

Drilling mud is defined as any fluid sent down the hole including gelling compounds, weighting agents, and any specialty products, from the time a well is begun until final cessation of drilling in that hole. There are two basic types of muds, water-based and oil-based. Water-based muds are usually mixtures of fresh water or sea water with clays. Oil-based muds (includes invert emulsion muds) are mixtures of diesel or mineral oil and clays with water or brine emulsified in the oil.

Drilling muds are used in both exploration and production drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may require other additives in the drilling muds. Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling muds and separated from the fluids on the platform by solids separation equipment (screens and shakers).

The washwater is used to clean the drill cuttings prior to discharge. Drilling mud, and oil, and additives if used, remain with the drill cuttings after the solid separation equipment. These materials are removed from the cuttings to ensure compliance with disharge limitations.

Discharge 002—Produced Water

Produced water includes water and suspended particulate matter, brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations.

Producted water is primarily generated during the production phase of oil and gas operations with the amount generated dependent upon the method of recovery and the nature of the formation. Geologic formations contain different oil-water or gas-water mixtures which are produced at different times:

1. In some formations, water is produced with the oil and gas in the early stages of production;

2. In others, water is not produced until the formation has been significantly depleted; and

3. In still others, water is never produced.

Discharge 003—Produced Sand

Produced sand includes sands and other solids removed from the produced water.

Discharge 004—Well Completion and Treatment Fluids

Well completion fluids are low solids drilling fluids used to drill into the hydrocarbon producing zone and complete the well. The solids content of normal drilling muds may damage the porous rock of the production zone. Well treatment fluids are used to increase the rate of flow of hydrocarbons from a well already on production.

Discharge 005—Diatomaceous Earth Filter Media

Diatomaceous earth is used on some production platforms to filter seawater which is subequently used to make completion fluid. The completion fluid itself may also be filtered to remove suspended contaminants picked up in the well. Discharge 005 would include diatomaceous earth, contaminants removed from seawater and other material removed from completion fluid.

Only diatomaceous earth used in making completion fluid or in filtering

completion fluid would be authorized for discharge. The estimated volume of the discharge is 1,500 lbs of diatomaceous earth per well.

Discharge 006—Deck Drainage

This discharge includes water resulting from platform washings, deck washing, tank cleaning operations, and runoff from curbs, gutters, and drains including drip pans and work areas.

Discharge 007—Sanitary Wastes

Sanitary wastes include human body waste discharged from toilets and urinals.

Discharge 008—Domestic Wastes

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys. All galley wastes are macerated before flushing.

Discharge 009—Desalinization Unit Discharge

Desalinization unit discharge means and wastewater associated with the process of creating fresh water (for various purposes on the platform) from seawater.

Discharge 010—Cooling Water

Cooling water means once-through, non-contact cooling water.

Discharge 011—Uncontaminated Bilge Water

Uncontaminated bilge water is water that enters the lower holds of the facility and accumulates in the bilge areas.

Discharge 012—Uncontaminated Ballast Water

Ballast water is water used by a facility to maintain proper stability.

Discharge 013—Excess Cement

Excess cement is unused cement discharged after a well cementing operation. Cement is used to bond the casing (large diameter steel pipe) to the wall of the hole. The casing prevents the caving in of the hole.

Discharge 014—Blow-out Preventer (BOP) Control Fluid

Blow-out preventer fluid is a mixture of water and 1–2% hydraulic fluid (generally ethylene glycol and water) vented at the ocean floor during periodic testing of the blow-out preventer system as required by the Minerals Management Service.

Discharge 015—Fire Control System Test Water

Fire control system test water is sea water discharged during periodic testing of the fire control system.

IV. Notification Requirements for Commencement and Termination of Operations

Written notification of commencement of operations must be provided to, and received by, the Regional Administrator at least fourteen (14) days prior to initiation of discharges (Part I). This notification must be provided for each drillsite and must identify the permittee assuming responsibility for compliance with the permit. Permittees shall also notify the Regional Administrator within twenty-eight (28) days upon termination of discharges at each location.

For operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation, the biological survey report and the plan of development must be provided to Region 9 prior to initiation of discharges. Initiation of discharge under the permit may not begin until Region 9 has reviewed the survey report and the proposed operations, and has determined that this general permit is appropriate for the proposed discharges, and has notified the permittee in writing of this determination.

V. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402 and 403 of the CWA provide the basis for the permit conditions contained in the draft permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part VI.

A. Technology-Based Effluent Limitations

1. BPT Effluent Limitations:

The CWA requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 FR 22069).

BPT effluent limitations guidelines require "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation requires that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines [40 CFR 435.11(d)]. The BPT effluent limitations guideline for sanitary waste requires that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline requires no discharge of floating solids. BPT limitations on oil and grease in produced water allow a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. BAT and BCT Effluent Limitations

All permits issued after July 1, 1984, are required by section 301(b)(2) of the CWA to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT) and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). BAT and BCT effluent limitations must be at least as stringent as BPT limitations since they are intended by the CWA to represent a higher level of treatment. Permits in effect after July 1, 1987, must impose effluent limitations which control nonconventional pollutants by means of BAT.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development by the EPA Industrial Technology Division and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using best professional judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This proposed permit incorporates BAT and BCT effluent limitations based on Region 9's best professional judgment.

As required by section 304(b)(2)(B) of the CWA, in developing the BPJ/BAT permit conditions, Region 9 considered: the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Regional Administrator deems appropriate.

The type of equipment and processes employed in development and production operations are well known to Region 9. Region 9 has previously issued

general and numerous individual permits for such operations. The administrative records for this permit and the earlier permits thoroughly discuss the types of equipment, facilities and processes employed in developmental and production operations. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated and a discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the CWA, Region 9 considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT: therefore, if the candidate BCT technologies fail the BCT "cost test", BCT effluent limitations are set equal to BPT.

Region 9's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to Region 9's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular waste stream. With respect to the BCT "cost test," all BCT limitations for this proposed permit are equal to the BPT effluent limitations guidelines or to Region 9's best professional judgment determinations of BPT. Therefore, no incremental cost would be incurred.

B. Ocean Discharge Criteria

Section 403 of the CWA requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The determination of unreasonable degradation must be based on the following factors: Quantities, composition, and potential for bioaccumulation or persistence of the pollutants discharged; potential transport of such pollutants; the composition and vulnerability of biological communities exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites; potential impacts on human health; impacts on recreational and commercial fishing; applicable requirements of approved Coastal Zone Management Plans; marine water quality critera developed pursuant to section 304(a)(1) of the CWA; and other relevant factors.

C. Section 308 of the Clean Water Act

Under Section 308 of the CWA and 40 CFR 122.44(i) the Administrator must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. Region 9 has proposed several monitoring requirements for the effluent limitations proposed in this permit, as listed in Section VI.

VI. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B. through D. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory
Drilling Muds and Cuttings:	
No free oil	BCT.
No floating solids	BCT.
No oil-based muds and associated cuttings.	BCT.
Mud toxicity limit	BAT.
No chrome lignosulfonate	BAT.
No diesel except in spotting operations.	BAT.
Removal of 50 bbls on each side of diesel pill.	Section 304 (BMP)
Hg/Cd limits in barite	BAT.
Monitoring for metals and toxicity	Section 308.
Monitoring of volume discharged	Section 308.
Inventory of added substances	Section 308.
LPC requirements in vicinity of Channel Islands Marine Sanctuary.	Section 403(c)
Notification prior to final discharge upon completion of well.	Section 308.
Reopener clause	Section 403(c).
Field monitoring study	Section 403(c).
Bioassays with northern anchovy	Section 403(c).
Produced Water:	
Oil/grease limits of 48/72 mg/l	BCT.
Metals/toxic organics limits	Section 403(c).
Inventory of added substances	Section 308.
Monitoring of discharge rate	Section 308.
Produced Sand:	
No free oil	BCT.
Monitoring of volume discharged	Section 308.
Well Completion & Treatment Fluids:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
Inventory of added substances	Section 308.
Deck Drainage:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
Limits on dispersant, surfactants and detergents.	Section 304 (BMP).
Sanitary Wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities with more than 10 people) to control fecal coliform.	BCT.
Monitoring of discharge rate	Section 308.
Maximum chlorine concentration of 10 mg/l.	BAT.
Domestic Wastes:	
No floating solids	BCT.
Monitoring of discharge rate	Section 308.
Miscellaneous Discharges:	
No free oil	BCT.
Monitoring of discharge rate	Section 308.
All Discharges:	
No halogenated phenols	BAT.
No floating solids	BCT.

B. BCT Requirements

1. Free Oil and Oil-Based Muds and Cuttings

No discharge of free oil is permitted from discharges authorized by this permit. Region 9 has determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge

of deck drainage, drilling muds, drill cuttings, and well completion and treatment fluids should apply to other discharges, including diatomaceous earth filter media, uncontaminated bilge water, uncontaminated ballast water, desalinization unit discharge, cooling water, excess cement slurry, blowout preventer fluid, and fire control system test water. Thus, the no free oil limitation is Region 9's best professional judgment determination of BPT controls for these discharges. They have been subject to a no free oil limitation in previous permits issued by Region 9, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 9 indicate that a more stringent standard is appropriate at this time. Region 9 has proposed BCT effluent limitations equal to the BPT level of control and, as such, these proposed limitations impose no incremental costs.

As discussed above, the BCT effluent limitation on free oil for drilling muds is equal to the BPT limitation. The discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is therefore prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil. The discharge of drill cuttings associated with oil-based muds is also prohibited due to the likelihood of violation of this same limit.

The monitoring requirement for determining compliance with the effluent limitation on free oil is in most instances a visual observation of the receiving water. However, the static sheen test is required for monitoring free oil in mud and cuttings discharges (which are the discharges with the greatest likelihood of oil contamination) and also for discharges 003-006 if they occur at night. The static sheen test involves mixing effluent with ambient seawater in a test container and subsequently observing whether or not a sheen appears on the surface. The specific procedure is found in "Static Sheen Test" (U.S. Environmental Protection Agency, 1985b). The sheen test requirement is being proposed for the following reasons: (1) Region 9 believes that the test is reliable, (2) the test is an improvement over the alternate method of simply making visual observations in the receiving water and (3) the test can be conducted prior to discharge.

2. Floating solids

The BCT prohibition on floating solids is equal to the BPT level of control for sanitary wastes. As with the free oil limitations, Region 9 has determined that the BPT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is Region 9's best professional judgment determination of BPT limitations for these discharges. They have been subject to this limitation in previous permits issued by Region 9, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 9 indicate that a more stringent standard is appropriate at this time. Therefore, Region 9 has determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

3. Chlorine

The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/1 in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry. The chlorine residual is limited as a BCT pollutant to control the conventional pollutant, fecal coliform.

The proposed permit also provides that any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the CWA shall be deemed to be in compliance with permit limitations for sanitary waste discharges, until such time as the device is replaced or is found not to comply with such standards and regulations.

4. Oil and Grease in Produced Water

For produced water discharges, the BPT effluent limitations prescribe a monthly average oil and grease concentration not to exceed 48 mg/1 and a daily maximum oil and grease concentration of 72 mg/1. The daily maximum limitation is present in the existing general permit. A more stringent BCT limit of 59 mg/1 for oil and grease was considered by the EPA Industrial Technology Division. Although it was determined to be economically achievable through better operation and maintenance of existing treatment facilities, this BCT effluent limitation for oil and grease fails the BCT cost tests. As such, the draft general permit retains only the previously promulgated BPT limits and therefore there is no incremental cost to industry. The monitoring frequency has been increased from monthly to weekly and the monthly average BCT limit of 48 mg/1 has been included in the proposed permit.

C. BAT Requirements

1. Mud Toxicity Limit

a. *Determination of Mud Toxicity Limit.* For compliance with the BAT requirements of section 301(b) of the CWA, Region 9, based on best professional judgment, is proposing an overall toxicity limit for discharged drilling muds. This limit is a minimum single (i.e. no sample to be less than) 96 hour LC_{50} of 30,000 ppm for the suspended particulate phase (SPP). Discharge of muds with 96 hour LC_{50} concentrations less than 30,000 ppm would constitute noncompliance with the permit and could lead to enforcement action by EPA. A toxicity limit was selected for compliance with BAT requirements, rather than separate limits on individual mud constitutents, because of the complexity of drilling mud formulations. The bioassay procedure to be used to determine compliance with the limit is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a). The test organism specified in this bioassay procedure is *Mysidopsis bahia.*

In developing the proposed toxicity limit, Region 9 reviewed the basic formulations of muds, and the specialty additives, including lubricants, which are commonly used in offshore drilling activities. The toxicity of these components, and the factors relating to technology and cost which were evaluated pursuant to section 304(B)(2)(b) of the CWA, are discussed below.

An extensive review of offshore drilling practices has demonstrated that there are eight basic formulations of water-based drilling muds in use. These muds have been termed "generic drilling muds." The lower 95% confidence limit LC_{50} (worst-case bioassay result) for the generic muds, as determined by recent testing at EPA's Gulf Breeze laboratory, occurred at 30,000 ppm (Duke and Parrish, 1984). Therefore, the proposed toxicity limit represents the most stringent 96 hour LC_{50} which would allow each generic mud to be discharged.

Region 9 has also reviewed the types of specialty mud additives which have been used in waters offshore California in the last two years and the degree to which these additives affect overall mud toxicity. The review showed that additives are available which can be

combined with generic muds to meet the proposed toxicity limit and which can still perform nearly all specialty functions needed by operators. Moreover, Region 9 has, from inspections and Discharge Monitoring Reports (DMR's), reviewed whole muds actually used in offshore operations and the results demonstrated that 9 out of 10 would meet the proposed toxicity limit. Therefore, Region 9 has concluded that mud formulations with LC_{50}'s greater than 30,000 ppm are adequate to perform drilling functions in the vast majority of cases.

Of the specialty additives occasionally needed in drilling operations, lubricating additives are generally believed to have the greatest potential for increasing mud toxicity. Duke and Parrish (1984) found a strong correlation between diesel oil content in drilling muds and overall mud toxicity. These authors further determined that mineral oil, while also increasing mud toxicity, is substantially less toxic than diesel oil.

Drilling mud lubricants are used for two purposes, torque-reduction and spotting. For torque-reduction, lubricants are added to the entire mud system to reduce friction between the drillstring and the wall of the hole. If a portion of the drillstring becomes stuck against the wall of the hole, a spotting operation is usually needed.

At a national meeting sponsored by EPA in Denver, Colorado (June 11–12, 1984), industry representatives indicated that mineral oil is an adequate substitute for diesel for torque-reduction purposes. (Technical Resources, 1984a). Therefore, because substitute products are acknowledged by industry to be available, the proposed permit prohibits the discharge of drilling muds in which diesel oil is added as a torque-reducing lubricity agent (Condition II.A.1(h)). This prohibition on the discharge of diesel oil is discussed further in Section VI.C.2.

In a spotting operation, diesel or mineral oil is normally added to only a small fraction of the mud system. The mud containing the oil is then pumped to the stuck portion of the drillstring where the additional lubricity of the mud frees the pipe. Under the proposed permit, upon completion of the spotting operation, the diesel oil-contaminated mud or "pill," and a buffer zone around the pill, is removed from the mud system for onshore disposal. However, some amount of residual diesel may remain in the mud system due to diffusion of the pill.

Diesel oil has been the product of choice for use in a pill due to its ready availability at the facility although use of mineral oil is becoming more common as a substitute for diesel in spotting operations. Pruett II (1984) provides some examples of the successful use of mineral oil for spotting off Southern California. In view of the limited operational data in Region 9 offshore waters, however, the proposed permit authorizes the discharge of muds containing residual diesel from spotting operations provided the following conditions are met: (1) The diesel pill and a minimum of 50 barrels of mud on each side of the diesel pill and associated cuttings are removed from the mud system and not discharged, and (2) the overall mud toxicity limit is not violated by the remaining mud. The requirement for mud removal is established pursuant to NPDES permit regulations at 40 CFR 122.44(k) (best management practices). Compliance with the toxicity limit must be demonstrated by bioassay data from mud samples taken from the mud system immediately prior to and subsequent to pill removal.

In addition to the technology-related factors discussed above, in developing the proposed mud toxicity limit, Region 9 considered the costs associated with achieving effluent reduction. In this context, Region 9 evaluated the costs of land disposal of all drilling muds. In a study of alternatives to on-site disposal, Sobotka & Company (1984) estimated that such costs could exceed 7.5% of the total cost of an exploratory drilling operation (assuming $100,000/day for such operation). Region 9 has determined from this study that to require land disposal of all drilling muds would be economically burdensome, and would be accompanied by adverse impacts such as port congestion, truck and workboat emissions, and strain on the available capacity of land disposal sites. See Appendix B. Therefore, Region 9 has concluded that land disposal of all drilling muds would not be an appropriate BAT requirement.

Region 9 believes, however, that the proposed toxicity-based limit, minimum 96 hour LC_{50} of 30,000 ppm (SPP), is economically achievable where the cost of barging muds to shore would be only infrequently incurred. As discussed previously, data from Region 9 inspections and DMR's indicate that 90% of the tested whole muds which had actually been used in drilling operations would meet the proposed toxicity limit. Therefore, even if 10% of all drilling muds had to be barged to shore for disposal, the aggregate cost to the industry would amount to only .75% (assuming a linear relationship between cost and barging frequency). In addition, Region 9 believes that through product substitution and more operator experience with new additives, the number of mud systems requiring land disposal can be further reduced, thereby resulting in still lower costs.

When Region 9 originally solicited comments for proposals being considered for a toxicity limit for discharged drilling muds in July, 1984, industry representatives claimed that a limit of 30,000 ppm was too stringent in that it would not allow the discharge of muds containing mineral oil in needed concentrations. Region 9 has reviewed the use of mud lubricants off Southern California in the last two years and believes that this claim is exaggerated.

In 1984, Duke and Parrish conducted a study in which mineral oil in concentrations of 1, 5, and 10% was added to generic muds #2 and #8. Toxicity tests revealed that at a concentration of 1%, the 96 hour LC_{50}'s (SPP) for muds #2 and #8 were 134,000 ppm and 71,000 ppm respectively, well above the toxicity limit in the proposed permit. At a concentration of 5%, the LC_{50}'s for these muds were 18,000 ppm and 9,000 ppm respectively, slightly below the proposed limit. However, Region 9's records of mud usage on the California OCS show that mineral oil, or additives containing mineral oil, are seldom needed at concentrations greater than approximately 1%. Therefore, compliance with the proposed toxicity limit should be attainable for the vast majority of drilling operations, including those for which lubricity additives are needed.

THUMS Long Beach Co. (operated by a consortium of major oil companies), in a recent request for modification of Ocean Dumping permit OD 82–01 (ocean disposal of drilling muds and cuttings), conducted bioassays on typical and "worst case" muds needed for the company's extensive drilling program in Long Beach Harbor. The "worst case" mud contained constituents, including lubricants and other additives, at concentrations which the company itself estimated would be adequate for all foreseeable drilling requirements. Nevertheless, the 96 hour LC_{50} for even the "worst case" mud was 35,000 ppm, in compliance with the toxicity-based limit proposed in this permit. These results support the Region's conclusion that muds more toxic than authorized for discharge by this proposed permit should rarely be needed in drilling operations.

As noted above, Region 9 considers the proposed toxicity limit to be economically achievable even if a small number of operations must barge muds to shore for disposal. Therefore, Region 9, using best professional judgment, has

determined that the proposed minimum 96 hour LC_{50} of 30,000 ppm is an appropriate toxicity limit for drilling muds which takes into consideration the need for lubricity and other additives.

b. *Compliance with Mud Toxicity Limit.* Under the existing BPT general permit, Region 9 has approved numerous specialty additives based on bioassay data and informed offshore operators of these determinations. This regulatory approach has allowed operators to use these approved additives in drilling operations without conducting additional bioassays. One drawback to this approach, however, is that operators might combine several moderately toxic additives (individually approvable) in one mud and thereby exceed the permit's overall toxicity limit. In order to limit the possibility of such occurrences, Region 9 is proposing two levels of approval for specialty additives, general and conditional:

(1) Additives with LC_{50} 100,000 ppm (SPP) when tested in a reference mud at the maximum usage rate would be listed as acceptable for general use and discharge. The reference mud to be used for these tests is the lightly treated lignosulfonate mud (generic mud #7) which has been the most commonly used reference mud to date.

(2) Additives where the LC_{50} is greater than 30,000 ppm and less than 100,000 ppm would be conditionally listed as acceptable, contingent upon the additive's not being used in conjunction with other additives which in combination could result in violation of the permit's overall toxicity limit.

It should be noted that the above provisions pertaining to specialty additives would apply only to generic muds #2–8. The overall mud toxicity limit in the permit is based on the toxicity of mud #1 with no specialty additives included. However, this does not preclude the use of specialty additives in mud #1. Such additives could be included in mud #1 if the additives did not increase the toxicity of the mud (i.e. the toxicity of the additive is lower than the toxicity of the mud which would be replaced), or if the basic components of mud #1 were used at concentrations lower than the maximum allowed concentrations to offset the effects of specialty additives.

In all instances, regardless of whether an additive is listed as acceptable for general use and discharge or is conditionally accepted, the discharger will be responsible for demonstrating compliance with the whole mud toxicity limit. Estimates of joint toxicity for muds containing conditionally accepted additives may be made using Equation (1) from Sprague and Logan (1979):

$$\frac{10^6}{LC_t} = \frac{C_g}{LC_g} + \sum_{i=1}^{N} \frac{C_i}{LC_i} \quad (1)$$

Where

LC_t is the 96 hour LC_{50} of the generic mud including mud additives in ppm

C_i is the concentration of the ith additive in ppm

LC_i is the 96 hour LC_{50} of the ith additive in ppm

C_g is the concentration of the generic mud in ppm

LC_g is the 96 hour LC_{50} of the generic mud in ppm

The above regulatory approach to mud additive regulation offers the following advantages:

(1) Since the LC_{50} of most specialty additives is greater than 100,000 ppm, general listing of acceptability for discharge, following an initial bioassay, could be given for most additives to be discharged, thus providing desirable flexibility for operators.

(2) It is unlikely that violations of the permit's whole mud toxicity limit (minimum of 30,000 ppm) would result from the combination of additives acceptable for general use and discharge. For example, if it is assumed that (a) LC_{50} of the reference mud = 500,000 ppm, (b) mud constituent toxicity is additive according to the above equation, and (c) additive usage by weight is small relative to the basic mud constituents, four specialty additives with LC_{50} = 100,000 ppm each used at its maximum concentration would be necessary to produce a mud with an overall LC_{50} approximating the permit limit of 30,000 ppm. This calculation proceeds by first determining LC_t for each additive using the Sprague and Logan formula. In the above example assuming additive usage of 2 lbs/bbl in a 10 lbs/gal mud, LC_t would be 594 ppm. Four such additives included in a generic mud (LC_g = 500,000 ppm) would produce a mud with an LC_{50} of 29,400 ppm.

Greater assurance that the permit's whole mud toxicity limit would not be violated could be obtained by increasing the minimum LC_{50} for listing additives as acceptable for general use. However, Region 9 believes that 100,000 ppm is a reasonable minimum which would allow general acceptance of most additives and also provide a high degree of assurance that the permit's overall toxicity limit would not be exceeded by muds in actual use. Listing and toxicity information for mud additives may be obtained from Region 9 at the above address.

The proposed permit requires a demonstration of compliance with the overall toxicity limit for each mud system which is used and discharged. The term "mud system" refers to the major types of drilling muds which are used during the drilling of a single well. For example, drilling would probably commence with a spud mud for the first several hundred feet. Then a seawater gel mud might be used to a depth about 1,000 feet. Subsequently a lightly treated lignosulfonate mud might be used to a depth of around 5,000 feet. Finally, a freshwater lignosulfonate system might be used for the remainder of the drilling operation to a depth of about 15,000 feet. Typically a bulk discharge of 1,000 to 2,000 barrels of mud occurs when the mud system is changed. It is at these times that compliance with the permit's toxicity limit must be demonstrated. The bulk discharges are the highest volume mud discharges and will include all specialty mud components added to each mud system. As such, Region 9 believes that the bulk discharges are the most appropriate discharges for which to require a demonstration of compliance with the toxicity limit. In the above example four such demonstrations would be required for the drilling of the well.

Except for the final mud system used at the time maximum well depth is reached, this demonstration may consist of toxicity calculations as discussed above, exclusive use of generic muds and additives listed as acceptable for general use or an actual mud bioassay. A bioassay is required for the final mud discharge irrespective of mud composition. This is the time when the maximum mud toxicity is likely to be reached due to the increased need for specialty additives at greater depths. Given the uncertainties of the methods for estimating mud toxicity, Region 9 believes that at least one actual bioassay per well should be required. The bioassay procedure to be used is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a).

2. Diesel Oil

As discussed above, the proposed permit prohibits the discharge of diesel oil as a torque-reducing lubricity additive. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in

diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation. The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

Region 9 believes that the limitations achieved by product substitution or land disposal of contaminated muds and cuttings represent the technically feasible and economically achievable BAT-level of controls for the various toxic pollutants to be controlled. Establishing limitations on these pollutant parameters as indicator pollutants, avoids the costly and technically complex requirement of complying with specific limitations on each of the toxic pollutants. Monitoring and analyzing all waste streams to confirm compliance with specific effluent limitations for each of the toxic pollutants is not considered by Region 9 to be economically justified at this time.

3. Mercury and Cadmium Contamination of Barite

The proposed permit also limits mercury and cadmium as trace contaminants in barite to 1 mg/kg and 2 mg/kg, respectively (Condition II.A.1(g)). Barite is mined from either bedded or vein deposits. The bedded deposits are characterized by substantially lower concentrations of heavy metal contaminants such as mercury and cadmium (Nelson, Lui, and Sommers, 1980; Kramer, Grundy and Hammer, 1980). By limiting the mercury and cadmium in barite, the proposed permit also serves to limit the concentrations of the other contaminants as well. The numerical values for the limits were based on data in the above references and in Technical Resources Inc. (1984d) while allowing for a reasonable variability in the quality of bedded deposits. Compliance with this limit is achievable through product substitution, i.e. the utilization of uncontaminated sources of barite for offshore purposes in place of contaminated sources.

According to data collected by the EPA Industrial Technology Division, nearly half of the barite consumed in the United States is produced in the Battle Mountain, NV area which is a source of bedded or uncontaminated barite. Since offshore usage of barite constitutes only 25% of total domestic barite usage, an adequate supply of uncontaminated barite would be available for offshore usage nationwide if only 1/2 of the Nevada source were dedicated to offshore uses. It is preferable from an environmental point of the view to use the uncontaminated barite for offshore operations where the mud is discharged and to use the contaminated barite onshore where the mud is land disposed.

At a workshop sponsored by EPA in Santa Barbara, CA (July 27–29, 1984), an industry representative indicated that all Southern California offshore operators are already using the Nevada barite for their drilling mud (Technical Resources, Inc., 1984b). This is apparently due to the proximity of the Nevada source to Southern California. In view of this fact, Region 9 believes that the proposed limitation should be economically achievable and not disruptive to the barite market. It should also be noted that the Nevada barite is high density barite and need not be blended with other barite to achieve density specifications.

4. Prohibition of Chrome Lignosulfonate

The proposed permit prohibits the discharge of chrome lignosulfonate (Condition II.A.1(j)) in order to prevent the discharge of the toxic pollutant chromium. Substitutes for chrome lignosulfonate are available (such as iron or calcium lignosulfonate) which, according to Region 9's mud usage records, are already in use by approximately two-thirds of California OCS operators. Region 9 recognizes that chrome lignosulfonate may have advantages over other lignosulfonates such as stability over a greater temperature range. However, given the widespread use of substitutes for chrome lignosulfonate, Region 9 believes that this prohibition has been demonstrated to be technologically and economically achievable.

5. Other Toxic Nonconventional Compounds

The discharge of halogenated phenol compounds (a class of compounds which includes several toxic pollutants) is prohibited in accordance with a Minerals Management Service Operations Order.

As noted previously, the existing BPT guidelines require a residual chlorine concentration in the sanitary discharge of at least 1 mg/l which is to be maintained as close to 1 mg/l as possible. This requirement is being proposed as a BCT limit for this draft permit also (for control of the conventional pollutant, fecal coliform). JRB Associates (1984) concludes that the impacts from the chlorine in the sanitary discharge should be small due to rapid dilution and the low volume of the discharge. Nevertheless, to minimize the potential effects of chlorine in this discharge, Region 9 is also proposing a maximum chlorine residual of 10 mg/l as a BAT limit. Past DMR's in Region 9 show that the vast majority of offshore operators consistently comply with the proposed maximum chlorine limit. Compliance by all operators should be easily achievable through better operation and housekeeping of existing facilities.

6. Toxic Organics and Metals in Produced Water

The existing general permit limits heavy metals in produced water discharges. The limitations are based on the 1983 California Ocean Plan rather than existing BPT effluent guidelines which do not limit toxic pollutants.

The EPA Industrial Technology Division has recently sampled produced water discharges in the Gulf of Mexico, Alaska, and California. In addition to heavy metals, small concentrations of several priority toxic organic compounds were identified including naphthalene, phenol, 2, 4 dimethylphenol, benzene, toluene and ethylbenzene. In addition, benzo(a) pyrene was reported by Middleditch (1983). The EPA Industrial Technology Division has been reviewing treatment options for produced water in its current BAT/BCT guidelines development efforts. The treatment options considered as add-on technologies to existing BPT facilities include filtration, precipitation, carbon adsorption and biological treatment. For various reasons, these add-on technologies were

either found to be technologically infeasible to implement in this industry segment or do not appear to be effective in reducing priority pollutant levels in produced water discharges. The Agency is still evaluating reinjection technology for the effluent limitations guidelines for produced water discharges from existing source facilities.

The implementation of any treatment method for produced water is complicated by the space constraints on an offshore platform. The Industrial Technology Division in its upcoming guidelines proposal will be soliciting retrofit cost data for reinjection of produced water from existing platforms. Adequate data to accurately assess the economic achievability of this option are not available at the present time. Therefore, additional technology-based effluent limitations are not being proposed for toxic organic pollutants in produced waters at this time. However, the proposed permit does retain the heavy metals limits which are in the existing general permit and which were derived from the California Ocean Plan. Also, additional limits are proposed for several of the toxic organic pollutants based on the Ocean Discharge Criteria regulations. See section VI.D.3. Should the EPA Industrial Technology Division ultimately promulgate BAT effluent limitations for produced water which are more stringent than the limits in the proposed permit, Region 9 in accordance with 40 CFR 122.28(b)(2)(D), may require an individual permit for platforms discharging produced water and include the newly promulgated effluent limitations.

The use of specialty additives (which may contain toxic pollutants) in produced water is also under review by the Industrial Technology Division and is a subject for which data are limited. The proposed permit requires that the composition and concentration of all substances added to produced waters (such as but not limited to biocides, corrosion and scale inhibitors) be reported to Region 9 (Condition II.A.2(b)).

D. Requirements Based on the Ocean Discharge Criteria Evaluation

As noted previously, the general NPDES permit authorizing discharges from offshore oil and gas exploration, development and production facilities off Southern California was originally issued on February 18, 1982 (47 FR 7312). The term of the permit was two years with an expiration date of December 31, 1983. On December 8, 1983, Region 9 reissued the permit for an additional 6 month period ending on June 30, 1984 (48 FR 55029). Region 9 concluded in both permit issuances that the authorized discharges would not cause unreasonable degradation of the marine environment. These conclusions were based on the limited duration of the permits, the limited extent of offshore activity anticipated during the terms of permits and the fact that the permitted facilities would be subject to effluent limitations, monitoring requirements and other conditions contained in the permit. Short-term permits were issued because Region 9 believed that additional information was necessary concerning longer-term, cumulative effects of the discharges prior to issuance of a normal 5 year permit. The issuance of the short-term permits also provided additional time for ongoing and new studies to be completed which would assess the longer-term and cumulative effects of permitted discharges.

Many of these studies have now been completed. Since the reissuance of the last Region 9 OCS general permit, the National Reserach Council (NRC) completed a major assessment of the fate and effects of drilling muds and cuttings discharges in the marine environment, including long term cumulative effects (NRC, 1983). The NRC study draws from the many laboratory and field studies which have been conducted in recent years. The report concludes that the risks to the marine environment are small from individual operations such as a single exploratory drilling operation. However, insufficient information was available to conclude that "massive development" of an offshore oil field would not cause unreasonable degradation of the marine environment.

Considerable drilling activity is projected for offshore California in the coming years particularly in the western Santa Barbara Channel and Santa Maria Basin. MMS has estimated that a total of 74 exploratory wells and 751 development wells would be drilled in the proposed general permit area during the term of the permit.

EPA has funded two additional studies in an effort to determine whether this expected level of offshore activity would or would not cause unreasonable degradation of the marine environment. An Ocean Discharge Criteria Evaluation (ODCE) was performed by JRB Associates of Seattle, WA (JRB Associates, 1984). This study was supplemented by a hazard assessment prepared by Dr. Gary Petrazzuolo in which the long-term cumulative effects of mud and cuttings discharges are evaluated (Technical Resources, Inc., 1984c). These studies concluded that discharges from development and production platforms would cause unreasonable degradation unless additional controls are imposed in the permit. However, the analyses did conclude that irreparable harm (as defined by 40 CFR Part 125, Subpart M) would not be expected. See Appendix A for a more detailed discussion.

In determining whether the discharges resulting from the projected offshore activities will cause unreasonable degradation of the marine environment, Region 9 considered the studies discussed above, other studies and documents in the administrative record for general NPDES permit No. CA0110516, the application of additional permit conditions pursuant to 40 CFR 125.123(d), and the application of technology-based limitations to the discharges. After evaluating these factors, Region 9 has concluded that there is insufficient information to make a determination of no unreasonable degradation. Therefore, a permit for the discharges may only be issued if the requirements of 40 CFR 125.123(c) are met.

Region 9 has concluded that the dischargers, operating under permit conditions established in 40 CFR 125.123(d), will not cause irreparable harm to the marine environment. These additional permit conditions include limiting permissible concentration (LPC) requirements for pollutants in effluent streams and a monitoring program to assess the impact of the discharges.

Pursuant to 40 CFR 125.123(c), Region 9 has also determined that there are no reasonable alternatives to on-site disposal. A special study of disposal alternatives has been conducted by Sobotka & Co. in which drilling mud disposal alternatives were analyzed for mud generated on the Pacific OCS. See Appendix B. The study analyzed alternatives such as onshore disposal, disposal at special ocean dumping sites, and treatment prior to discharge. After reviewing the study Region 9 concluded that, after taking costs into consideration, no reasonable alternatives presently exist to onsite disposal.

Specific permit requirements included for compliance with the requirements of the Ocean Discharge Criteria are discussed below:

1. Mud Discharges in the Vicinity of the Channel Islands Marine Sanctuary

Region 9 is proposing a special discharge limitation applicable to drilling mud discharges on tracts within 1,000 m of the Channel Islands Marine Sanctuary which were leased subsequent to the effective date of the

sanctuary regulations. See section VIII.C. The proposed permit would prohibit mud discharges on such tracts which would result in exceedences of a limiting permissible concentration (LPC) inside the boundaries of the marine sanctuary (Condition II.A.1(i)). The LPC is 1 percent of the 96 hour LC_{50} for a given drilling mud. Region 9 believes that the proposed condition will provide appropriate additional protection for the sanctuary and equitable treatment for lessees.

2. Limiting Permissible Concentration Requirements for Produced Water

The draft general permit contains conditions designed to ensure compliance with the regulations pertaining to limiting permissible concentrations (40 CFR 125.123(d)). For produced water discharges, Condition II.A.2(a) requires compliance with the heavy metals limitations of the California Ocean Plan. After initial dilution, heavy metals concentrations must be reduced below the limits set by the Ocean Plan. Condition II.A.2(a) also contains limits for several toxic organic pollutants which have been identified in produced water and for marine water quality criteria are provided in EPA's latest update of water quality criteria (45 FR 79318). The permit limits, again to be achieved after initial dilution, are 1% of the concentration for acute toxicity for salt water organisms. Initial dilution is estimated using a plume model such as PLUME (Teeter and Baumgartner, 1979) or other method approved by Region 9.

3. Field Monitoring Study

For permits issued pursuant to 40 CFR 125.123(c) the Ocean Discharge Criteria regulations require a monitoring program to assess the impacts of the discharges (40 CFR 125.123(d)(2)). Condition IV.D of the draft permit requires permittees to jointly conduct the production platform monitoring program found in "Monitoring Program Requirements for Assessing Impacts from Offshore Oil and Gas Discharges" (Technical Resources, Inc., 1985). This monitoring program consists of an existing platform study and a new platform study. Both studies would involve the sampling and analysis of bottom sediments and benthic organisms at reference sites and in the vicinity of offshore platforms. Analyses of samples would be conducted for parameters such as grain size and for contaminants such as barium and EPA priority pollutants. Comparison of the results for the reference sites and the sites near the platforms would allow EPA to evaluate the effects of the discharges on the marine environment, and the need for additional permit limitations or requirements.

The existing platform study would focus on the eastern Santa Barbara Channel where development activity has been the greatest. This study would produce information pertaining to the environmental impacts from platform discharges relatively quickly. The existing platform program would commence within six months of the effective date of the general permit and be completed within one year.

The new platform study would be coordinated with the installation dates for new platforms on the OCS. The MMS is currently conducting a monitoring program similar to the new platform study entitled "Monitoring: Assessment of Long-Term Changes in Biological Communities: Phase II—Quantitative Benthic Surveys Near Production Platforms in the Santa Maria Basin and Western Santa Barbara Channel—Year I". This study is part of a board range of California OCS studies administered by the Pacific OCS office of the MMS in support of the OCS leasing program (U.S. MMS, 1983). Region 9 recognizes that there may be some overlap between the work to be conducted by the MMS and the requirements of the new platform study. As such Condition IV.D provides that permittees may, upon approval of Region 9, substitute the study program of the MMS for the requirements of the new platform study to the extent that MMS studies meet the requirements described in the new platform study.

4. Reopener Clause

The Ocean Discharge Criteria regulation require that all permits issued pursuant to 40 CFR 125.123(c) include the reopener clause found in 40 CFR 125.123(d)(4). This reopener clause is included in the draft permit as Condition II.A.5. This condition provides that the permit may be modified or revoked if, based on new data, EPA determines that continued discharges may cause unreasonable degradation of the marine environment.

5. Bioassay Tests for Generic Muds Using Northern Anchovy

As discussed in Appendix A, the northern anchovy was identified as a critical species in the marine ecosystem off Southern California. In view of the significance of this species, Region 9 is requiring additional bioassays to determine the sensitivity of this species to drilling muds. This condition is included in the permit pursuant to 40 CFR 125.123(d)(3) since insufficient information is available concerning this particular species.

E. Best Management Practices for Dispersants, Surfactants, and Detergents

The facility operator is required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the Minerals Management Service. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. This restriction is imposed because detergents disperse and emulsify oil, thereby increasing toxicity and making the detection of a discharge of oil more difficult. These limitations have been established pursuant to NPDES permit regulations at 40 CFR 122.44(k) (best management practices).

VII. Monitoring and Enforcement

This general permit requires dischargers to monitor weekly the concentrations of oil and grease in produced water discharges and monthly the chlorine in sanitary waste discharges. In addition, weekly monitoring or estimates of the produced water flow rate is required, as well as quarterly sampling to demonstrate compliance with the numeric limits placed on heavy metals and toxic organic compounds in produced water discharges. Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, produced sand, and well treatment fluids. Discharge Monitoring Reports must be submitted quarterly. A chemical inventory of all materials actually added down the well must be maintained and all records retained for three years. Composition data for drilling muds which are used and discharged must be provided to Region 9 upon completion of each well.

Condition II.A.1(e) requires bioassay testing of muds to demonstrate compliance with permit toxicity limitations if an operator discharges other than generic muds or uses additives for which adequate data are not provided to determine compliance with permit limits. A bioassay is required for the final mud system when the well reaches its maximum depth, regardless of mud composition.

Condition II.A.1(k) requires that the permittee notify Region 9 (or other designated agency) 48 hours prior to the final mud discharge so that Region 9 may have an opportunity to sample the final mud. This provision will aid in ensuring compliance with permit

conditions. Also, the permittee is required to keep a record of days of discharge of each mud system and the volume of discharge. (Condition II.A.1(a).)

EPA has recently signed a Memorandum of Understanding (MOU) with MMS covering a broad range of OCS activities, including post lease monitoring, inspection and enforcement. Under the MOU, MMS agrees upon written request from an EPA Regional Administrator to sample waste streams (such as drilling mud) and forward all samples to EPA for analysis. Region 9 intends to work with the Pacific OCS Office of the MMS through a regional Memorandum of Agreement (currently under development) to establish a program of periodic sampling of drilling muds discharged into Southern California waters. Region 9 will test the muds for toxicity and for the presence of prohibited substances. Region 9 believes that such an inspection program will ensure compliance with permit limits. Under the MOU, Region 9 retains the right to conduct its own inspections. Region 9 has in the past conducted such inspections and retains all enforcement responsibilities under the CWA.

VIII. Other Legal Requirements

A. Consistency With California Coastal Zone Management Program

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally licensed activity directly affecting the coastal zone of a state with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. The proposed general permit would not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. However, discharges would be authorized in waters adjacent to the territorial seas of the State of California and as such could affect the coastal zone.

Region 9 has reviewed the requirements of the CZMP and determined that the proposed permit is consistent with the CZMP. Since there are no applicants for general permits, EPA in effect becomes the applicant and must provide the necessary consistency certification. Region 9 has certified the proposed permit to the California Coastal Commission as consistent with the CZMP.

Since Region 9 has formally certified the permit to the Commission for concurrence, Condition II.B.8 in the previous permit requiring concurrence by the Commission with plans of exploration/development prior to operation under the permit has been deleted.

B. Endangered Species Consultations

The Endangered Species Act (ESA) requires that each Federal agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. Region 9 has concluded that the discharges authorized by the general permit would neither jeopardize the continued existence of any endangered or threatened species nor adversely affect its critical habitat.

In accordance with section 7 of the ESA, Region 9 has provided a copy of the proposed permit and fact sheet to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service for an evaluation of this conclusion. Copies of all opinions will be included in the administrative record for the final permit.

C. The Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values.

Section 302(f) of the MPRSA requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and can be carried out within its promulgated regulations.

One marine sanctuary exists in the general permit area, the Channel Islands Marine Sanctuary, designated a sanctuary in September, 1980. The sanctuary consists of the Channel Islands from Anacapa Island to Richardson Rock and a six nautical mile buffer zone surrounding the islands. Regulations implementing the designation of this area as a marine sanctuary are found at 15 CFR Part 935. These regulations prohibit discharges from hydrocarbon activities on tracts leased after the effective date of the regulations (April 30, 1982).

Discharges on other tracts are not affected by the regulations. Portions of six (6) tracts leased prior to April 30, 1982, and included in the proposed permit, are within the sanctuary boundaries. However, the general permit does not authorize discharges within any tract leased subsequent to the effective date of sanctuary regulations and located within sanctuary boundaries. Accordingly, Region 9 believes that the permit is consistent with the requirements of the sanctuary regulations and the MPRSA.

Region 9 is, however, proposing a special discharge limitation applicable to drilling mud discharges on tracts which (1) were leased subsequent to the effective date of the sanctuary regulations and (2) have a portion of the tract lying within 1,000 m of the boundary of the Channel Islands Marine Sanctuary. The proposed permit would prohibit mud discharges on such tracts which would result in exceedences of a limiting permissible concentration (LPC) inside the boundaries of the marine sanctuary (Condition II.A.1(i)). The LPC is 1 percent of the 96 hour LC_{50} for a given drilling mud. For mud discharges within 1,000 m of the boundary of the marine sanctuary, the proposed permit requires a demonstration of compliance with this condition by the permittee based on the toxicity of the mud and an analysis of the mud dilution. For mud discharges occurring at distances greater than 1000 m from the sanctuary boundary it is assumed, based on the dilution analysis of Petrazzuolo (1983), that the discharge would comply with this requirement. This condition is proposed pursuant to the requirements of Section 403 of the CWA. Region 9 believes that the proposed condition will provide appropriate additional protection for the sanctuary and equitable treatment for lessees.

D. Oil Spill Requirements

Section 311 of the CWA prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of Section 311. However, these permits do not preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties for other unauthorized discharges of

toxic pollutants which are covered by Section 311 of the CWA.

E. State Water Quality Standards and State Certification

Since State waters are not included in the general permit area, the provisions of section 401 of the CWA do not apply.

F. Economic Impact: E.O. 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that order.

G. Paperwork Reduction Act

Region 9 has reviewed the requirements imposed on regulated facilities by the final permit reissuance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements in the final permit have already been approved by the Office of Management and Budget (OMB) under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general permit will explain how its information collection requirements respond to any OMB or public comments.

H. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the final permit reissuance will not have a significant impact on a substantial number of small entities.

This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13-Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: August 5, 1985.

Charles W. Murray, Jr,

Acting Regional Administrator.

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Appendix A—Review of Ocean Discharge Criteria Evaluation (ODCE) and Hazard Assessment for Mud/Cuttings Discharges

These studies were funded by EPA pursuant to the Ocean Discharge Criteria regulations (40 CFR Part 125, Subpart M) which establish guidelines for the issuance of NPDES permits into the territorial seas, contiguous zone or the ocean. The following ten factors are to be considered in evaluating the degradation of marine waters as a result of permitted discharges § 125.122).

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

(2) The potential transport of such pollutants by biological, physical or chemical processes;

(3) The composition and vulnerability of the biological communities which may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure of function of the ecosystem, such as those important for the food chain;

(4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursey/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism.

(5) The existence of special aquatic sites including, but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(6) The potential impacts on human health through direct and indirect pathways;

(7) Existing or potential recreational and commercial fishing, including finfish and shellfish;

(8) Any applicable requirements of an approved Coastal Zone Management plan;

(9) Such other factors relating to the effects of the discharge as may be appropriate;

(10) Marine water quality criteria developed pursuant to section 304(a)(1).

The ODCE provides basic information on the proposed discharges, the affected environment and probable effects of the discharges. Each of the above factors is considered. The document concludes that only localized effects on water quality and resident marine species would be expected from discharges from offshore operations. However, uncertainties and factors meriting additional attention such as bioaccumulation of heavy metals from sediment contamination were identified in the study.

The cumulative impact of proposed drilling mud and cuttings discharges is evaluated in the hazard assessment prepared by Dr. Gary Petrazzuolo. Water column and benthic impacts are analyzed with respect to the likelihood of causing irreparable harm or unreasonable degradation as defined in the Ocean Discharge Criteria regulations. The results of the analysis are summarized in Table A-1 below.

TABLE A-1.—SUMMARY OF ESTIMATED IMPACTS OF PROPOSED DRILLING MUD DISCHARGES ON THE CALIFORNIA OCS

	Unreasonable degradation	Irreparable harm
Exploratory Operation:		
Water Column	No	No.
Benthic	No	No.
Production Platform		
Water Column	No	No.
Benthic	insufficient information.	No.

Drilling mud discharges are not expected to cause unreasonable degradation of the water column from either production platforms or exploratory operations. The basis for this conclusion is the fact that mud discharges are intermittent and the toxic effects in the water column are short-term. Drilling muds authorized for discharge by the permit have been shown to be of low toxicity to a wide variety of marine organisms and the time of exposure of the toxicity tests (generally 96 hour bioassays) is comparable to or greater than the time of exposure in the marine environment. Also the total volume of mud expected to be discharged from all operations was shown to be very small relative to the flux of water passing through the general permit area. The analysis did suggest, however, that the northern anchovy (*Engraulis mordax*), a key species in the food web, should be tested for its sensitivity to drilling muds. Although the range of species already tested for sensitivity to drilling muds is very likely to be broad enough to include the anchovy, EPA believes that additional testing on this species is worthwhile due to its key role in the ecosystem. As such, Condition IV.E was added to the permit requiring bioassays on the anchovy using each of the eight generic muds listed in Condition IV.C.16. Test results to be provided jointly by permittees, are required within twelve months of the effective date of the permit.

With respect to benthic impacts, Dr. Petrazzuolo's analysis showed that while irreparable harm would not be expected from exploratory operations or production platforms, unreasonable degradation could not be ruled out for production platforms. Numerous field studies have been conducted around exploratory operations and have shown only moderate impacts which are restricted to the immediate vicinity of the operation (within 300–500 m). However, adequate studies have not been conducted in the vicinity of production platforms, which may discharge substantially larger quantities of mud.

Although predictions can be made regarding the expected impacts from such discharges, field studies are needed to verify the predictions. The hazard assessment concludes that given the uncertainty concerning the effects of platform discharges, existing data are insufficient to support a determination of unreasonable degradation for the levels of development anticipated during the life of the permit. However, since existing laboratory data and field surveys do indicate that impacts are not permanent and that recovery does occur, irreparable harm would not be expected even from the level of discharge activity expected during the term of the permit.

Appendix B—Review of Results of Alternatives Study of Mud and Cuttings Disposal

This study was funded by EPA pursuant to the Ocean Discharge Criteria regulations (40 CFR 125.123(c)(1)) which require a review of the alternatives to onsite disposal for permits issued pursuant to 40 CFR 125.123(c). The costs, advantages and disadvantages of various alternatives to onsite disposal of drilling muds and cuttings were analyzed. The study estimated that the costs of barging muds and cuttings to shore for disposal could range from $175,000 to $1,450,000/well depending on the volume of wastes and the length of the drilling operation. EPA believes that in light of this substantial cost and other adverse factors identified in the study such as port congestion, truck and workboat emissions and pressure on the availability of land disposal sites, that barging to shore is not a satisfactory alternative for disposal of muds and cuttings which comply with permit discharge limits. The alternative of disposal at special ocean dumping sites was also considered in this study. The analysis of the costs of onshore disposal showed, however, that the cost of the barge represented 80% or more of the total costs. This cost would also be present for the alternative of dumping at special ocean dumping sites. As such, EPA believes that this is also an unsatisfactory alternative for the general disposal of mud and cuttings. Additional alternatives including recycling/reuse, piping wastes to shore and underground injection were reviewed in the study, but for various reasons, appeared relatively unattractive.

The advantages, disadvantages and costs of shunting muds to various depths were also reviewed in the study. Shunting tends to reduct the dispersion of muds and is frequently mentioned as a mitigating measure to be required for operations near special biological popultations. The costs of shunting were shown to be modest and would not represent an excessive burden on regulated facilities. However, for operations not in the vicinity of special biological populations shunting does not appear to offer any particularly attractive advantages. As such, shunting is regarded by the Region 9 as a potential mitigating measure to be required on a case-by-case basis.

Another alternative receiving increasing attention and mentioned briefly in the study involves processes for solidifying or detoxifying mud prior to discharge. EPA, Region 9 reviewed the status of these processes prior to reissuance of the general permit on December 8, 1983. We concluded that since these technologies were still in development stages, it would not be appropriate to base pemit limits on such processes. We have reviewed the progress in the development of these technologies since the previous permit was issued and determined that meaningful progress has occurred (Earthrite Technology, Inc. (1984), for example). A drilling muds disposal and

operating techniques study is currently underway funded by Chevron Corporation which will include an assessment of the practical application of such technology on the Pacific OCS.

[Permit No. CAG280622]

General Permit—Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*; the "Act"), the following discharges are authorized:

Drilling Muds, Drill Cuttings and Washwater (discharge 001),
Produced Water (discharge 002),
Produced Sand (discharge 003),
Well Completion and Treatment Fluids (discharge 004),
Diatomaceous Earth Filter Media (discharge 005),
Deck Drainage (discharge 006),
Sanitary Wastes (discharge 007),
Domestic Wastes (discharge 008),
Desalinization Unit Discharge (discharge 009),
Cooling Water (discharge 010),
Uncontaminated Bilge Water (discharge 011),
Uncontaminated Ballast Water (discharge 012),
Excess Cement Slurry (discharge 013),
BOP Control Fluid (discharge 014), and
Fire Control System Test Water (discharge 015),

from offshore oil and gas facilities (defined in 40 CFR Part 435, Subpart A) engaged in development or production activities, to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III and IV thereof.

Offshore permittees who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized to discharge to the specified receiving waters unless an individual permit has been issued to the facility by EPA, Region 9.

The authorized discharge sites are (by OCS lease parcel number): in waters west and northwest of Point Buchon,

P-0373 P-0374 P-0375 P-0376 P-0377;

in waters west and northwest of Point Arguello,

P-0393 P-0394 P-0395 P-0396 P-0397 P-0400 P-0401 P-0402 P-0403 P-0406 P-0407 P-0408 P-0409 P-0412 P-0413 P-0414 P-0415 P-0416 P-0418 P-0419 P-0420 P-0421 P-0422 P-0424 P-0425 P-0426 P-0427 P-0429 P-0430 P-0431 P-0432 P-0433 P-0434 P-0435 P-0436 P-0437 P-0438 P-0439 P-0440 P-0441 P-0443 P-0444 P-0445 P-0446 P-0447 P-0448 P-0449 P-0450 P-0451 P-0452 P-0453 P-0491 P-0492 P-0493 P-0494 P-0495 P-0496 P-0497 P-0498 P-0499 P-0500 P-0503 P-0504 P-0505 P-0506 P-0507 P-0508 P-0509 P-0510;

in waters south and west of Pt. Conception,

P-0315 P-0316 P-0317 P-0318 P-0319 P-0320 P-0321 P-0322 P-0323 P-0324 P-0456 P-0457 P-0511;

in the Santa Barbara Channel from Pt. Conception to Goleta Point,

P-0180 P-0181 P-0182 P-0183 P-0184 P-0185 P-0187 P-0188 P-0189 P-0190 P-0191 P-0192 P-0193 P-0194 P-0195 P-0196 P-0197 P-0326 P-0329 P-0459 P-0460 P-0461 P-0462 P-0463 P-0464 P-0465 P-0467 P-0469 P-0475 P-0512 P-0513 P-0514 P-0515 P-0516 P-0517 P-0519;

in the Santa Barbara Channel from Santa Barbara to Ventura,

P-0166 P-0202 P-0203 P-0204 P-0205 P-0208 P-0209 P-0210 P-0215 P-0216 P-0217 P-0231 P-0232 P-0233 P-0234 P-0236 P-0240 P-0241 P-0346 P-0348 P-0349 P-0468 P-0472 P-0473 P-0474 P-0478 P-0479 P-0520 P-0521 P-0522 P-0523 P-0524 P-0525 P-0527

in the waters south of Santa Rosa and Santa Cruz Islands,

P-0480 P-0481 P-0482 P-0483 P-0484 P-0485 P-0486 P-0487 P-0531 P-0532;

in water southwest of Point Dume,

P-0528 P-0529 P-0530

in the San Pedro Channel between San Pedro and Laguna,

P-0296 P-0300 P-0301 P-0306 P-0488;

and in waters south and southwest of San Clemente Island,

P-0489 P-0490 P-0533 P-0534 P-0535

This permit does not authorize discharges from "new sources" as defined in 40 CFR 122.3.

This permit shall become effective on ———.

This permit and the authorization to discharge shall expire at midnight, ——— (5 years from date of issuance).

Signed this —— day of ———.

Judith E. Ayres,

Regional Administrator, Region 9.

Part I—Commencement and Termination of Operations—Notification Requirements

Written notification of commencement of operations shall be provided to, and received by, the Regional Administrator at least fourteen (14) days prior to initiation of discharges. Notification shall be provided for each facility. The notification shall identify the permittee and include the statement "We assume full responsibility for compliance with NPDES General Permit No. CAG280622 for the operations listed below" and shall be signed by an authorized representative.

The notification of operations and designation of permittee letter shall contain the following information.

a. Name and address of permittee.

b. Description and location of operation, including parcel number and exact coordinates.

c. Date discharges are proposed to commence.

d. Expected duration of activities.

e. Name of leaseholder, if different from permittee.

Permittees shall also notify the Regional Administrator within twenty-eight (28) days upon permanent termination of discharges at these locations. The termination notification letter shall contain the date of the last day of any discharges at the site.

For operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation, the biological survey report and the plan of exploration shall be provided to EPA prior to initiation of discharges. Initiation of discharge under the permit may not begin until EPA has reviewed the survey report and the proposed operations and determined that this general permit is appropriate for the proposed discharges and notified the permittee in writing of this determination.

Part II

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 001 (drilling muds, drill cuttings and washwater).

a. The permittee shall individually estimate and report the total monthly discharge volume for drilling muds, drill cuttings and washwater. The permittee shall also report the number of days of discharge of drilling muds for each drilling mud system used.

b. There shall be no discharge of free oil as a result of the discharge of drilling muds, drill cuttings or washwater. Compliance with this limit shall be determined in accordance with the procedure in "Static Sheen Test" (U.S. Environmental Protection Agency, 1985b). The test shall be conducted on each day of discharge of drill cuttings or drilling mud. The permittee shall report the number of times free oil was observed.

c. The discharge of drilling fluids which contain waste engine oil, cooling oil, gear oil, lubricant which has been previously used for purposes other then borehole lubrication, is prohibited.

d. The discharge of oil-based drilling muds is prohibited. The discharge of drill cuttings associated with oil-based muds is also prohibited.

e. Drilling mud toxicity. The minimum 96 hour LC_{50} value for drilling muds discharged in compliance with this permit is 30,000 ppm (suspended particulate phase). The permittee shall demonstrate compliance with this limit by conducting and reporting the results of a drilling mud bioassay for each mud system which is used and discharged. Mud samples for the bioassays shall be taken at the time that maximum well depth is reached for each generic mud type and just prior to the intended discharge of the mud.

The bioassay procedure to be used is "Drilling Fluids Toxicity Test" (U.S. Environmental Protection Agency, 1985a). Bioassay results shall be submitted within 28 days following completion of each well (Condition II.C.4.).

With the exception of the drilling mud system used and discharged when the well reaches its maximum depth, the bioassay requirement shall be deemed satisfied upon a demonstration by the permittee that a discharged mud complies with the requirements of (1), (2) or (3) below.

(1) The mud is generic as defined in Condition IV.C.16.

(2) The mud is generic as defined in Condition IV.C.16. (excluding generic mud #1) and all specialty additives included in the mud satisfy either of the following conditions:

(A) When each additive is included at its maximum concentration in generic mud #7 (lightly treated lignosulfonate mud), the 96 hour LC_{50} value of the resulting mud exceeds 100,000 ppm for the suspended particulate phase. The bioassay procedure shall be that in "Drilling Fluids Toxicity Test" identified above.

(B) Other toxicity data is available for the additive upon which EPA may reasonably conclude that (A) above would be satisfied.

(3) The mud is generic as defined in Condition IV.C.16 and contains additives used in quantities such that the resulting whole mud may, based on bioassay data for similar whole muds or bioassay or toxicity data for the additives, be shown to comply with the overall mud toxicity limit (30,000 ppm). The permittee shall be responsible for providing the demonstration of compliance. The method in "Separate and Joint Toxicity to Rainbow Trout of Substances Used in Drilling Fluids for Oil Exploration" (Sprague and Logan, 1979) may be used to estimate joint toxicity.

f. Drilling Muds Inventory and Reporting Requirements. The permittee shall maintain a precise inventory of all mud constitutents added downhole for each well. The composition of each mud system used and discharged by the permittee shall be reported to EPA. Mud composition data shall be submitted to EPA within 28 days following completion of each well.

g. There shall be no discharge of drilling mud formulated with barite in which the mercury concentration in the barite exceeds 1 ppm or the cadmium concentration in the barite exceeds 2 ppm. An analysis for mercury and cadmium contamination shall be conducted for the barite used by the permittee for each mud system, and the results of the analysis submitted to EPA along with the mud composition data required by (f) above.

h. There shall be no discharge of drilling mud in which diesel fuel oil was added as a lubricity agent. The discharge of drilling muds containing residual diesel from spotting operations is prohibited except in compliance with the following conditions:

(1) The diesel pill and fifty (50) barrels of mud on each side of the diesel pill shall be removed from the mud system and shall not be discharged. The collection period shall begin when the 50 barrel lead buffer surfaces or at the time of first visual evidence of diesel, whichever occurs first. The collection period ends at the time that the 50 barrel trailing buffer is recovered or when no visual evidence of diesel exists, whichever occurs last. Drill cuttings which contact the removed mud shall also not be discharged.

(2) Mud which is discharged shall not exceed the toxicity limitation specified in Condition II.A.1(e). To demonstrate compliance with this requirement the analyses of (A), (B) and (C) below shall be conducted on two (2) mud samples collected as follows: Sample #1 shall be collected from the circulating mud system immediately prior to pumping the diesel oil downhole. Sample #2 shall be collected immediately after 2 complete circulations of the active mud system following recovery of the pill and contaminated mud. Sample #1 and sample #2 shall be taken from the return flow line under the screen and not from the mud pit. If washwater is used on the screen, then it shall be turned off before these samples are collected.

(A) Bioassay conducted in accordance with the method in "Drilling Fluids Toxicity Test" identified above,

(B) Analysis to determine the concentration of diesel oil in the mud conducted in accordance with the procedure in "Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings" (US EPA August 1985), and

(C) Sheen test conducted in accordance with the method in "Static Sheen Test" identified above.

(3) The following information is also required:

(A) Composition of basic must plus specialty additives,

(B) Quantity of contaminated mud removed from mud system,

(C) Disposal site for contaminated mud, and

(D) Time at which the discharge of drilling mud ceased for the purpose of collecting the diesel pill for onshore disposal and the time at which drilling mud discharges recommenced subsequent to collection of the diesel pill.

i. Drilling mud discharges on parcels which (1) were leased subsequent to the effective date of the regulations implementing the Channel Islands Marine Sanctuary (April 30, 1982–15 CFR Part 935) and (2) have a portion of the tract lying within 1,000 m of the boundary of the Channel Islands Marine Sanctuary, shall not cause exceedences of the limiting permissible concentration (see Condition IV.C.15) inside the boundary of this marine sanctuary. For such discharges the permittee shall provide a demonstration of compliance with this condition based on the toxicity of the mud and an analysis of the mud dilution.

j. There shall be no discharge of chrome lignosulfonate.

k. Reporting of Final Mud Dump. The permittee shall provide verbal notice to EPA (or other Federal agency designated by EPA at a later date) 48 hours prior to the final mud dump upon completion of each well. Notification shall be provided to the Compliance Section, Water Management Division at: Telephone: (415) 974–8275.

l. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: discharge 001, subsequent to all treatment processes and prior to entry into the waters of the Pacific Ocean.

2. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 002 (produced water).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations		Monitoring requirements	
	Monthly average (mg/l)	Daily maximum (mg/l)	Measurement frequency	Sample type
Flow (MGD)			Once/week	Estimate.
Oil and grease	48.0	72.0	do	Composite.
Arsenic		[1].032	Once/3 months	Discrete.
Cadmium		[1].012	do	Do.
Total chromium		[1].008	do	Do.
Copper		[1].020	do	Do.
Cyanides		.020	do	Do.
Lead		.032	do	Do.
Mercury		[1].00056	do	Do.
Nickel		[1].080	do	Do.
Silver		[1].0018	do	Do.
Zinc		[1].080	do	Do.
Phenol		[1].120	do	Do.
Naphthalene		[1].0235	do	Do.
2, 4 dimethylphenol			do	Do.
Benzene		[1].051	do	Do.
Toluene		[1].050	do	Do.
Ethylbenzene		[1].0043	do	Do.
Benzo (a) pyrene		[1].003	do	Do.

[1] This limit is applicable after initial dilution within a mixing zone defined in Condition IV.C.17. Compliance with these limits, shall be determined through the use of the following equation:
Ce = Co + Dm (Co − Cs)
where
Ce = the maximum allowable concentration,
Co = the concentration in Part II.A.2(a) which is to be met at the completion of initial dilution,
Cs = background seawater concentration (See Part IV.C.19),
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

b. Use of chemical additives in produced water. The permittee shall maintain a record of all substances added to produced waters including but not limited to biocides, corrosion inhibitors and scale inhibitors. The quantity, concentration and chemical composition of these substances shall be reported annually to EPA as a supplement to the annual monitoring report required by Condition II.C.4. of this permit.

c. Samples taken in compliance with the monitoring requirements specified in Condition II.A.2(a), above, shall be taken at the following location: at a point in discharge 002 prior to entry into the waters of the Pacific Ocean.

3. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial numbers 003–007.

a. Such discharges shall be limited and monitored by the permittee as specified on the following page:

Serial Nos. outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
003—Produced sand	Quantity	(Barrels per mo)	Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations.
004—Well completion and treatment fluids.[2]	Volume		Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations.[1]
005—Diatomaceous earth filter media.	Volume		Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations.[1]
006—Deck drainage	Volume		Once per month	Estimate.
	Free oil	No visible sheen	Once per day	Visual observations.[1]
007—Sanitary waste	Flow rate (MGD)		Once per month	Estimate.
	Residual chlorine 1.0 mg/L[3].		Once per week	Discrete.
008—Domestic waste		No floating solids	Once per day	Visual observations.[4]

[1] The permittee shall make visual observations during daylight hours for the presence of free oil in the receiving water on each day of discharge, and shall report the number of days a sheen was observed. For discharges occurring at night, compliance shall be determined using the static sheen test (see Condition II.A.1(b)).
[2] Minumum of 1 mg/l and maintained as close to this concentration as possible (maximum concentration is 10 mg/l). This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons. There shall be no visible floating solids in the receiving waters from this discharge for facilities intermittently manned or permanently manned by nine (9) or fewer persons. For such facilities visible observations for floating solids are required daily and the permittee shall report the number of times floating solids were observed.
[3] The chemical composition of these fluids shall be reported quarterly to EPA as a supplement to the quarterly monitoring report required by Condition II.C.4. of this permit.
[4] The permittee shall make visual observations during daylight hours for the presence of floating solids in the receiving water on each day of discharge, and shall report the number of days floating solids were observed.

b. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitation shown above for sanitary waste shall apply to the mixed waste stream.

4. a. During the period beginning the date this permit becomes effective for the permittee's facility and lasting through the expiration date of this permit the permittee is authorized to discharge from outfall(s) serial number(s) 008–014 (miscellaneous discharges).

Discharge 009—Desalinization Unit Discharge:
010—Cooling water
011—Uncontaminated Bilge Water
012—Uncontaminated Ballast Water
013—Excess Cement Slurry
014—Control Fluid From Blow-Out Preventer
015—Fire Control System Test Water

b. There shall be no free oil in the receiving waters as a result of these discharges. The permittee shall make visual observations during daylight hours for the presence of free oil in the receiving water on each day of discharge, and shall report the number of days a sheen was observed.

5. Reopener Clause

In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

6. Effective Date for Monitoring Requirements

The monitoring requirements shall take effect upon commencement of discharge.

B. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Halogenated Phenol Compounds

There shall be no discharge of halogenated phenol compounds.

3. Surfactants, Dispersants, and Detergents

The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety

Administration and the Minerals Management Service.

4. Sanitary Wastes

Any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations until such time as the device is replaced or is found not to comply with such standards and regulations.

C. Monitoring And Records

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. Reporting Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering

The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. Reporting of Monitoring Results

Monitoring results obtained for discharges 002–015 during the previous 3 months shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320–1 (DMR). For discharge 001 (drilling muds and cuttings), monitoring results obtained during the drilling of each well shall be summarized and reported on the DMR form. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not discharged no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's. If no discharges whatsoever occurred from the permittee's facility a report to that effect shall be submitted.

The first report for discharges 002–015 is due on the 28th day of the fourth month from the day this permit becomes applicable to a permittee. Drilling mud and cuttings monitoring results (discharge 001) are due on the 28th day following completion of each well.

Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division, Attn: W–3–2, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

These records shall be stored on the permittee's offshore facility and shall include drilling mud composition data, well completion fluid composition data and records of all materials added to produced water.

8. Record Contents

Records of monitoring information shall include:

a. The date, place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

9. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

10. Rubbish, Trash and Other Refuse

The discharge of any solid material not in compliance with other parts of this permit is prohibited. Incineration residue from paper and plastic only is exempt from this prohibition.

D. Reporting Requirements

1. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports

Monitoring results shall be reported at the intervals specified in Part II.C.4 of this permit. The monitoring report shall include:

a. Drilling muds composition data (in lbs/bbl), bioassays results and/or demonstration of compliance with toxicity limits for muds;

b. Static sheen test results for drilling muds and drill cuttings and washwater;

c. Concentrations of mercury and cadmium in barite used in drilling muds;

d. Estimates of the volume of discharge of drilling muds, drill cuttings, produced water, produced sand, well completion and treatment fluids, deck drainage and sanitary waste; also, for drilling muds, the number of days of discharge for each drilling system used.

e. Information pertaining to diesel pill disposal, as appropriate;

f. Number of observations of free oil in the receiving water from discharges 003–006 and discharges 009–015; also static sheen test results for discharges 003–006 which occur at night;

g. Residual chlorine measurements for the sanitary wastes discharge or as appropriate, the number of observations of floating solids;

h. Produced water, oil, and grease analyses, heavy metals and toxic organics analyses and an analysis of the discharge dilution;

i. Number of observations of floating solids in the receiving water resulting from domestic wastes discharges; and

j. Demonstration of compliance with Condition II.-A.1(i) (as appropriate) for mud discharges in the vicinity of the Channel Island Marine Sanctuary.

3. Twenty-Four Hour Reporting of Noncompliance

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. The written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned or reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit;

b. Any upset which exceeds any effluent limitations in the permit; and

c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous sustance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports during normal business hours (8 a.m.– 4:30 p.m.) should be made to the Compliance Section, Water Management Division at telephone #415–974–8275. Twenty-four hour reporting may be made at telephone #415–974–8131. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.D.3.

5. Signatory Requirements

All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.22.

6. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports

The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

Part III

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need To Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitteed activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. *Definitions.* (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section.

c. *Notice.* (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II.D.3. (24–hour notice).

d. *Prohibition of bypass.* (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c. of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d(1) of this section.

4. Upset Conditions

a. *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part II.D.3 (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part III.B.4 (duty to mitigate).

d. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply with Toxic Effluent Standards

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violation of Permit Conditions

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 303, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 CFR 122.41 and in 122.62, 122.63 and 122.64. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypasses" (Part III.A.3) and "Upsets" (Part III.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. State laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Part IV—Other Requirements

A. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

1. The discharge(s) is a significant contributor of pollution;

2. The discharger is not in compliance with the conditions of this permit;

3. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

4. Effluent limitation guidelines are promulgated for point sources covered by this permit;

5. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

6. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

B. When an Individual NPDES Permit May Be Requested

1. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

2. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this permit to that owner or permittee is automatically terminated on the effective date of the individual permit.

3. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

C. Definitions

1. "Cooling water" means once through non-contact cooling water.

2. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

3. "Deck drainage" means all waste resulting from platform washing, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" includes discharges from galleys, sinks, showers, and laundries.

6. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

8. "Drilling muds" means any fluid sent down the well hole, including any specialty products, from the time a well is begun until final cessation of drilling in that hole. The term "mud system" refers to the major types of drilling muds used during the drilling of one well. A change in mud system is considered to occur after bulk discharges when one basic type of generic mud is exchanged for another type. A change in mud system is not considered to have occurred when small amounts of specialty mud additives are added to a mud.

9. "Produced sands" means sands and other solids removed from the produced waters.

10. "Sanitary waste" means human body waste discharged from toilets and urinals.

11. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

12. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

13. A "discrete sample" means any individual sample collected in less than fifteen minutes.

14. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

For oil and grease measurements, a "composite sample" means four sample taken over a twenty-four hour period analyzed separately and the four samples averaged. The daily maximum limitation for oil and grease is based on this definition of a composite sample. For measurements other than flow rate or oil and grease, a composite samples means a combination of no fewer than eight individual samples obtained at equal time intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

15. Limiting Permissible Concentration—that concentration which will not exceed .01 of a concentration shown to be acutely toxic (96 hour LC_{50}) to appropriate sensitive marine organisms in a bioassay carried out in accordance with the method in "Drilling Fluids Toxicity Test" identified in Condition II.A.1(e).

16. Generic Drilling Muds.

	Maximum Allowable Concentration (pounds per barrel)
1. Seawater/potassium/polymer mud:	
KCl	50
Starch	12
Cellulose polymer	5
Xanthan gum polymer	2
Drilled solids	100
Caustic	3
Barite	450
Seawater	(1)
2. Seawater/lignosulfonate mud:	
Components	
Attapulgite or bentonite	50
Lignosulfonate	15
Lignite	10
Caustic	5
Barite	450
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose polymer	5
Seawater	(1)
3. Lime mud:	
Components	
Lime	20
Bentonite	50
Lignosulfonate	15
Lignite	10
Barite	150
Caustic	5
Drilled solids	100
Soda ash/sodium bicarbonate	2
Freshwater	(1)
4. Nondispersed mud:	
Components	
Bentonite	15
Acrylic polymer	2
Barite	180
Drilled solids	70
Freshwater	(1)
5. Spud mud (slugged intermittently with seawater):	
Components	
Attapulgite or bentonite	50
Caustic	2
Drilled solids	100
Barite	50
Soda ash/sodium bicarbonate	2
Lime	1
Seawater	(1)
6. Seawater gel mud:	
Components	
Attapulgite or bentonite	50
Caustic	3
Cellulose polymer	2
Drilled solids	100
Barite	50
Soda ash/sodium bicarbonate	2
Lime	2
Seawater or freshwater	(1)
7. Lightly treated lignosulfonate freshwater/seawater mud:	
Components	
Bentonite	50
Barite	180
Caustic	3
Lignosulfonate	6
Lignite	4
Cellulose polymer	2
Drilling solids	100
Soda ash/sodium bicarbonate	2
Lime	2
Seawater to freshwater ratio 1:1 approx.	(1)
8. Lignosulfonate freshwater mud:	
Components	
Bentonite	50
Barite	450
Caustic	5
Lignosulfonate	15
Lignite	10
Cellulose polymer	2
Drilling solids	100
Soda ash/sodium bicarbonate	2
Lime	2
Seawater to freshwater ratio	(1)

17. Mixing Zone—the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge point or to the boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator.

18. Background seawater concentration:

Waste constituent	Cs (mg/l)
Arsenic	0.003
Cadmium	0.000
Total chromium	0.000
Copper	0.002
Lead	0.000
Mercury	0.00006
Nickel	0.00
Silver	0.00016
Zinc	0.008
Cyanide	0.000
Phenolic compounds	0.0

D. Field Monitoring Study

Within six (6) months of the effective date of this permit, permittees shall jointly commence the implementation of the monitoring program described in "Monitoring Program Requirements for Assessing Impacts from Offshore Oil and Gas Discharges" (Technical Resources, Inc., 1985). The existing platform monitoring program (Section 3.1) shall be completed within eighteen (18) months of the effective date of this permit. A final report of the results of the study shall be submitted to EPA, Region 9 within two (2) months of completion of the monitoring program. Quarterly progress reports shall be submitted to EPA, Region 9 during the course of the study. The first progress report is due three (3) months after commencement of the study.

Permittees shall also jointly conduct the new platform study described in section 3.2 of the above document. The schedule for this study shall be coordinated with the installment dates for new platforms to be studied and the sampling schedule specified on page 32 of the study document. Quarterly progress reports shall be submitted to EPA Region 9 during the course of the study. The first progress report is due three (3) months after the commencement of the study. Should a monitoring program similar to the new platform study be undertaken by the Minerals Management Service, permittees may substitute such work for the requirements of this condition to the extent that the alternate study satisfies the requirements of the new platform study.

E. Toxicity Tests for Northern Anchovy

Within twelve (12) months of the effective date of this permit, permittees shall provide to the Regional Administrator, EPA, Region 9, the results of bioassays conducted with the northern anchovy as the test organism, using samples of each of the eight (8) generic muds listed in Condition III.C.16. The bioassays shall be conducted in accordance with a procedure developed by permittees (adapted from other bioassay procedures using drilling mud) and approved by the Regional Administrator, Region 9, in writing prior to use.

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H.R. 2577/Pub. L. 99-88

Supplemental Appropriations Act, 1985. (Aug. 15, 1985; 99 Stat. 293) Price: $2.00

H.R. 2908/Pub. L. 99-89

Indian Education Technical Amendments Act of 1985. (Aug. 15, 1985; 99 Stat. 379) Price: $1.00

S.J. Res. 98/Pub. L. 99-90

Condemning the passage of Resolution 3379, in the United Nations General Assembly on November 10, 1975, and urging the United States Ambassador and United States delegation to take all appropriate actions necessary to erase this shameful resolution from the record of the United Nations. (Aug. 15, 1985; 99 Stat. 385) Price: $1.00

S. 1147/Pub. L. 99-91

Orphan Drug Amendments of 1985. (Aug. 15, 1985; 99 Stat. 387) Price: $1.00

H.R. 2370/Pub. L. 99-92

Nurse Education Amendments of 1985. (Aug. 16, 1985; 99 Stat. 393) Price: $1.00

H.R. 2068/Pub. L. 99-93

Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. (Aug. 16, 1985; 99 Stat. 405) Price: $1.25

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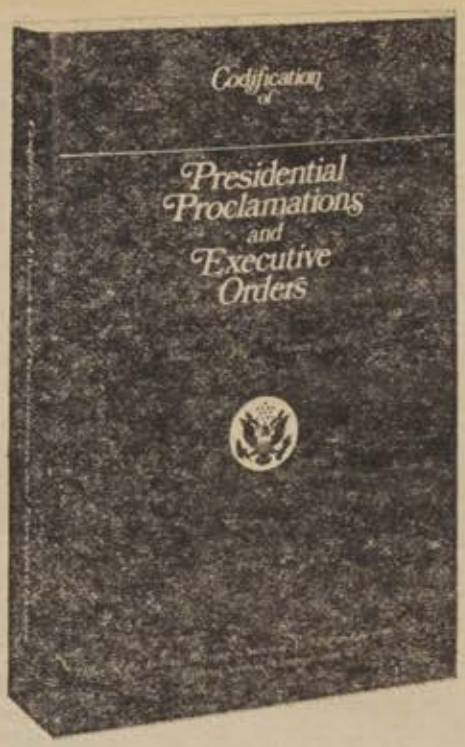

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